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# Executive Orders

## EXECUTIVE ORDER BJ 12-01

### Carry-Forward Bond Allocation 2011

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature (hereafter "Act"), Executive Order No. BJ 2008-47 was issued to establish a method for allocating bonds subject to private activity bond volume limits, including

(1) the method of allocating bonds subject to the private activity bond volume limits for the calendar year 2008 and subsequent calendar years;

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

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

WHEREAS, Section 4(H) of No. BJ 2008-47 provides that if the ceiling for a calendar year exceeds the aggregate amount of bonds subject to the private activity bond volume limit issued during the year by all issuers, by executive order, the Governor may allocate the excess amount to issuers or an issuer for use as a carry-forward for one or more carry-forward projects permitted under the Act;

WHEREAS, The sum of four hundred thirty million six hundred and seventy thousand three hundred forty dollars (\$430,670,340) represents the amount of the ceiling determined by the staff of the Louisiana State Bond Commission ("SBC") for private activity bond volume limits for the year 2011 ("2011 Ceiling");

WHEREAS, Executive Order No. BJ 2011-2, issued on February 9, 2011, allocated one million four hundred thousand dollars (\$1,400,000) from the 2011 ceiling to the Local Government Environmental Facilities and Community Development Authority for financing of the acquisition, construction, rehabilitation, and equipping of distributive sewer systems for the Fourth Ward Water Association, and \$176,000 was returned unused to the ceiling.

WHEREAS, Executive Order No. BJ 2011-3, issued on February 9, 2011, allocated five million seven hundred eighty dollars (\$5,780,000) to the Local Government Environmental Facilities and Community Development Authority for financing of the acquisition, construction, rehabilitation, and equipping of distributive sewer systems for Density Utilities of Louisiana, and \$5,780,000 was returned unused to the ceiling.

WHEREAS, Executive Order No. BJ 2011-13, issued on July 15, 2011, allocated ten million dollars (\$10,000,000) to the Louisiana Public Facilities Authority for financing of the acquisition, construction, and installation of a synthetic alternative fuel manufacturing facility for the Performance Fuel Project, and \$10,000,000 was returned unused to the ceiling.

WHEREAS, Executive Order No. BJ 2011-14, issued on July 15, 2011, allocated twenty million dollars (\$20,000,000) to the Calcasieu Parish Public Trust Authority for financing of Single Family Mortgage Bonds.

WHEREAS, Executive Order No. BJ 2011-15, issued on July 26, 2011, allocated five million two hundred eighty dollars (\$5,280,000) to the Local Government Environmental Facilities and Community Development Authority for financing of the acquisition, construction, rehabilitation, and equipping of distributive sewer systems for Density Utilities of Louisiana, and \$5,280,000 was returned unused to the ceiling.

WHEREAS, Executive Order No. BJ 2011-24, issued on December 8, 2011, allocated five million seven hundred twenty dollars (\$5,720,000) to the Local Government Environmental Facilities and Community Development Authority for financing of the acquisition, construction, rehabilitation, and equipping of distributive sewer systems for Density Utilities of Louisiana, and \$5,720,000 was returned unused to the ceiling.

WHEREAS, three hundred eighty-two million four hundred ninety thousand three hundred forty dollars (\$382,490,340) of the 2011 Ceiling was not allocated during the 2011 calendar year; and twenty-six million nine hundred fifty-six thousand dollars (\$26,956,000) of the 2011 Ceiling was returned; and

WHEREAS, The SBC has determined that four hundred nine million four hundred forty-six thousand three hundred and forty dollars (\$409,446,340) of the excess 2011 Ceiling is eligible as carry-forward and the Governor desires to allocate this amount as carry-forward for projects which are permitted and eligible under the Act;

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: Pursuant to and in accordance with the provisions of Section 146(f) of the Internal Revenue Code of 1986, as amended, and in accordance with the requests for carry-forward filed by the designated issuers, the excess private activity bond volume limit under the 2011 Ceiling is hereby allocated to the following issuer, for the following carry-forward project, and in the following amount.

Issuer	Carry-Forward Project	Carry-Forward Amount
England Economic and Industrial Development District	Sundrop Fuels Louisiana, LLC	\$409,446,340

SECTION 2: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 3: 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 the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 9th day of February, 2012.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Tom Schedler  
Secretary of State  
1202#085

# Emergency Rules

## DECLARATION OF EMERGENCY

Department of Children and Family Services  
Division of Programs  
Economic Stability and Self-Sufficiency

TANF Initiatives (LAC 67:III.5501)

The Department of Children and Family Services (DCFS), Economic Stability and Self-Sufficiency, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend LAC 67:III, Subpart 15, Temporary Assistance for Needy Families (TANF) Initiatives, Chapter 55, TANF Initiatives, Section 5501. This amendment is necessary to allow the agency the flexibility to make adjustments to the TANF Initiatives based upon the availability of funding from the TANF Block Grant. This Emergency Rule shall be adopted upon the DCFS secretary's signature, February 1, 2012. This Emergency Rule shall remain in effect for a period of 120 days.

The authorization to promulgate Emergency Rules to facilitate the expenditure of Temporary Assistance to Needy families (TANF) funds is contained in Act 12 of the 2011 Regular Session of the Louisiana Legislature.

### Title 67

### SOCIAL SERVICES

#### Part III. Economic Stability and Self-Sufficiency

#### Subpart 15. Temporary Assistance for Needy Families (TANF) Initiatives

#### Chapter 55. TANF Initiatives

#### §5501. Introduction to the TANF Initiatives

A. - C.4. ...

D. To the extent that appropriations are available, the secretary may fund and make available to eligible families the TANF Initiatives.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2537 (November 2010), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 38:

Ruth Johnson  
Secretary

1202#074

## DECLARATION OF EMERGENCY

Department of Children and Family Services  
Division of Programs  
Licensing Section

Criminal Record Check, Sex Offender Prohibitions, and State Central Registry Disclosure (LAC 67:V. 6703, 6708, 6710, 6955, 6957, 6959, 6961, 7105, 7107, and 7111)

The Department of Children and Family Services (DCFS), Division of Programs, Licensing Section has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend LAC 67:V, Subpart 8, Chapter 67, Maternity Home, Chapter 69, Child Residential Care, concerning Class "B" regulations, and Chapter 71, Child Residential Care, concerning Class "A" regulations. This declaration is necessary to extend the original Emergency Rule effective on November 2, 2011, since it is effective for a maximum of 120 days and will expire on February 29, 2012, before the final Rule takes effect. This Emergency Rule extension is effective on February 29, 2012 and will remain in effect until the final Rule becomes effective.

Amendments are being made to Subpart 8, Sections 6703, 6955, 6957, 6959, 6961, 7105, 7107, and 7111. Sections 6708 and 6710 are being added to Chapter 67 to address state central registry and criminal background check requirements for staff and potential employees of maternity homes. The amendments shall include regulations that require state central registry disclosure of any individual that has a justified (valid) determination of child abuse or neglect as specified in R.S. 46:1414.1 and require providers to make an influenza notice available to parents as specified in R.S. 46:1414. Pursuant to R.S. 14:81.4(A), (B)(2) and (4), R.S.14:81.4 (E)(1), 91.1(A)(2), 91.2(B), (C), and (D), R.S. 14:91.2(E), 91.3, and 91.4 amendments shall be added to prohibit any person that has been convicted of a sex offense as defined in R.S. 15:541 from owning, operating, or participating in the governance of a child residential facility or maternity home, prohibit any employer from knowingly employing a person convicted of a sex offense as defined in R.S. 15:541 to work in a child residential facility or maternity home, and require any owner/owners of a child residential facility or maternity home to provide documentation of a satisfactory criminal record check as required by R.S. 15:587.1.

Emergency action is necessary to prevent a threat to the health, safety, and welfare of children in licensed maternity homes and residential care. This will also ensure that the department is in compliance with the above mentioned laws.

**Title 67**

**SOCIAL SERVICES**

**Part V. Child Welfare**

**Subpart 8. Residential Licensing**

**Chapter 67. Maternity Home**

**§6703. Definition**

- A. ...
- B. Additional Definitions
  - 1. Definitions, as used in this Chapter:

\* \* \*

*Department* (DCFS)—Department of Children and Family Services, formerly the Department of Social Services.

\* \* \*

*Individual Owner*—a natural person who directly owns a facility without setting up or registering a corporation, LLC, partnership, church, university or governmental entity. The spouse of a married owner is also an owner unless the business is the separate property of the licensee acquired before his/her marriage, acquired through authentic act of sale from spouse of his/her undivided interest; or acquired via a judicial termination of the community of aquets and gains.

\* \* \*

*License*—any license issued by the department to operate any child care facility or child-placing agency as defined in R.S. 46:1403.

*Licensing Section*—DCFS, Division of Programs, Licensing Section.

*Mandated Reporter*—professionals who may work with children in the course of their professional duties and who consequently are required to report all suspected cases of child abuse and neglect. This includes any person who provides training and supervision of a child, such as a public or private school teacher, teacher’s aide, instructional aide, school principal, school staff member, social worker, probation officer, foster home parent, group home or other child care institution staff member, personnel of maternity home facilities, a licensed or unlicensed day care provider, any individual who provides such services to a child, or any other person made a mandatory reporter under article 603 of the Children’s Code or other applicable law.

*Owner or Operator*—the individual who exercises ownership or control over a child care facility, whether such ownership/control is direct or indirect.

*Ownership*—the right that confers on a person direct, immediate, and exclusive authority over a thing. The owner of a thing may use, enjoy, and dispose of it within the limits and under the conditions established by law. Refers to direct or indirect ownership.

i. *Direct Ownership*—when a natural person is the immediate owner of a child care facility, i.e., exercising control personally rather than through a juridical person.

ii. *Indirect Ownership*—when the immediate owner is a juridical entity.

\* \* \*

*Reasonable Suspicion*—Licensing Section personnel has or acquires information containing specific and articulable facts indicating that an owner, operator, or current or potential employee or volunteer has been investigated and determined to be the perpetrator of abuse or neglect against a minor in an investigation with a justified (valid) finding currently recorded on the state central registry.

*Staff*—all full or part-time paid or unpaid staff who perform services for the maternity home and have direct or indirect contact with children at the facility. Facility staff includes the director and any other employees of the facility including, but not limited to the cook, housekeeper, driver, custodian, secretary, and bookkeeper.

*State Central Registry*—repository that identifies any individual reported to have a justified (valid) finding of abuse or neglect of a child or children by DCFS.

\*\*\*

B.2. - B.2.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2694 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1570 (August 2009), amended LR 36:799, 835 (April 2010), repromulgated LR 36:1275 (June 2010), amended by the Department of Children and Family Services, Child Welfare Section, LR 36:2521 (November 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:

**§6708. General Provisions**

A. Conditions for Participation in a Child-Related Business

1. Any owner/owners of a maternity home shall provide documentation of a satisfactory criminal record check, as required by R.S. 46:51.2 and 15:587.1. A copy of the criminal background check shall be submitted for each owner of a facility with an initial application, a change of ownership (CHOW) application, a change of location (CHOL) application, and/or an application for renewal for maternity home license. No person with a criminal conviction of a felony, or a plea of guilty or nolo contendere of a felony, or plea of guilty or nolo contendere to any offense included in 15:587.1, 14:2, or 15:541, or any offense involving a juvenile victim, shall directly or indirectly own, operate, or participate in the governance of a maternity home. In addition, an owner, or director shall not have a conviction of, or plea of guilty or nolo contendere to any crime in which an act of fraud or intent to defraud is an element of the offense. The following is a listing of individuals by organizational type who are required to submit documentation of a satisfactory criminal background clearance:

- a. *Individual Ownership*—individual and spouse;
- b. *Partnership*—all limited or general partners and managers as verified on the Secretary of State’s website;
- c. *Church Owned, Governmental Entity, or University Owned*—any clergy and/or board member that is present in the facility during the hours of operation or when children are present;

d.i. *Corporation*—any individual who has 25 percent or greater share in the business or any individual with less than a 25 percent share in the business and performs one or more of the following functions:

- (a). has unsupervised access to the children in care at the facility;
- (b). is present in the facility during hours of operation;
- (c). makes decisions regarding the day-to-day operations of the facility;
- (d). hires and/or fires maternity home staff including the director;
- (e). oversees maternity home staff and/or conducts personnel evaluations of the maternity home staff; and/or
- (f). writes the facility's policies and procedures.

ii. If an owner has less than a 25 percent share in the business and does not perform one or more of the functions listed above a signed, notarized attestation form is required in lieu of a criminal background clearance. This attestation form is a signed statement from each owner acknowledging that he/she has less than a 25 percent share in the business and that he/she does not perform one or more of the aforementioned functions as an owner.

2. Providers and child care staff shall not permit an individual convicted of a sex offense as defined in R.S. 15:541 to have physical access to a maternity home as defined in R.S. 46:1403.

3. The owner or director of a maternity home shall be required to call and notify law enforcement personnel and the Licensing Section management staff if they have knowledge that a registered sex offender is on the premises of the maternity home. The verbal report shall be followed by a written report to the Licensing Section within 24 hours. The owner or director of a maternity home shall be required to call and notify law enforcement personnel if they have knowledge that a registered sex offender is within 1,000 feet of the maternity home as required by R.S. 14:91.1.

#### B. State Central Registry

1. All owners shall complete, sign, and date the state central registry disclosure form (SCR 1) as required by R.S. 46:1414.1. This information shall be reported prior to the individual being on the premises of the maternity home and shall be updated annually, at any time upon the request of DCFS, and within three business days of any owner receiving notice of a justified (valid) determination of child abuse or neglect.

a. Prospective owners shall complete, sign, and date the state central registry disclosure form and submit the disclosure form to DCFS licensing. If a prospective owner discloses that his or her name is currently recorded as a perpetrator on the state central registry, DCFS shall not proceed with the licensure process. The owner shall request a risk evaluation assessment on the risk evaluation panel form (SCR 2) or shall submit a signed, dated statement that he or she will not be on the premises of the facility at any time. DCFS will resume the licensure process when the owner provides written documentation from the risk evaluation panel or the Division of Administrative Law noting that they do not pose a risk to children or the statement regarding their presence at the maternity home.

b. Within three business days of current owners receiving notice of a justified (valid) determination of child abuse and/or neglect, an updated state central registry disclosure form (SCR 1) shall be completed by the owner as required by R.S. 46:1414.1 and submitted to the Licensing section management staff. The owner will have 10 calendar days from completion of the state central registry disclosure form to request a risk assessment evaluation in accordance with LAC 67:I.305. If on-site at the facility and immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the owner shall be directly supervised by a paid staff (employee) of the facility, who has not disclosed that their name appears with a justified (valid) finding on the state central registry. Under no circumstances may the owner with the justified finding be left alone and unsupervised with the children pending the disposition of the risk evaluation panel or the Division of Administrative Law. If not on site at the maternity home, owner shall submit a signed, dated statement that he or she will not be on the premises of the facility at any time.

i. If the risk evaluation panel finds the owner does pose a risk to children and the individual chooses not to appeal the finding, the owner shall not be on the maternity home premises at any time.

ii. If the risk evaluation panel finds the owner does pose a risk to children and the individual appeals the finding to the Division of Administrative Law within the required timeframe, the owner shall continue to be under direct supervision at all times by a paid staff (employee) of the facility who has not disclosed that they have a justified finding on the state central registry until a ruling is made by the Division of Administrative Law that they do not pose a risk to children. Supervision may end upon receipt of the ruling from the Division of Administrative Law that the owner does not pose a risk to children.

iii. If the Division of Administrative Law upholds the risk evaluation panel finding that the individual does pose a risk to children, the owner shall not be on the maternity home premises at any time.

2. State central registry disclosure forms, documentation of any disposition of the risk evaluation panel and, when applicable, the Division of Administrative Law ruling shall be maintained in accordance with current DCFS licensing requirements and shall be available for review by DCFS personnel during the facility's hours of operation. This information shall be kept on file for a minimum of one year from termination of the employee or volunteer from the facility.

3. Any information received or knowledge acquired that a current or prospective owner, operator, volunteer, employee, prospective volunteer, or prospective employee has falsified a state central registry disclosure form stating that they are not currently recorded as a perpetrator with a justified (valid) determination of abuse or neglect shall be reported in writing to Licensing Section Management Staff as soon as possible, but no later than the close of business on the next business day.

4. Any state central registry disclosure form, risk evaluation panel finding, and Division of Administrative Law ruling that is maintained in a maternity home facility licensing file shall be confidential and subject to the



confidentiality provisions of R.S. 46:56(F) pertaining to the investigations of abuse and neglect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:

#### **§6710. Personnel Files**

A. Prior to employment, each prospective employee/volunteer shall complete a state central registry disclosure form prepared by the department as required in R.S. 46:1414.1. This information shall be reported prior to the individual being on the premises of the maternity home and shall be updated annually, at any time upon the request of DCFS, and within three business days of any staff receiving notice of a justified (valid) determination of child abuse or neglect.

1. The prospective paid staff (employee/volunteer) shall complete, sign, and date the state central registry disclosure form and submit the disclosure form to the owner or operator of the facility.

a. If a prospective staff (employee/volunteer) discloses that his or her name is currently recorded as a perpetrator on the state central registry, the director shall inform the applicant they will not be considered for employment at that time due to the state central registry disclosure. The director will provide the prospective employee/volunteer with the risk evaluation panel form (SCR 2) so that a risk assessment evaluation may be requested.

b. Individuals are eligible for employment if and when they provide written documentation from the risk evaluation panel or the Division of Administrative Law noting that they do not pose a risk to children.

2. Current staff receiving notice of a justified (valid) determination of child abuse and/or neglect shall complete an updated state central registry disclosure form (SCR 1) noting the existence of the justified (valid) determination as required by R.S. 46:1414.1. This updated SCR 1 shall be submitted to the Licensing Section management staff within three business days or upon being on the maternity home premises, whichever is sooner. Staff will have 10 calendar days from completion of the state central registry disclosure form to request a risk assessment evaluation in accordance with LAC 67:I.305 or shall be terminated immediately.

a. If the staff person will no longer be employed at the facility, the provider shall submit a signed, dated statement indicating that the staff will not be on the premises of the facility at any time.

b. Immediately upon the receipt of the knowledge that a justified (valid) finding has been issued by DCFS and as a condition of continued employment the staff person shall be directly supervised by a paid staff (employee/volunteer) of the facility who has not disclosed that their name appears with a justified (valid) finding on the state central registry. Provider shall submit a written statement to Licensing Section management staff acknowledging that the staff is under continuous direct supervision by a paid staff who has not disclosed that their name appears with a justified (valid) finding on the state central registry. When these conditions are met, the staff (employee/volunteer) may be counted in child staff ratio. Under no circumstances may the staff person with the

justified finding be left alone and unsupervised with the children pending the disposition by the risk evaluation panel or the Division of Administrative Law that the staff person does not pose a risk to children.

c. If the risk evaluation panel finds the individual does pose a risk to children and the individual chooses not to appeal the finding, the staff (employee/volunteer) shall be terminated immediately.

d. If the risk evaluation panel finds the individual does pose a risk to children and the individual appeals the finding to the Division of Administrative Law within the required timeframe, the staff (employee/volunteer) shall continue to be under direct supervision at all times by another paid employee/volunteer of the facility who has not disclosed that they have a justified finding on the state central registry until a ruling is made by the Division of Administrative Law that they do not pose a risk to children. Supervision may end upon receipt of the ruling from the Division of Administrative Law that they do not pose a risk to children.

e. If the Division of Administrative Law upholds the risk evaluation panel finding that the individual does pose a risk to children, the individual shall be terminated immediately.

3. Any owner, operator, current or prospective employee/volunteer, or volunteer of a maternity home requesting licensure by DCFS and/or a maternity home licensed by DCFS is prohibited from working in a maternity home if the individual discloses, or information is known or received by DCFS, that the individual's name is recorded on the state central registry (SCR) as a perpetrator for a justified (valid) finding of abuse or neglect of a child, unless there is a finding by the risk evaluation panel or a ruling by the Division of Administrative Law that the individual does not pose a risk to children.

4. No person, having any supervisory or other interaction with residents, shall be hired or on the premises of the facility until such person has submitted his or her fingerprints to the Louisiana Bureau of Criminal Identification and Information and it has been determined that such person has not been convicted of or pled nolo contendere to a crime listed in R.S. 15:587.1(C). This shall include any employee/volunteer or non-employee who performs paid or unpaid work with the provider to include independent contractors, consultants, students, volunteers, trainees, or any other associated person, as defined in these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:

### **Chapter 69. Child Residential Care**

#### **§6955. Procedures**

A. - A.2.e.v. ...

vi. a completed licensure inspection verifying substantial compliance with these standards;

vii. full license fee paid; and

viii. any owner/owners of a residential facility shall provide documentation of a satisfactory criminal record check, as required by R.S. 46:51.2 and 15:587.1.

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

C. Renewal of the License

- 1. The license shall be renewed on an annual basis.
- 2. The provider shall submit, at least 60 days prior to its license expiration date, a completed renewal application form and applicable fee. The following documentation must also be included:
  - a. Office of Fire Marshal approval for occupancy;
  - b. Office of Public Health, Sanitarian Services approval;
  - c. city fire department approval, if applicable;
  - d. copy of proof of current general liability and property insurance for facility;
  - e. copy of proof of insurance for vehicle(s); and
  - f. copy of a satisfactory criminal record check as required by R.S. 46:51.2 and 15:587.1 for any owner/owners.

3. Prior to renewing the CRF license, an on-site survey shall be conducted to assure compliance with all licensing laws and standards. If the CRF is found to be in compliance with the licensing laws and standards, and any other required statutes, laws, ordinances, or regulations, the license shall be renewed for a 12-month period.

4. In the event the annual licensing survey finds the CRF is non-compliant with any licensing laws or standards, or any other required statutes, ordinances or regulations but the department, in its sole discretion, determines that the noncompliance does not present a threat to the health, safety, or welfare of the participants, the provider shall be required to submit a corrective action plan to the department for approval. The department shall specify the timeline for submitting the corrective action plan based on such non-compliance or deficiencies cited but no later than 10 days from the date of notification. The corrective action plan shall include a description of how the deficiency shall be corrected and the date by which correction(s) shall be completed. Failure to submit an approved corrective action plan timely shall be grounds for non-renewal.

5. If it is determined that such noncompliance or deficiencies have not been corrected prior to the expiration of the license, the department may issue an extension of the license not to exceed to 60 days.

6. When it is determined by the department that such noncompliance or deficiencies have been corrected, a license will be issued for a period not to exceed 12 months.

7. If it is determined that all areas of noncompliance or deficiencies have not been corrected prior to the expiration date of the extension, the department may revoke the license.

D.- D.2.e. ...

- f. the facility is closed with no plans for reopening and no means of verifying compliance with minimum standards for licensure;
- g. any act of fraud such as falsifying or altering documents required for licensure;
- h. permit an individual with a justified (valid) finding of child/abuse neglect to be on the premises without being directly supervised by another paid employee of the facility, who has not disclosed that their name appears with a justified (valid) finding on the state central registry prior to a determination by the risk evaluation panel or Division of Administrative Law that the individual does not pose a risk to children; or to knowingly permit an individual who has

not disclosed that their name appears with a justified (valid) finding on the state central registry to be on the premises at any time, whether supervised or not supervised;

i. permit an individual, whether supervised or not supervised to be on the child residential premises with a ruling by the risk evaluation panel that the individual poses a risk to children and the individual has not requested an appeal hearing by the or nolo contendere to, any offense included in 15:587.1, 14:2, 15:541, or any offense involving a juvenile victim;

j. have a criminal background, as evidenced by the continued employment or ownership of or by any individual (paid or unpaid staff) convicted of, or a plea of guilty or nolo contendere to, any offense included in 15:587.1, 14:2, 15:541, or any offense involving a juvenile victim;

k. own a child residential business and have been convicted of or have pled guilty or nolo contendere to any crime in which an act of fraud or intent to defraud is an element of the offense;

l. have knowledge that a convicted sex offender is on the premises of the child care facility and fail to notify law enforcement and licensing management staff immediately upon receipt of such knowledge; or

m. have knowledge that a convicted sex offender is physically present within 1,000 feet of the child care facility and fail to notify law enforcement immediately upon receipt of such knowledge.

E. - F.1.d ...

G. Disqualification from Application

- 1. Definitions, as used in Section 6955.G:

\* \* \*

*Department*—Repealed.

\* \* \*

*Facility*—Repealed.

*License*—any license issued by the department to operate any child residential facility or child-placing agency as defined in R.S. 46:1403.

\* \* \*

G.2. - G.2.d. ...

H. - H.2.d. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S. 46:1410 et seq., R.S.46:1401-1424 and R.S. 46:1414.1.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1565 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2740 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1617 (August 2009), amended LR 36:331 (February 2010), LR 36:836, 842 (April 2010), repromulgated LR 36:1032 (May 2010), repromulgated LR 36:1277 (June 2010), amended by the Department of Children and Family Services, Child Welfare Section, LR 36:1463 (July 2010), amended by the Department of Children and Family Services, Child Welfare Section and Economic Stability and Self-Sufficiency Section, LR 36:2522 (November 2010), repromulgated LR 36:2838 (December 2010), amended by the Department of Children and family Services, Division of Programs, Licensing Section, LR 38:

**§6957. Definitions**

\* \* \*

*Department (DCFS)*—Department of Children and Family Services formerly the Department of Social Services.

\* \* \*

*Documentation*—written evidence or proof, signed and dated by the parties involved (director, parents, staff, etc.), and available for review.

\* \* \*

*Facility*—any place, program, facility or agency as defined in R.S. 46:1403 to operate under a license, including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency.

\* \* \*

*Individual Owner*—a natural person who directly owns a facility without setting up or registering a corporation, LLC, partnership, church, university or governmental entity. The spouse of a married owner is also an owner unless the business is the separate property of the licensee acquired before his/her marriage, acquired through authentic act of sale from spouse of his/her undivided interest; or acquired via a judicial termination of the community of aquets and gains.

\* \* \*

*Licensing Section*—DCFS, Division of Programs, Licensing Section.

\* \* \*

*Mandated Reporter*—professionals who may work with children in the course of their professional duties and who consequently are required to report all suspected cases of child abuse and neglect. This includes any person who provides training and supervision of a child, such as a public or private school teacher, teacher’s aide, instructional aide, school principal, school staff member, social worker, probation officer, foster home parent, group home or other child care institution staff member, personnel of residential home facilities, a licensed or unlicensed day care provider, any individual who provides such services to a child, or any other person made a mandatory reporter under article 603 of the Children’s Code or other applicable law.

*Owner or Operator*—the individual who exercises ownership or control over a child care facility, whether such ownership/control is direct or indirect.

*Ownership*—the right that confers on a person direct, immediate, and exclusive authority over a thing. The owner of a thing may use, enjoy, and dispose of it within the limits and under the conditions established by law. Refers to direct or indirect ownership.

1. *Direct Ownership*—when a natural person is the immediate owner of a child care facility, i.e., exercising control personally rather than through a juridical person.

2. *Indirect Ownership*—when the immediate owner is a juridical entity.

\* \* \*

*Reasonable Suspicion*—Licensing Section personnel has or acquires information containing specific and articulable facts indicating that an owner, operator, or current or potential employee or volunteer has been investigated and determined to be the perpetrator of abuse or neglect against a minor in an investigation with a justified (valid) finding currently recorded on the state central registry.

\* \* \*

*Safety Interventions*—an immediate time limited plan to control the factor(s) that may result in an immediate or impending serious injury/harm to a child(ren).

\* \* \*

*Staff*—all full or part-time paid or unpaid staff who perform services for the child residential facility and have direct or indirect contact with children at the facility. Facility staff includes the director and any other employees of the facility including, but not limited to the cook, housekeeper, driver, custodian, secretary, and bookkeeper excluding extra-curricular personnel.

*State Central Registry*—repository that identifies any individual reported to have a justified (valid) finding of abuse or neglect of a child or children by DCFS.

\* \* \*

*Unlicensed Operation*—operation of any child residential facility, at any location, without a valid, current license issued by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1567 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2742 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1619 (August 2009), amended by the Department of Children and Family Services, Division of Program, Licensing Sections, LR 38:

## **§6959. Administration and Organization**

A. - B.2. ...

3. Any owner/owners of a child residential facility shall provide documentation of a satisfactory criminal record check, as required by R.S. 46:51.2 and 15:587.1. A copy of the criminal background check shall be submitted for each owner of a facility with an initial application, a change of ownership (CHOW) application, a change of location (CHOL) application, and/or an application for renewal for a child residential license. No person with a criminal conviction of a felony, or a plea of guilty or nolo contendere of a felony, or plea of guilty or nolo contendere to any offense included in 15:587.1, 14:2, or 15:541, or any offense involving a juvenile victim, shall directly or indirectly own, operate, or participate in the governance of a child residential facility. In addition, an owner, or director shall not have a conviction of, or plea of guilty or nolo contender to any crime in which an act of fraud or intent to defraud is an element of the offense. The following is a listing of individuals by organizational type who are required to submit documentation of a satisfactory criminal background clearance:

a. *Individual Ownership*—individual and spouse;

b. *Partnership*—all limited or general partners and managers as verified on the Secretary of State’s website;

c. *Church Owned, Governmental Entity, or University Owned*—any clergy and/or board member that is present in the facility during the hours of operation or when children are present;

d. *Corporation*—any individual who has 25 percent or greater share in the business or any individual with less than a 25 percent share in the business and performs one or more of the following functions:

- i. has unsupervised access to the children in care at the facility;
- ii. is present in the facility during hours of operation;
- iii. makes decisions regarding the day-to-day operations of the facility;
- iv. hires and/or fires child care staff including the director;
- v. oversees child residential staff and/or conducts personnel evaluations of the child care staff; and/or
- vi. writes the facility's policies and procedures;
- vii. if an owner has less than a 25 percent share in the business and does not perform one or more of the functions listed above a signed, notarized attestation form is required in lieu of a criminal background clearance. This attestation form is a signed statement from each owner acknowledging that he/she has less than a 25 percent share in the business and that he/she does not perform one or more of the aforementioned functions as an owner.

4. Providers and child care staff shall not permit an individual convicted of a sex offense as defined in R.S. 15:541 to have physical access to a child residential facility as defined in R.S. 46:1403.

5. The owner or director of a child residential facility shall be required to call and notify law enforcement personnel and the Licensing Section management staff if they have knowledge that a registered sex offender is on the premises of the child residential facility. The verbal report shall be followed by a written report to the Licensing Section within 24 hours. The owner or director of a child residential facility shall be required to call and notify law enforcement personnel if they have knowledge that a registered sex offender is within 1,000 feet of the child day care facility as required by R.S. 14:91.1.

6. All owners shall complete, sign, and date the state central registry disclosure form (SCR 1) as required by R.S. 46:1414.1. This information shall be reported prior to the individual being on the premises of the child residential facility and shall be updated annually, at any time upon the request of DCFS, and within three business days of any owner receiving notice of a justified (valid) determination of child abuse or neglect.

a. Prospective owners shall complete, sign, and date the state central registry disclosure form and submit the disclosure form to DCFS licensing. If a prospective owner discloses that his or her name is currently recorded as a perpetrator on the state central registry, DCFS shall not proceed with the licensure process. The owner shall request a risk evaluation assessment on the risk evaluation panel form (SCR 2) or shall submit a signed, dated statement that he or she will not be on the premises of the facility at any time. DCFS will resume the licensure process when the owner provides written documentation from the risk evaluation panel or the Division of Administrative Law noting that they do not pose a risk to children or the statement regarding their presence at the child residential facility.

b. Within three business days of current owners receiving notice of a justified (valid) determination of child abuse and/or neglect, an updated state central registry disclosure form (SCR 1) shall be completed by the owner as required by R.S. 46:1414.1 and submitted to the Licensing section management staff. The owner will have 10 calendar days from completion of the state central registry disclosure form to request a risk assessment evaluation in accordance with LAC 67:I.305. If on-site at the facility and immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the owner shall be directly supervised by a paid staff (employee) of the facility, who has not disclosed that their name appears with a justified (valid) finding on the state central registry. Under no circumstances may the owner with the justified finding be left alone and unsupervised with the children pending the disposition of the risk evaluation panel or the Division of Administrative Law. If not on site at the child residential facility, owner shall submit a signed, dated statement that he or she will not be on the premises of the facility at any time.

i. If the risk evaluation panel finds the owner does pose a risk to children and the individual chooses not to appeal the finding, the owner shall not be on the child residential premises at any time.

ii. If the risk evaluation panel finds the owner does pose a risk to children and the individual appeals the finding to the Division of Administrative Law within the required timeframe, the owner shall continue to be under direct supervision at all times by a paid staff (employee) of the facility who has not disclosed that they have a justified finding on the state central registry until a ruling is made by the Division of Administrative Law that they do not pose a risk to children. Supervision may end upon receipt of the ruling from the Division of Administrative Law that the owner does not pose a risk to children.

iii. If the Division of Administrative Law upholds the risk evaluation panel finding that the individual does pose a risk to children, the owner shall not be on the child residential premises at any time.

7. State central registry disclosure forms, documentation of any disposition of the risk evaluation panel and, when applicable, the Division of Administrative Law ruling shall be maintained in accordance with current DCFS licensing requirements and shall be available for review by DCFS personnel during the facility's hours of operation. This information shall be kept on file for a minimum of one year from termination of the employee or volunteer from the facility.

8. Any information received or knowledge acquired that a current or prospective owner, operator, volunteer, employee, prospective volunteer, or prospective employee has falsified a state central registry disclosure form stating that they are not currently recorded as a perpetrator with a justified (valid) determination of abuse or neglect shall be reported in writing to Licensing Section Management Staff as soon as possible, but no later than the close of business on the next business day.

9. Any state central registry disclosure form, risk evaluation panel finding, and Division of Administrative Law ruling that is maintained in a child residential facility licensing file shall be confidential and subject to the

confidentiality provisions of R.S. 46:56(F) pertaining to the investigations of abuse and neglect.

10. In accordance with R.S. 46:1428 providers shall make available to each child's parent or legal guardian information relative to the risks associated with influenza and the availability, effectiveness, known contraindications and possible side effects of the influenza immunization. This information shall include the causes and symptoms of influenza, the means by which influenza is spread, the places a parent or legal guardian may obtain additional information and where a child may be immunized against influenza. The information shall be updated annually if new information on the disease is available. The information shall be provided annually to each licensed facility by the Department of Children and Family Services and shall be made available to parents or legal guardians prior to November 1 of each year.

C. - O.1.c. ...

d. documentation of a satisfactory criminal record check from Louisiana State Police as required by La. R.S. 46:51.2. This check shall be obtained prior to the individual being present in the child residential facility. No person who has been convicted of, or pled guilty or nolo contendere to, any offense included in R.S. 15:587.1, R.S. 14:2, R.S. 15:541 or any offense involving a juvenile victim, shall be eligible to own, operate, and/or be present in any capacity in any licensed child residential facility. For any owner or operator, a clear criminal background check in accordance with R.S. 46:51.2 shall be obtained prior to the issuance of a license or approval of a change of ownership. In addition, neither an owner, nor a director shall have a conviction of, or pled guilty or nolo contendere to any crime in which an act of fraud or intent to defraud is an element of the offense;

i. any employee who is convicted of or has pled nolo contendere to any crime listed in R.S. 15:587.1(c) shall not continue employment after such conviction or nolo contendere plea;

e. evidence of applicable professional credentials/certifications according to state law;

f. annual performance evaluations;

g. personnel actions, other appropriate materials, reports and notes relating to the individual's employment with the facility;

h. employee's starting and termination dates;

i. prior to employment, each prospective employee shall complete a state central registry disclosure form prepared by the department as required in RS 46:1414.1. This information shall be reported prior to the individual being on the premises of the child residential facility and shall be updated annually, at any time upon the request of DCFS, and within three business days of any staff receiving notice of a justified (valid) determination of child abuse or neglect;

i. the prospective paid staff (employee) shall complete, sign, and date the state central registry disclosure form and submit the disclosure form to the owner or operator of the facility;

(a). if a prospective staff (employee) discloses that his or her name is currently recorded as a perpetrator on the state central registry, the director shall inform the applicant they will not be considered for employment at that time due to the state central registry disclosure. The director will provide the prospective employee with the risk

evaluation panel form (SCR 2) so that a risk assessment evaluation may be requested;

(b). individuals are eligible for employment if and when they provide written documentation from the risk evaluation panel or the Division of Administrative Law noting that they do not pose a risk to children;

ii. current staff receiving notice of a justified (valid) determination of child abuse and/or neglect shall complete an updated state central registry disclosure form (SCR 1) noting the existence of the justified (valid) determination as required by R.S. 46:1414.1. This updated SCR 1 shall be submitted to the Licensing Section management staff within three business days or upon being on the child residential premises, whichever is sooner. Staff will have 10 calendar days from completion of the state central registry disclosure form to request a risk assessment evaluation in accordance with LAC 67:1.305 or shall be terminated immediately.

(a). If the staff person will no longer be employed at the facility, the provider shall submit a signed, dated statement indicating that the staff will not be on the premises of the facility at any time.

(b). Immediately upon the receipt of the knowledge that a justified (valid) finding has been issued by DCFS and as a condition of continued employment the staff person shall be directly supervised by a paid staff (employee) of the facility who has not disclosed that their name appears with a justified (valid) finding on the state central registry. Provider shall submit a written statement to Licensing Section management staff acknowledging that the staff is under continuous direct supervision by a paid staff who has not disclosed that their name appears with a justified (valid) finding on the state central registry. When these conditions are met, the staff (employee) may be counted in child staff ratio. Under no circumstances may the staff person with the justified finding be left alone and unsupervised with the children pending the disposition by the risk evaluation panel or the Division of Administrative Law that the staff person does not pose a risk to children.

(c). If the risk evaluation panel finds the individual does pose a risk to children and the individual chooses not to appeal the finding, the staff (employee) shall be terminated immediately.

(d). If the risk evaluation panel finds the individual does pose a risk to children and the individual appeals the finding to the Division of Administrative Law within the required timeframe, the staff (employee) shall continue to be under direct supervision at all times by another paid employee of the facility who has not disclosed that they have a justified finding on the state central registry until a ruling is made by the Division of Administrative Law that they do not pose a risk to children. Supervision may end upon receipt of the ruling from the Division of Administrative Law that they do not pose a risk to children.

(e). If the Division of Administrative Law upholds the risk evaluation panel finding that the individual does pose a risk to children, the individual shall be terminated immediately.

iii. Any owner, operator, current or prospective employee, or volunteer of a child residential facility requesting licensure by DCFS and/or a child residential facility licensed by DCFS is prohibited from working in a

child residential facility if the individual discloses, or information is known or received by DCFS, that the individual's name is recorded on the state central registry (SCR) as a perpetrator for a justified (valid) finding of abuse or neglect of a child, unless there is a finding by the risk evaluation panel or a ruling by the Division of Administrative Law that the individual does not pose a risk to children.

O.2. - Q....

R. Facility, Staff, Client and Records Accessibility

1. The provider shall allow representatives of DCFS access to the facility, the children, and all files and records at any time during hours of operation and/or anytime a child is present. DCFS staff shall be allowed to interview any staff member or child as determined necessary by DCFS. DCFS representatives shall be admitted immediately and without delay, and shall be given free access to all areas of a facility, including its grounds. If any portion of a facility is set aside for private use by the facility's owner, DCFS representatives shall be permitted to verify that no child is present in that portion and that the private areas are inaccessible to children. If as a result of a preliminary investigation, or other DCFS inspection, DCFS determines that one or more safety issues exists, DCFS may require implementation of a safety intervention plan. In such a case, the provider shall cooperate and adhere to any written safety intervention as determined, enumerated, and mandated by DCFS staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1567 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2743 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1620 (August 2009), amended LR 36:331 (February 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:

**§6961. Human Resources**

A. - E.2. ...

3. subject to character and reference checks similar to those performed for employment applicants upon obtaining a signed release and the names of the references from the potential volunteer/intern student;

4. aware of and briefed on any special needs or problems of clients;

5. have a criminal background check as required in R.S. 15:587.1 and R.S. 46:51.2 and as outlined in Section 6959.O.1.d; and

6. have a completed state central registry disclosure form prepared by the department whether or not his/her name is currently recorded on the state central registry for a justified finding of abuse or neglect and he/she is the named perpetrator as required in R.S. 46.1414.1.

a. This information shall be reported prior to the individual being on the premises of the child residential facility and shall be updated annually, at any time upon the request of DCFS, and within three business days of any staff and/or volunteer receiving notice of a justified (valid) determination of child abuse or neglect.

b. The prospective non-paid staff (volunteer) shall complete, sign, and date the state central registry disclosure

form and submit the disclosure form to the owner or operator of the facility.

i. If a prospective staff non-paid (volunteer) discloses that his or her name is currently recorded as a perpetrator on the state central registry, the director shall inform the applicant they will not be considered for volunteer duties at that time due to the state central registry disclosure. The director will provide the prospective volunteer with the risk evaluation panel form (SCR 2) so that a risk assessment evaluation may be requested.

ii. Individuals are eligible for volunteer services if and when they provide written documentation from the risk evaluation panel or the Division of Administrative Law noting that they do not pose a risk to children.

c. Current volunteers receiving notice of a justified (valid) determination of child abuse and/or neglect shall complete an updated state central registry disclosure form (SCR 1) noting the existence of the justified (valid) determination as required by R.S. 46:1414.1. This updated SCR 1 shall be submitted to the Licensing Section management staff within three business days or upon being on the child residential premises, whichever is sooner. Volunteers will have 10 calendar days from completion of the state central registry disclosure form to request a risk assessment evaluation in accordance with LAC 67:1.305 or shall be terminated immediately.

i. If the volunteer will no longer be employed at or provide volunteer services at the facility, the provider shall submit a signed, dated statement indicating that the volunteer will not be on the premises of the facility at any time.

ii. Immediately upon the receipt of the knowledge that a justified (valid) finding has been issued by DCFS and as a condition of continued volunteer services, the staff person shall be directly supervised by a paid staff (employee) of the facility who has not disclosed that their name appears with a justified (valid) finding on the state central registry. Provider shall submit a written statement to Licensing Section management staff acknowledging that the volunteer is under continuous direct supervision by a paid staff who has not disclosed that their name appears with a justified (valid) finding on the state central registry. When these conditions are met, the non-paid staff (volunteer) may be counted in child staff ratio. Under no circumstances may the volunteer with the justified finding be left alone and unsupervised with the children pending the disposition by the risk evaluation panel or the Division of Administrative Law that the staff person does not pose a risk to children.

iii. If the risk evaluation panel finds the individual does pose a risk to children and the individual chooses not to appeal the finding, the non-paid staff (volunteer) shall be terminated immediately.

iv. If the risk evaluation panel finds the individual does pose a risk to children and the individual appeals the finding to the Division of Administrative Law within the required timeframe, the non-paid staff (volunteer) shall continue to be under direct supervision at all times by another paid employee of the facility who has not disclosed that they have a justified finding on the state central registry until a ruling is made by the Division of Administrative Law that they do not pose a risk to children. Supervision may end

upon receipt of the ruling from the Division of Administrative Law that they do not pose a risk to children.

v. If the Division of Administrative Law upholds the risk evaluation panel finding that the individual does pose a risk to children, the individual shall be terminated immediately.

d. Any owner, operator, current or prospective employee, or volunteer of a child residential facility requesting licensure by DCFS and/or a child residential facility licensed by DCFS is prohibited from working in a child residential facility if the individual discloses, or information is known or received by DCFS, that the individual's name is recorded on the state central registry (SCR) as a perpetrator for a justified (valid) finding of abuse or neglect of a child, unless there is a finding by the risk evaluation panel or a ruling by the Division of Administrative Law that the individual does not pose a risk to children.

F. - F.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1570 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2745 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1622 (August 2009), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:

**Chapter 71. Child Residential Care**

**§7105. Definitions**

A. As used in this Chapter:

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*Department (DCFS)*—Department of Children and Family Services formerly the Department of Social Services.

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*Documentation*—written evidence or proof, signed and dated by the parties involved (director, parents, staff, etc.), and available for review.

\*\*\*

*Facility*—any place, program, facility or agency as defined in R.S. 46:1403 to operate under a license, including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency.

\*\*\*

*Individual Owner*—a natural person who directly owns a facility without setting up or registering a corporation, LLC, partnership, church, university or governmental entity. The spouse of a married owner is also an owner unless the business is the separate property of the licensee acquired before his/her marriage, acquired through authentic act of sale from spouse of his/her undivided interest; or acquired via a judicial termination of the community of aquets and gains.

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*License*—any license issued by the Department of Children and Family Services to operate any child residential facility as defined in R.S. 46:1403.

*Licensing Section*—DCFS, Division of Programs, Licensing Section.

*Mandated Reporter*—professionals who may work with children in the course of their professional duties and who consequently are required to report all suspected cases of child abuse and neglect. This includes any person who provides training and supervision of a child, such as a public or private school teacher, teacher's aide, instructional aide, school principal, school staff member, social worker, probation officer, foster home parent, group home or other child care institution staff member, personnel of residential home facilities, a licensed or unlicensed day care provider, any individual who provides such services to a child, or any other person made a mandatory reporter under Article 603 of the Children's Code or other applicable law.

*Medication*—all drugs administered internally and/or externally, whether over-the-counter or prescribed.

\*\*\*

*Owner or Operator*—the individual who exercises ownership or control over a child residential care facility, whether such ownership/control is direct or indirect.

*Ownership*—the right that confers on a person direct, immediate, and exclusive authority over a thing. The owner of a thing may use, enjoy, and dispose of it within the limits and under the conditions established by law. Refers to direct or indirect ownership.

a. *Direct Ownership*—when a natural person is the immediate owner of a child residential care facility, i.e., exercising control personally rather than through a juridical person.

b. *Indirect Ownership*—when the immediate owner is a juridical entity.

\*\*\*

*Reasonable Suspicion*—Licensing Section personnel has or acquires information containing specific and articulable facts indicating that an owner, operator, or current or potential employee or volunteer has been investigated and determined to be the perpetrator of abuse or neglect against a minor in an investigation with a justified (valid) finding currently recorded on the state central registry.

\*\*\*

*Safety Interventions*—an immediate time limited plan to control the factor(s) that may result in an immediate or impending serious injury/harm to a child(ren).

\*\*\*

*Staff*—all full or part-time paid or unpaid staff who perform services for the child residential facility and have direct or indirect contact with children at the facility. Facility staff includes the director and any other employees of the facility including, but not limited to the cook, housekeeper, driver, custodian, secretary, and bookkeeper excluding extra-curricular personnel.

*State Central Registry*—repository that identifies any individual reported to have a justified (valid) finding of abuse or neglect of a child or children by DCFS.

\*\*\*

*Unlicensed Operation*—operation of any child residential facility, at any location, without a valid, current license issued by the department.

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:805 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:

### §7107. Licensing Requirements

A. - A.4. ...

5. Any owner/owners of a child residential facility shall provide documentation of a satisfactory criminal record check, as required by R.S. 46:51.2 and 15:587.1. A copy of the criminal background check shall be submitted for each owner of a facility with an initial application, a change of ownership (CHOW) application, a change of location (CHOL) application, and/or an application for renewal for a child residential license. No person with a criminal conviction of a felony, or a plea of guilty or nolo contendere of a felony, or plea of guilty or nolo contendere to any offense included in 15:587.1, 14:2, or 15:541, or any offense involving a juvenile victim, shall directly or indirectly own, operate, or participate in the governance of a child residential facility. In addition, an owner, or director shall not have a conviction of, or plea of guilty or nolo contendere to any crime in which an act of fraud or intent to defraud is an element of the offense. The following is a listing of individuals by organizational type who are required to submit documentation of a satisfactory criminal background clearance.

a. *Individual Ownership*—individual and spouse.

b. *Partnership*—all limited or general partners and managers as verified on the Secretary of State's website.

c. *Church Owned, Governmental Entity, or University Owned*—any clergy and/or board member that is present in the facility during the hours of operation or when children are present.

d.i. *Corporation*—any individual who has 25 percent or greater share in the business or any individual with less than a 25 percent share in the business and performs one or more of the following functions:

(a). has unsupervised access to the children in care at the facility;

(b). is present in the facility during hours of operation;

(c). makes decisions regarding the day-to-day operations of the facility;

(d). hires and/or fires child care staff including the director;

(e). oversees child residential staff and/or conducts personnel evaluations of the child care staff; and/or

(f). writes the facility's policies and procedures.

ii. If an owner has less than a 25 percent share in the business and does not perform one or more of the functions listed above a signed, notarized attestation form is required in lieu of a criminal background clearance. This attestation form is a signed statement from each owner acknowledging that he/she has less than a 25 percent share in the business and that he/she does not perform one or more of the aforementioned functions as an owner.

6. Providers and child care staff shall not permit an individual convicted of a sex offense as defined in R.S. 15:541 to have physical access to a child residential facility as defined in R.S. 46:1403.

7. The owner or director of a child residential facility shall be required to call and notify law enforcement personnel and the Licensing Section management staff if they have knowledge that a registered sex offender is on the premises of the child residential facility. The verbal report shall be followed by a written report to the Licensing Section within 24 hours. The owner or director of a child residential facility shall be required to call and notify law enforcement personnel if they have knowledge that a registered sex offender is within 1,000 feet of the child day care facility as required by R.S. 14:91.1.

B. - B.1.q. ...

r. a floor sketch or drawing of the premises to be licensed;

s. any other documentation or information required by the department for licensure; and

t. any owner/owners of a child residential facility shall provide documentation of a satisfactory criminal record check, as required by R.S. 46:51.2 and 15:587.1.

B.2. - E.2.c. ...

d. copy of proof of current general liability and property insurance for facility;

e. copy of proof of insurance for vehicle(s); and

f. copy of a criminal background clearance for all owners as required by R.S. 46:51.2 and 15:587.1.

E.3. - E.6. ...

7. If it is determined that all areas of noncompliance or deficiencies have not been corrected prior to the expiration date of the extension, the department may revoke the license.

F. - G.2.e. ...

f. failure to timely submit an application for renewal or to timely pay required fees;

g. operating any unlicensed facility and/or program;

h. permit an individual with a justified (valid) finding of child/abuse neglect to be on the premises without being directly supervised by another paid employee of the facility, who has not disclosed that their name appears with a justified (valid) finding on the state central registry prior to a determination by the risk evaluation panel or Division of Administrative Law that the individual does not pose a risk to children; or to knowingly permit an individual who has not disclosed that their name appears with a justified (valid) finding on the state central registry to be on the premises at any time, whether supervised or not supervised;

i. permit an individual, whether supervised or not supervised to be on the child residential premises with a ruling by the risk evaluation panel that the individual poses a risk to children and the individual has not requested an appeal hearing by the or nolo contendere to, any offense included in 15:587.1, 14:2, 15:541, or any offense involving a juvenile victim;

j. have a criminal background, as evidenced by the continued employment or ownership of or by any individual (paid or unpaid staff) convicted of, or a plea of guilty or nolo contendere to, any offense included in 15:587.1, 14:2, 15:541, or any offense involving a juvenile victim;

k. own a child residential business and have been convicted of or have pled guilty or nolo contendere to any crime in which an act of fraud or intent to defraud is an element of the offense;



l. have knowledge that a convicted sex offender is on the premises of the child care facility and fail to notify law enforcement and licensing management staff immediately upon receipt of such knowledge; or

m. have knowledge that a convicted sex offender is physically present within 1,000 feet of the child care facility and fail to notify law enforcement immediately upon receipt of such knowledge.

G.3. - K.1.d. ...

L. State Central Registry

1. All owners shall complete, sign, and date the state central registry disclosure form (SCR 1) as required by R.S. 46:1414.1. This information shall be reported prior to the individual being on the premises of the child residential facility and shall be updated annually, at any time upon the request of DCFS, and within three business days of any owner receiving notice of a justified (valid) determination of child abuse or neglect.

a. Prospective owners shall complete, sign, and date the state central registry disclosure form and submit the disclosure form to DCFS licensing. If a prospective owner discloses that his or her name is currently recorded as a perpetrator on the state central registry, DCFS shall not proceed with the licensure process. The owner shall request a risk evaluation assessment on the risk evaluation panel form (SCR 2) or shall submit a signed, dated statement that he or she will not be on the premises of the facility at any time. DCFS will resume the licensure process when the owner provides written documentation from the risk evaluation panel or the Division of Administrative Law noting that they do not pose a risk to children or the statement regarding their presence at the child residential facility.

b. Within three business days of current owners receiving notice of a justified (valid) determination of child abuse and/or neglect, an updated state central registry disclosure form (SCR 1) shall be completed by the owner as required by R.S. 46:1414.1. and submitted to the Licensing section management staff. The owner will have 10 calendar days from completion of the state central registry disclosure form to request a risk assessment evaluation in accordance with LAC 67:1.305. If on-site at the facility and immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the owner shall be directly supervised by a paid staff (employee) of the facility, who has not disclosed that their name appears with a justified (valid) finding on the state central registry. Under no circumstances may the owner with the justified finding be left alone and unsupervised with the children pending the disposition of the risk evaluation panel or the Division of Administrative Law. If not on site at the child residential facility, owner shall submit a signed, dated statement that he or she will not be on the premises of the facility at any time.

i. If the risk evaluation panel finds the owner does pose a risk to children and the individual chooses not to appeal the finding, the owner shall not be on the child residential premises at any time.

ii. If the risk evaluation panel finds the owner does pose a risk to children and the individual appeals the finding to the Division of Administrative Law within the required timeframe, the owner shall continue to be under direct supervision at all times by a paid staff (employee) of

the facility who has not disclosed that they have a justified finding on the state central registry until a ruling is made by the Division of Administrative Law that they do not pose a risk to children. Supervision may end upon receipt of the ruling from the Division of Administrative Law that the owner does not pose a risk to children.

iii. If the Division of Administrative Law upholds the risk evaluation panel finding that the individual does pose a risk to children, the owner shall not be on the child residential premises at any time.

2. State central registry disclosure forms, documentation of any disposition of the risk evaluation panel and, when applicable, the Division of Administrative Law ruling shall be maintained in accordance with current DCFS licensing requirements and shall be available for review by DCFS personnel during the facility's hours of operation. This information shall be kept on file for a minimum of one year from termination of the employee or volunteer from the facility.

3. Any information received or knowledge acquired that a current or prospective owner, operator, volunteer, employee, prospective volunteer, or prospective employee has falsified a state central registry disclosure form stating that they are not currently recorded as a perpetrator with a justified (valid) determination of abuse or neglect shall be reported in writing to Licensing Section Management Staff as soon as possible, but no later than the close of business on the next business day.

4. Any state central registry disclosure form, risk evaluation panel finding, and Division of Administrative Law ruling that is maintained in a child residential facility licensing file shall be confidential and subject to the confidentiality provisions of R.S. 46:56(F) pertaining to the investigations of abuse and neglect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S.46:1401-1424 and R.S. 46:1414.1.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 36:807 (April 2010), amended LR 36:843 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:

**§7111. Provider Responsibilities**

A. - A.2.c. ...

d. The provider that utilizes volunteers shall be responsible for the actions of the volunteers. Volunteers shall be given a copy of their job description. Volunteers shall:

i. ...

ii. have a criminal background check as required in R.S. 15:587.1 and R.S. 46:51.2 and as outlined in Section 7111.A.5.d.ii; and

iii. have a completed state central registry disclosure form prepared by the department whether or not his/her name is currently recorded on the state central registry for a justified finding of abuse or neglect and he/she is the named perpetrator as required in R.S. 46.1414.1;

(a). This information shall be reported prior to the individual being on the premises of the child residential facility and shall be updated annually, at any time upon the request of DCFS, and within three business days of any staff and/or volunteer receiving notice of a justified (valid) determination of child abuse or neglect.

(b). The prospective non-paid staff (volunteer) shall complete, sign, and date the state central registry

disclosure form and submit the disclosure form to the owner or operator of the facility.

(i). If a prospective staff non-paid (volunteer) discloses that his or her name is currently recorded as a perpetrator on the state central registry, the director shall inform the applicant they will not be considered for volunteer duties at that time due to the state central registry disclosure. The director will provide the prospective volunteer with the risk evaluation panel form (SCR 2) so that a risk assessment evaluation may be requested.

(ii). Individuals are eligible for volunteer services if and when they provide written documentation from the risk evaluation panel or the Division of Administrative Law noting that they do not pose a risk to children.

(c). Current volunteers receiving notice of a justified (valid) determination of child abuse and/or neglect shall complete an updated state central registry disclosure form (SCR 1) noting the existence of the justified (valid) determination as required by R.S. 46:1414.1. This updated SCR 1 shall be submitted to the Licensing Section management staff within three business days or upon being on the child residential premises, whichever is sooner. Volunteers will have ten calendar days from completion of the state central registry disclosure form to request a risk assessment evaluation in accordance with LAC 67:1.305 or shall be terminated immediately.

(i). If the volunteer will no longer be employed at or provide volunteer services at the facility, the provider shall submit a signed, dated statement indicating that the volunteer will not be on the premises of the facility at any time.

(ii). Immediately upon the receipt of the knowledge that a justified (valid) finding has been issued by DCFS and as a condition of continued volunteer services, the staff person shall be directly supervised by a paid staff (employee) of the facility who has not disclosed that their name appears with a justified (valid) finding on the state central registry. Provider shall submit a written statement to Licensing Section management staff acknowledging that the volunteer is under continuous direct supervision by a paid staff who has not disclosed that their name appears with a justified (valid) finding on the state central registry. When these conditions are met, the non-paid staff (volunteer) may be counted in child staff ratio. Under no circumstances may the volunteer with the justified finding be left alone and unsupervised with the children pending the disposition by the risk evaluation panel or the Division of Administrative Law that the staff person does not pose a risk to children.

(iii). If the risk evaluation panel finds the individual does pose a risk to children and the individual chooses not to appeal the finding, the non-paid staff (volunteer) shall be terminated immediately.

(iv). If the risk evaluation panel finds the individual does pose a risk to children and the individual appeals the finding to the Division of Administrative Law within the required timeframe, the non-paid staff (volunteer) shall continue to be under direct supervision at all times by another paid employee of the facility who has not disclosed that they have a justified finding on the state central registry until a ruling is made by the Division of Administrative Law

that they do not pose a risk to children. Supervision may end upon receipt of the ruling from the Division of Administrative Law that they do not pose a risk to children.

(v). If the Division of Administrative Law upholds the risk evaluation panel finding that the individual does pose a risk to children, the individual shall be terminated immediately.

(d). Any owner, operator, current or prospective employee, or volunteer of a child residential facility requesting licensure by DCFS and/or a child residential facility licensed by DCFS is prohibited from working in a child residential facility if the individual discloses, or information is known or received by DCFS, that the individual's name is recorded on the state central registry (SCR) as a perpetrator for a justified (valid) finding of abuse or neglect of a child, unless there is a finding by the risk evaluation panel or a ruling by the Division of Administrative Law that the individual does not pose a risk to children.

A.2.d.iv. - A.5.b. ...

c. Prior to employment, each prospective employee shall complete a state central registry disclosure form prepared by the department as required in RS 46:1414.1. This information shall be reported prior to the individual being on the premises of the child residential facility and shall be updated annually, at any time upon the request of DCFS, and within three business days of any staff receiving notice of a justified (valid) determination of child abuse or neglect.

i. The prospective paid staff (employee) shall complete, sign, and date the state central registry disclosure form and submit the disclosure form to the owner or operator of the facility.

(a). If a prospective staff (employee) discloses that his or her name is currently recorded as a perpetrator on the state central registry, the director shall inform the applicant they will not be considered for employment at that time due to the state central registry disclosure. The director will provide the prospective employee with the risk evaluation panel form (SCR 2) so that a risk assessment evaluation may be requested.

(b). Individuals are eligible for employment if and when they provide written documentation from the risk evaluation panel or the Division of Administrative Law noting that they do not pose a risk to children.

ii. Current staff receiving notice of a justified (valid) determination of child abuse and/or neglect shall complete an updated state central registry disclosure form (SCR 1) noting the existence of the justified (valid) determination as required by R.S. 46:1414.1. This updated SCR 1 shall be submitted to the Licensing Section management staff within three business days or upon being on the child residential premises, whichever is sooner. Staff will have ten calendar days from completion of the state central registry disclosure form to request a risk assessment evaluation in accordance with LAC 67:1.305 or shall be terminated immediately.

(a). If the staff person will no longer be employed at the facility, the provider shall submit a signed, dated statement indicating that the staff will not be on the premises of the facility at any time.

(b). Immediately upon the receipt of the knowledge that a justified (valid) finding has been issued by DCFS and as a condition of continued employment the staff person shall be directly supervised by a paid staff (employee) of the facility who has not disclosed that their name appears with a justified (valid) finding on the state central registry. Provider shall submit a written statement to Licensing Section management staff acknowledging that the staff is under continuous direct supervision by a paid staff who has not disclosed that their name appears with a justified (valid) finding on the state central registry. When these conditions are met, the staff (employee) may be counted in child staff ratio. Under no circumstances may the staff person with the justified finding be left alone and unsupervised with the children pending the disposition by the risk evaluation panel or the Division of Administrative Law that the staff person does not pose a risk to children.

(c). If the risk evaluation panel finds the individual does pose a risk to children and the individual chooses not to appeal the finding, the staff (employee) shall be terminated immediately.

(d). If the risk evaluation panel finds the individual does pose a risk to children and the individual appeals the finding to the Division of Administrative Law within the required timeframe, the staff (employee) shall continue to be under direct supervision at all times by another paid employee of the facility who has not disclosed that they have a justified finding on the state central registry until a ruling is made by the Division of Administrative Law that they do not pose a risk to children. Supervision may end upon receipt of the ruling from the Division of Administrative Law that they do not pose a risk to children.

(e). If the Division of Administrative Law upholds the risk evaluation panel finding that the individual does pose a risk to children, the individual shall be terminated immediately.

iii. Any owner, operator, current or prospective employee, or volunteer of a child residential facility requesting licensure by DCFS and/or a child residential facility licensed by DCFS is prohibited from working in a child residential facility if the individual discloses, or information is known or received by DCFS, that the individual's name is recorded on the state central registry (SCR) as a perpetrator for a justified (valid) finding of abuse or neglect of a child, unless there is a finding by the risk evaluation panel or a ruling by the Division of Administrative Law that the individual does not pose a risk to children.

A.5.d. - A.5.d.i....

ii. No person, having any supervisory or other interaction with residents, shall be hired or on the premises of the facility until such person has submitted his or her fingerprints to the Louisiana Bureau of Criminal Identification and Information and it has been determined that such person has not been convicted of or pled nolo contendere to a crime listed in R.S. 15:587.1(C). This shall include any employee or non-employee who performs paid or unpaid work with the provider to include independent contractors, consultants, students, volunteers, trainees, or any other associated person, as defined in these rules.

A.5.d.iii. - G ...

H. Influenza Notice to Parents

1. In accordance with R.S. 46:1428 providers shall make available to each child's parent or legal guardian information relative to the risks associated with influenza and the availability, effectiveness, known contraindications and possible side effects of the influenza immunization. This information shall include the causes and symptoms of influenza, the means by which influenza is spread, the places a parent or legal guardian may obtain additional information and where a child may be immunized against influenza. The information shall be updated annually if new information on the disease is available. The information shall be provided annually to each licensed facility by the Department of Children and Family Services and shall be made available to parents or legal guardians prior to November 1 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:811 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:

Ruth Johnson  
Secretary

1202#075

**DECLARATION OF EMERGENCY**  
**Department of Children and Family Services**  
**Division of Programs**  
**Licensing Section**

Juvenile Detention Facilities (LAC 67:V.Chapter 75)

The Department of Children and Family Services (DCFS), Division of Programs, Licensing Section in accordance with provisions of the Administrative Procedure Act, R.S. 49:953(B) proposes to adopt LAC 67:V.Chapter 75 to include standards for juvenile detention facilities. This Emergency Rule shall become effective upon the signature of the DCFS secretary and shall remain in effect for a period of 120 days.

Subpart 8, Residential Licensing is being amended to add Chapter 75 in accordance with R.S. 15:1110 which requires DCFS to license juvenile detention facilities. This law requires the creation of licensing standards for juvenile detention facilities and for such standards to be promulgated and in place by January 2012. All juvenile detention facilities are mandated to be licensed by January 1, 2013.

Emergency action is necessary to ensure that DCFS is in compliance with the above mentioned statute.

**Title 67**  
**SOCIAL SERVICES**  
**Part V. Child Welfare**  
**Subpart 8. Residential Licensing**  
**Chapter 75. Juvenile Detention Facilities**  
**§7501. Purpose**

A. It is the intent of the legislature to protect the health, safety, and well-being of the youth of this state who are placed in a Juvenile detention facility (JDF). Toward this end, it is the purpose of R.S. 15:1110 to provide for the establishment of statewide standards for juvenile detention facilities, to ensure maintenance of these standards, and to regulate conditions in these facilities through a licensing

program. It shall be the policy of this state that all juvenile detention facilities provide temporary, safe, and secure custody of youth during the pendency of youth proceedings, when detention is the least restrictive alternative available to secure the appearance of the youth in court or to protect the safety of the child or the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:

### §7503. Authority

#### A. Legislative Provisions

1. R.S. 15:1110 is the legal authority under which the department prescribes minimum standards for the health, safety and well-being of youth placed in Juvenile Detention Facilities (JDF).

#### B. Penalties

1. Whoever operates a child care JDF without a valid license may be fined in accordance with the law.

#### C. Waiver Request

1. In specific instances, the secretary of DCFS may waive compliance with a minimum standard if it is determined that the economic impact is sufficiently great to make compliance impractical, as long as the health and well-being of the staff and/or youth are not imperiled.

a. Standards shall be waived only when the secretary determines, upon clear and convincing evidence, that the demonstrated economic impact is sufficient to make compliance impractical for the provider despite diligent efforts, and when alternative means have been adopted to ensure that the intent of the regulation has been met ensuring the health, safety, and well being of the youth served.

b. An application for a waiver shall be submitted by a provider using the Request for Waiver from Licensing Standards form. The form shall be submitted to the DCFS Licensing Section. A request for a waiver shall provide the following information: a statement of the provisions for which the waiver is being requested, an explanation of the reasons why the provisions cannot be met, including information demonstrating that the economic impact is sufficiently great to make compliance impractical, and a description of alternative methods proposed for meeting the intent of the regulation sought to be waived.

c. All requests for a waiver will be responded to in writing by the DCFS secretary or designee. A copy of the waiver decision shall be kept on file at the facility and presented to licensing staff during all licensing inspections.

d. A waiver is issued at the discretion of the secretary and continues in effect at his/her pleasure. The waiver may be revoked by the secretary at any time, either upon violation of any condition attached to it at issuance, or upon failure of any of the statutory prerequisites to issuance of a waiver (i.e., the cost of compliance is no longer so great as to be impractical or the health or safety of any staff or any child in care is imperiled), or upon his/her determination that continuance of the waiver is no longer in the best interest of DCFS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:

### §7505. Definitions

*Abuse*—any one of the following acts which seriously endangers the physical, mental, or emotional health of the youth:

1. the infliction, attempted infliction, or, as a result of inadequate supervision, the allowance of the infliction or attempted infliction of physical or mental injury upon the youth by a parent or any other person;

2. the exploitation or overwork of a youth by a parent or any other person; and

3. the involvement of the youth in any sexual act with a parent or any other person, or the aiding or toleration by the parent or the caretaker of the youth's sexual involvement with any other person or of the youth's involvement in pornographic displays or any other involvement of a youth in sexual activity constituting a crime under the laws of this state.

*Administrative Segregation*—restriction of a youth to a designated sleeping room or dorm for reasons other than current acting-out behavior, discipline, medical reasons, or threats to the youth.

*Administrator*—the person with authority and responsibility for the on-site, daily implementation and supervision of the facility's overall operation.

*Affiliate*—

1. with respect to a partnership, each partner thereof;

2. with respect to a corporation, limited liability company, or other corporate entity, each officer, director and stockholder thereof; and

3. with respect to a natural person: anyone related within the third degree of kinship to that person; each partnership and each partner thereof of which that person or any affiliate of that person is a partner; and each corporation in which that person or any affiliate of that person is an officer, director or stockholder.

*Alternate Power Source*—an alternate source of electrical power that provides for the simultaneous operations of life safety systems during times of emergency.

*Average Daily Population*—a calculation determined by counting the number of youth in detention each day of the month, adding the daily counts (at 0600 hours), and dividing the sum by the number of days in the month.

*Average Length of Stay (ALOS)*—average length of stay is calculated on those youth who end a placement during the reporting period. ALOS is the sum of all the days of all the stays for those released during the period divided by the number of "releases." Stays should be calculated by counting admission date but not date of release.

*Body Cavity Search*—a visual inspection of a body cavity, defined as a rectal cavity, or vagina, for the purpose of discovering whether contraband is concealed in it.

*Complaint*—an allegation that any person or facility is violating any provisions of these standards or engaging in conduct, either by omission or commission, that negatively affects the health, safety, rights, or welfare of any youth who is residing in a juvenile detention facility.

*Contraband*—any object prohibited within a juvenile detention facility, which may include but is not limited to: currency, stolen property, articles of food or clothing, intoxicating beverages, narcotics, firearms or dangerous weapons, telecommunications devices, tattooing equipment, electronic devices, or any other object or instrumentality

intended for use as a tool in the planning or aiding in an escape or attempted escape by a youth in a local Juvenile detention facility in the state.

*Delinquent Act*—an act committed by a child of 10 years of age or older, which if committed by an adult is designated an offense under the statutes or ordinances of this state, or of another state if the offense occurred there or under federal law, except traffic violations.

*Department* (DCFS)—the Louisiana Department of Children and Family Services.

*Direct Care Staff*—a person counted in the staff/youth ratio, whose duties include the direct care, supervision, guidance, and protection of youth. This may include staff such as administrative staff that has the required background clearances and appropriate training that may serve temporarily as a detention officer.

*Electronic Security Wand Scanner*—an electronic hand-held security scanner used to detect metal weapons in a detention facility.

*Frisk*—to search a youth for something concealed, including a weapon or illegal contraband, by passing the hands quickly over clothes or through pockets.

*Governing Body*—a parent agency exercising administrative control over a facility.

*Grievance Procedure*—a method for the expression and resolution of youth's grievances or complaints.

*Inspection*—a thorough investigatory review of information, including written records and interviews with staff and youth, to determine whether and the extent to which a facility's policies, practices, and protocols comply with the standards.

*Juvenile Detention Facility* (JDF)—a facility that provides temporary safe and secure custody of youth during the pendency of juvenile proceedings, when detention is the least restrictive alternative available to secure the appearance of the youth in court or to protect the safety of the child or the public, as described in R.S. 15:1110.

*Mechanical Restraints*—an approved professionally manufactured mechanical device to aid in the restriction of a person's bodily movement. The following are approved mechanical restraint devices.

1. *Ankle Cuffs*—metal, cloth or leather band designed to be fastened around the ankle to restrain free movement of the legs.

2. *Anklelets*—cloth or leather band designed to be fastened around the ankle or leg.

3. *Handcuffs*—metal devices designed to be fastened around the wrist to restrain free movement of the hands and arms.

4. *Waist Band*—a cloth, leather, or metal band designed to be fastened around the waist used to secure the arms to the sides or front of the body.

5. *Wristlets*—a cloth or leather band designed to be fastened around the wrist or arm which may be secured to a waist belt.

6. *Plastic Cuffs*—plastic devices designed to be fastened around the wrist or legs to restrain free movement of hands, arms or legs.

*Medical Isolation*—the restriction of a youth to a sleeping room specifically for medical reasons that may pose a threat to himself/herself, or others at the facility.

*Neglect*—the refusal or unreasonable failure of a parent or caretaker to supply the child with necessary food, clothing, shelter, care, treatment, or counseling for any injury, illness, or condition of the child, as a result of which the child's physical, mental, or emotional health and safety is substantially threatened or impaired.

*Pat-Down Search*—a running of the hands over the clothed body of a youth by a staff member to determine whether the youth possesses contraband.

*Physical Escort Techniques*—the touching or holding a youth with a minimum use of force for the purpose of directing the youth's movement from one place to another. A physical escort is not considered a physical restraint.

*Physical Restraint*—a professionally trained restraint technique that uses a person's physical exertion to completely or partially constrain another person's body movement without the use of mechanical restraints.

*Protective Isolation*—is the restriction of a youth to a designated sleeping room or dorm due to his/her safety being threatened.

*Qualified Medical Professional*—health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for youth within the scope of his or her professional practice.

*Qualified Mental Health Professional*—a mental health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for youth within the scope of his or her professional practice.

*Relatives*—spouses, children of spouses, brothers, sisters, parents, brother-in-law, sister-in-law, aunts, uncles, nieces, nephews, grandparents, and first cousins.

*Room Confinement*—the restriction of a youth to his/her assigned sleeping room, due to disciplinary reasons.

*Room Isolation*—the restriction of a youth to a room that is separated from the general population, due to current acting out behavior.

*Shall*—must or mandatory.

*Special Needs*—the individual requirements (as for education) of a person with a mental, emotional, developmental, or physical disability or a high risk of developing one.

*Status Offense*—an allegation that a youth is truant or has willfully and repeatedly violated lawful school rules, ungovernable, a runaway, committed an offense applicable only to youth, or a youth under age 10 years of age who has committed any act which if committed by an adult would be a crime under any federal, state, or local law.

*Strip Search*—a search that requires a person to remove some or all of his or her clothing so as to permit a visual inspection of the underclothing, breasts, buttocks, or genitalia of such person.

*Substantial Bodily Harm*—physical injury serious enough that a prudent person would conclude that the injury required professional medical attention. It does not include minor bruising, the risk of minor bruising, or similar forms of minor bodily harm that will resolve healthily without professional medical attention.

*Support Staff*—a person who works directly for the facility or a person who provides direct services to youth in a facility on a recurring basis with no discipline authority over youth.

*Unencumbered Space*—usable space that is not occupied by furnishing or fixtures.

*Validated Mental Health Screening Tool*—an instrument that has been scientifically tested to determine that it accurately measures what it purports to measure.

*Volunteer*—an individual who works at the facility and whose work is uncompensated. This may include students, interns, tutors, counselors, persons providing recreational activities including religious service, and other non-staff individuals who may or may not interact with youth in a supervised or unsupervised capacity.

*Waiver*—an exemption granted by the secretary of the department, or designee, from compliance with a standard that will not place the youth or staff member at risk.

*Youth*—an individual placed in a JDF in accordance with limitations and exceptions noted in state law who is not less than 10 years of age nor older than 21 years of age.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:

### **§7507. Licensing Requirements**

#### **A. General Provisions**

1. All providers in operation prior to January 1, 2013 may continue to operate without a license if timely application for a license has been made to DCFS. Providers shall make application to the department within 90 days of the effective date of this rule. All requirements herein shall be met, unless otherwise expressly stated in writing by the department prior to the issuance of a license.

2. Effective January 1, 2013, it is mandatory to obtain a license from the department prior to beginning operation.

3. Anyone applying for a license after the effective date of these standards shall meet all of the requirements herein, unless otherwise stated in these regulations or other official written policy of the department.

4. Two licenses shall not be issued simultaneously for the same physical address. If a second license is issued for a physical address which is already licensed, the second license shall be null and void.

5. The provider shall allow representatives of DCFS access to the facility, the youth, and all files and records at any time during hours of operation and/or anytime youth are present. DCFS staff shall be allowed to interview any staff member or youth. DCFS staff shall be admitted immediately and without delay, and shall be given access to all areas of a facility, including its grounds. If any portion of a facility is set aside for private use by the facility's owner, DCFS representatives shall be permitted to verify that no youth is present in that portion and that the private areas are inaccessible to youth.

6. All new construction to a currently licensed facility or renovation requires approval from the Office of State Fire Marshal, Office of Public Health, city fire (if applicable), and the Licensing Section prior to occupying the new space.

7. Neither providers nor staff shall permit an individual convicted of a sex offense as defined in R.S. 15:541, other than youthful offenders convicted of such offense and committed to the custody of that specific facility, to have physical access to a JDF.

8. Providers shall comply with the requirements of the Americans with Disabilities Act, 42 U.S.C. §12101 et seq., (ADA).

9. If the facility is located in the same building or on the grounds of any type of adult jail, lockup, or corrections facility, it shall be a separate, self-contained unit. All applicable federal and state laws pertaining to the separation of youth from adult inmates will apply.

10. The population using housing or living units shall not exceed the designated or rated capacity of the facility.

11. All providers shall adhere to all policies with regard to practice and procedures.

12. DCFS is authorized to determine the period during which the license shall be effective. A license shall be valid until the expiration date shown on the license, unless the license is modified, extended, revoked, suspended, or terminated.

13. Once a license has been issued, DCFS shall conduct licensing inspections at intervals (not to exceed one year) deemed necessary by DCFS to determine compliance with licensing standards, as well as other required statutes, laws, ordinances, rules, and regulations. These inspections shall be unannounced.

14. Whenever DCFS is advised or has reason to believe that any person, agency, or organization that holds a license or has applied for a license is operating in violation of the JDF regulations or laws, DCFS shall conduct an investigation to ascertain the facts.

#### **B. Initial Licensing Application Process**

1. An initial application for licensing as a JDF shall be obtained from DCFS. A completed initial license application packet along with a fee as required by law shall be submitted to and approved by DCFS prior to an applicant providing JDF services. The completed initial licensing packet shall include:

- a. application and fee as established by law;
- b. current Office of State Fire Marshal approval for occupancy;
- c. current Office of Public Health, Sanitarian Services approval;
- d. current city fire department approval, if applicable;
- e. city or parish building permits office approval, if applicable;
- f. current local zoning approval, if applicable;
- g. current department of education approval, if applicable;
- h. copy of proof of current general liability and property insurance for JDF;
- i. copy of proof of insurance for vehicle(s) used to transport youth;
- j. organizational chart or equivalent list of staff titles and supervisory chain of command;
- k. administrator resume and proof of educational requirements;
  - l. list of consultant/contract staff to include name, contact information, and responsibilities;
  - m. copy of table of contents of all policy and procedure manuals;
  - n. copy of evacuation plan;
  - o. copy of facility rules and regulations;
  - p. copy of grievance process; and
  - q. a floor sketch or drawing of the premises to be licensed.

2. If the initial licensing packet is incomplete, the applicant will be notified in writing of the missing information and will have 14 calendar days to submit the additional requested information. If the department does not receive the additional requested information within the 14 calendar days, the application will be closed. After an initial licensing application is closed, an applicant who is still interested in becoming a JDF shall submit a new initial licensing packet with a new application fee to start the initial licensing process. Once the department has determined the application is complete, the applicant will be notified to contact the department to schedule an initial inspection. If an applicant fails to contact the department and coordinate the initial inspection within 45 calendar days of the notification, the initial licensing application shall be closed. After an initial licensing application is closed, an applicant who is still interested in becoming a JDF shall submit a new initial licensing packet with a new application fee to re-start the initial licensing process.

#### C. Initial Licensing Inspection

1. In accordance with R.S. 15:1110(E), prior to the initial license being issued to the JDF, an initial licensing inspection shall be conducted on-site at the JDF to assure compliance with all licensing standards. No youth shall be provided services by the JDF until the initial licensing inspection has been performed and DCFS has issued a license. The licensing inspection shall not be completed if the provider is found in operation prior to the issuance of a license and the application shall be denied.

2. In the event the initial licensing inspection finds the JDF is compliant with all licensing laws and standards, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees, DCFS may issue a license to the JDF. The license shall be valid until the expiration date shown on the license, unless the license is modified, extended, revoked, suspended, or terminated.

3. The license shall be displayed in a prominent place at the JDF.

#### D. Fees

1. An annual fee as established by law shall be payable to DCFS 30 days prior to the date of expiration of the current license by certified check, business check, or money order. Non-payment of fee by due date may result in revocation or non renewal of the license.

2. Other license fees include:

a. a replacement fee as established by law shall be submitted to the department for replacing a license when changes are requested, i.e., name change, age range, etc. No replacement charge shall be incurred when the request coincides with the regular renewal of a license;

b. a processing fee as established by law shall be submitted to the department for issuing a duplicate license with no changes.

#### E. Renewal of License

1. The license shall be renewed on an annual basis prior to its expiration date.

2. The JDF shall submit, at least 30 days prior to its license expiration date, a completed renewal application form, and fee as established by law. The following documentation shall also be included:

a. Office of Fire Marshal approval;

b. Office of Public Health, Sanitarian Services approval;

c. city fire department approval, if applicable;

d. copy of proof of current general liability and property insurance for JDF; and

e. copy of proof of insurance for vehicle(s) used to transport youth.

3. Prior to renewing the JDF license, an on-site inspection shall be conducted to assure compliance with all licensing laws and standards. If the JDF is found to be in compliance with the licensing laws and standards, and any other required statutes, laws, ordinances, or regulations, the license shall be renewed for a 12-month period.

4. In the event the annual licensing inspection finds the JDF is non-compliant with any licensing laws or standards, or any other required statutes, ordinances or regulations but the department, in its sole discretion, determines that the noncompliance does not present a threat to the health, safety, or welfare of the youth, the JDF shall be required to submit a corrective action plan to the department for approval. The department shall specify the timeline for submitting the corrective action plan based on such non-compliance or deficiencies cited but no later than 14 calendar days from the date of notification. The corrective action plan shall include a description of how the deficiency shall be corrected and the date by which correction(s) shall be completed. Failure to submit an approved corrective action plan timely shall be grounds for non-renewal of the license.

5. If it is determined that such noncompliance or deficiencies have not been corrected prior to the expiration of the license, the department may issue an extension of the license not to exceed two months.

6. When it is determined by the department that such noncompliance or deficiencies have been corrected, a license will be issued for a period not to exceed 12 months.

7. If it is determined that all areas of noncompliance or deficiencies have not been corrected prior to the expiration date of the extension, DCFS may revoke the license.

#### F. Notification of Changes

1. A license is not transferable to another person, entity, or location.

2. When a JDF changes location, it is considered a new operation and a new application and fee as required by law for licensure shall be submitted 30 days prior to the anticipated move. An onsite inspection verifying compliance with all standards is required prior to youth occupying the new space.

3. When a JDF is initiating a change in ownership, a written notice shall be submitted to DCFS prior to the ownership change. Within seven calendar days of the change of ownership, the new owner shall submit a completed application, the applicable licensing fee, and a copy of bill of sale or a lease agreement. A change of ownership occurs when the license and/or facility is transferred from one natural or juridical person to another, or when an officer, director, member, or shareholder not listed on the initial application exercises or asserts authority or control on behalf of the entity. The addition or removal of members of a board of directors shall not be considered a change of ownership where such addition or removal does not substantially affect

the entity's operation and shall require only notice be given to the DCFS of such addition or removal.

4. The JDF shall provide written notification to the department within 30 calendar days of changes in the administrator. A statement with supporting documentation of qualifications for the new administrator shall be submitted to DCFS.

#### G. Denial, Revocation, or Non-renewal of License

1. An application for a license may be denied, a license may be revoked, or a license renewal may be denied for any of the following reasons:

a. cruelty or indifference to the welfare of the youth in care;

b. violation of any provision of the standards, rules, regulations, or orders of the department;

c. disapproval from any agency whose approval is required for licensing;

d. any validated instance of abuse, neglect, corporal punishment, physical punishment, or cruel, severe, or unusual punishment, if the JDF administrator is responsible or if the staff member who is responsible remains in the employment of the licensee;

e. the JDF is closed with no plans for reopening and no means of verifying compliance with minimum standards for licensure;

f. falsifying or altering documents required for licensure;

g. the owner, administrator, officer, board of directors member, or any person designated to manage or supervise the JDF or any staff providing care, supervision, or treatment to a youth of the JDF has been convicted of or pled guilty or nolo contendere to any offense listed in R.S. 15:587.1. A copy of a criminal record check performed by the Louisiana State Police (LSP) or other law enforcement entity, or by the Federal Bureau of Investigation (FBI), or a copy of court records in which a conviction or plea occurred, indicating the existence of such a plea or conviction shall create a rebuttable presumption that such a conviction or plea exists;

h. the JDF, after being notified that an officer, administrator, board of directors member, manager, supervisor or any staff has been convicted of or pled nolo contendere to any offense referenced above, allows such officer, director, or staff to remain employed, or to fill an office of profit or trust with the JDF. A copy of a criminal record check performed by the LSP or other law enforcement entity, or by the FBI, or a copy of court records in which a conviction or plea occurred, indicating the existence of such a plea or conviction shall create a rebuttable presumption that such a conviction or plea exists;

i. failure of the owner, administrator or any staff to report a known or suspected incident of abuse or neglect to child protection authorities;

j. revocation or non-renewal of a previous license issued by the state of Louisiana;

k. a history of non-compliance with licensing statutes or standards, including but not limited to failure to take prompt action to correct deficiencies, repeated citations for the same deficiencies, or revocation or denial of any previous license issued by DCFS;

l. failure to timely submit an application for renewal or to timely pay fees as required by law; and/or

m. operating any unlicensed JDF and/or program.

#### H. Disqualification of Facility and/or Provider

1. If a facility's license is revoked or not renewed due to failure to comply with state statutes or licensing rules or surrendered to avoid adverse action, DCFS may elect not accept a subsequent application from the provider for that facility, or any new facility, up to but not exceeding a period of 24 months after the effective date of revocation, non-renewal due to adverse action, or surrender to avoid adverse action, or for a period up to but not exceeding 24 months after all appeal rights have been exhausted, whichever is later (the disqualification period). The effective date of a revocation, denial, or non-renewal of a license shall be the last day for applying to appeal the action, if the action is not appealed. Any pending application by the same provider shall be treated as an application for a new facility for purposes of this Section and may be denied and subject to the disqualification period. Any subsequent application for a license shall be reviewed by the secretary or designee prior to a decision being made to grant a license. DCFS reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

2. If a provider has multiple licensed facilities and one of the facility's licenses is revoked or not renewed, a capacity increase shall not be granted at any of the existing licensed facilities for a minimum period of 24 months after the effective date of revocation or non-renewal, or for a minimum period of 24 months after all appeal rights have been exhausted, whichever is later.

3. Any voluntary surrender of a license by a provider facing the possibility of adverse action against its license (revocation or non-renewal) shall be deemed to be a revocation for disqualification purposes and shall trigger the same disqualification period as if the license had actually been revoked.

4. If the applicant has had a history of non-compliance, including but not limited to revocation of a previous license, operation without a license, or denial of one or more previous applications for licensure, DCFS may refuse to accept a subsequent application from that applicant for a minimum period of 24 months after the effective date of denial.

5. With respect to an application in connection with the revoked, denied, or not renewed facility, the disqualification period provided in this Section shall include any affiliate of the provider.

6. If a facility's license was revoked due solely to the disapproval from any agency whose approval is required for licensure or due solely to the facility being closed and there are no plans for immediate re-opening within 30 calendar days and no means of verifying compliance with minimum standards for licensure, the disqualification rule (or period) may not apply. DCFS may accept a subsequent application for a license that shall be reviewed by the secretary or designee prior to a decision being made to grant a license. DCFS reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

7. In the event a license is revoked or renewal is denied, (other than for cessation of business or non-operational status), or voluntarily surrendered to avoid adverse action any owner, officer, member, manager, or administrator of such licensee may be prohibited from



owning, managing, or operating another licensed facility for a period of not less than 24 months from the date of the final disposition of the revocation or denial action. The lapse of 24 months shall not automatically restore a person disqualified under this provision eligibility for employment. DCFS, at its sole discretion, may determine that a longer period of disqualification is warranted under the facts of a particular case.

#### I. Appeal Process

1. The DCFS Licensing Section, shall advise the administrator or owner in writing of the reasons for non-renewal or revocation of the license, or denial of an application, and the right of appeal. If the administrator or owner is not present at the facility, delivery of the written reasons for such action may be made to any staff of the facility. Notice to a staff shall constitute notice to the facility of such action and the reasons therefore. A request for appeal shall include a copy of the letter from the Licensing Section that notes the reasons for revocation, denial, or non-renewal, together with the specific areas of the decision the appellant believes to be erroneous and/or the specific reasons the decision is believed to have been reached in error, and shall be mailed to: Department of Children and Family Services, Appeals Section, P.O. Box 2944, Baton Rouge, LA 70821-9118.

2. A provider may appeal the revocation or non-renewal of a license by submitting a written request to appeal the decision along with a copy of the letter within 15 calendar days of receipt of the letter notifying of the revocation or non-renewal. Provider may continue to operate legally throughout the appeals process. Provider shall be issued a license noting that the provider is in the appeal process.

3. If provider's license expires during the appeal process, the provider shall submit a licensing renewal application and a copy of the satisfactory criminal background clearance for every owner. Each provider is solely responsible for obtaining the licensing application form. The licensing application and full licensure fee as well as copies of the criminal background clearances for all owners shall be received on or postmarked by the last day of the month in which the license expires, or the provider shall cease operation at the close of business by the expiration date noted on the license.

4. A provider may appeal the denial of an application for a license by submitting a written request to appeal the decision along with a copy of the letter within 30 calendar days of receipt of the letter notifying of the denial of application.

5. The DCFS Appeals Section shall notify the Division of Administrative Law of receipt of an appeal request. Division of Administrative Law shall conduct a hearing. The appellant will be notified by letter of the decision, either affirming or reversing the original decision.

6. If the decision of DCFS is affirmed or the appeal dismissed, the provider shall terminate operation of the JDF immediately. If the provider continues to operate without a license, the DCFS may file suit in the district court in the parish in which the facility is located for injunctive relief.

7. If the decision of DCFS is reversed, the license will be re-instated and the appellant may continue to operate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:

### §7509. Administration

#### A. Governing Body

1. The provider shall have an identifiable governing body with responsibility and authority over the policies, procedures, and activities of the facility.

2. The provider shall have documents identifying:

- a. all members of the governing body;
- b. business address;
- c. the term of their membership, if applicable;
- d. officers of the governing body, if applicable;
- e. the terms of office of all officers, if applicable;

and

- f. officer responsibilities.

3. When the governing body is composed of more than one person, there shall be recorded minutes of all formal meetings and bylaws specifying frequency of meetings and quorum requirements.

#### B. Accessibility of Administrator

1. There shall be a single administrator, or designee, on site with authority and responsibility for the daily implementation and supervision of the facility's overall operation.

2. The administrator, or designee, shall be accessible to DCFS 24 hours per day, seven days per week.

#### C. Statement of Philosophy and Goals

1. The provider shall have a written statement describing its philosophy and goals.

#### D. Policies and Procedures

1. The provider shall have written policies and procedures approved by the administrator and/or governing body that address, at a minimum, the following:

- a. detecting and reporting suspected abuse and neglect;
- b. intake, to include classification procedures and release;
- c. behavior support and intervention program;
- d. youth grievance process;
- e. retention of youth files;
- f. emergency and safety procedures including medical emergencies;
- g. staff intervention/restraints;
- h. room isolation;
- i. room confinement/due process;
- j. incidents;
- k. health care (dental, mental, and medical);
- l. youth rights;
- m. infection control to include blood borne pathogens;
- n. confidentiality;
- o. training;
- p. environmental issues;
- q. physical plant;
- r. access issues;
- s. safety;
- t. security;
- u. suicide prevention and emergency procedures in case of suicide attempt; and
- v. sexual misconduct including but not limited to the following:

- i. right to be free from sexual misconduct and from retaliation for reporting sexual misconduct;
- ii. dynamics of sexual misconduct in confinement;
- iii. common reactions of sexual misconduct victims; and
- iv. policy for prevention and response to sexual misconduct.

2. The policies and procedures for operating and maintaining the facility shall be specified in a manual that is accessible to all staff and the public. The policies and procedures listed in Section 7509.D.1 above shall be reviewed at least annually, updated as needed, signed, and dated by the administrator or a representative of the governing body.

3. New or revised policies and procedures shall be disseminated to designated staff, volunteers, and to the youth, as applicable.

#### E. Facility Rules and Regulations

1. The rules and regulations shall be written in simple, clear, and concise language that most youth can understand and be specific to ensure that the youth know what is expected of them.

2. A staff member shall read the rules and regulations or provide a video presentation of these rules to each youth at the time of admission or within 24 hours after admission, and provide the youth a written copy.

3. Reasonable accommodations shall be made for those youth with limited English proficiency or disabilities.

4. A copy of the rules and regulations shall be posted in each of the common areas and in the living units.

#### 5. Enforcement

a. Rule violations and corresponding staff actions shall be recorded in the youth's file.

b. Disciplinary sanctions shall be objectively administered and proportionate to the gravity of the rule and the severity of the violation.

c. If a youth is alleged to have committed a crime while in the facility, at the discretion of the administrator, the case may be referred to a law enforcement agency for possible investigation and/or prosecution.

d. If a case is referred to a law enforcement agency for possible investigation and/or prosecution, efforts shall be made as soon as possible to notify or attempt to notify the parent/guardian, and the attorney of record of the incident and referral.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:

### §7511. Facility Responsibilities

#### A. Personnel

##### 1. Policies and Procedures

a. The provider shall have written policies and procedures that establish the provider's staffing, recruiting, and review procedures for staff. The personnel policy manual shall be available for staff and shall include a minimum of the following areas:

- i. organization chart (table of organization);
- ii. recruitment to include equal employment opportunity provisions;

- iii. job; descriptions and qualifications, and if applicable, a physical fitness policy;
- iv. personnel files and performance reviews;
- v. staff development, including in-service training;
- vi. termination;
- vii. employee/management relations, including disciplinary procedures and grievance and appeals procedures; and
- viii. employee code of ethics.

b. A written policy and procedure shall require that each staff sign a statement acknowledging access to the policy manual.

#### 2. Job Qualifications

a. The administrator shall meet one of the following qualifications upon hire:

- i. a bachelor's degree plus two years experience relative to the population being served; or
- ii. a master's degree; or
- iii. six years of administrative experience in health or social services, or a combination of undergraduate education and experience for a total of six years.

b. Direct care staff shall be at least 18 years of age and have a high school diploma or equivalency at the time of hire.

#### 3. Volunteers

a. If the provider utilizes volunteers, a written policy and procedure shall establish responsibility for the screening and operating procedures of the volunteer program.

##### b. Program Coordination

i. There shall be a staff member who is responsible for operating a volunteer service program for the benefit of youth.

ii. The provider shall specify the lines of authority, responsibility, and accountability for the volunteer service program.

##### c. Screening and Selection

i. Relatives of a youth shall not serve as a volunteer with the youth to whom they are related or in the facility where that youth is detained.

##### d. Professional Services

i. Volunteers shall perform professional services only when they are certified or licensed to do so.

#### B. Criminal Background Clearance

1. No staff of the facility shall be hired until such person has submitted his/her fingerprints to the Louisiana Bureau of Criminal Identification and Information so that it may be determined whether or not such person has a criminal conviction of a felony, or a plea of guilty, or nolo contendere of a felony, or a criminal conviction, or a plea of guilty or nolo contendere to any offense included in R.S. 15:587.1, or any offense involving a juvenile victim. If it is determined that such a person has a conviction or has entered a plea of guilty or nolo contendere to a crime listed in R.S. 15:587.1(C) or any offense involving a juvenile victim, that person shall not be hired. No staff shall be present on the JDF premises until such a clearance is received.

2. The provider shall contact all prior institutional employers for information on substantiated allegations of sexual abuse consistent with federal, state, and local laws.

3. A criminal record check shall be conducted on all volunteers that interact with the youth. No volunteer of the facility shall be allowed to work with youth until such person has submitted his/her fingerprints to the Louisiana Bureau of Criminal Identification and Information so that it may be determined whether or not such person has a criminal conviction, or a plea of guilty or nolo contendere to any offense included in R.S. 15:587.1, or any offense involving a juvenile victim. If it is determined that such a person has a conviction or has entered a plea of guilty or nolo contendere to a crime listed in R.S. 15:587.1(C) or any offense involving a juvenile victim, that person shall not be allowed to volunteer with youth at the JDF. No volunteer shall be present on the JDF premises until such a clearance is received.

#### C. Health Screening

1. All staff shall receive a physical examination prior to employment, including screening for infectious and contagious diseases prior to job assignment, in accordance with state and federal laws.

#### D. Performance Reviews

1. The provider shall conduct an annual written performance review of each staff and the results shall be discussed with the staff.

#### E. Drug-free Workplace

1. The provider shall have a written policy and procedure regarding a drug-free workplace for all staff.

#### F. Training and Staff Development

##### 1. Policy and Procedure

a. The provider shall have written policies and procedures that require training and staff development programs, including training requirements for all categories of personnel.

b. Program Coordination and Supervision - the Program Coordinator shall ensure that the provider's staff development and training program is planned, coordinated and supervised.

##### 2. Orientation

a. All new staff shall receive a minimum of 40 hours of orientation training before assuming any job duties. This training shall include, at a minimum, the following:

- i. philosophy, organization, program, practices and goals of the facility;
- ii. specific responsibilities of assigned job duties;
- iii. administrative procedures;
- iv. emergency and safety procedures including medical emergencies;
- v. youth's rights;
- vi. detecting and reporting suspected abuse and neglect;
- vii. infection control to include blood borne pathogens;
- viii. confidentiality;
- ix. reporting of incidents;
- x. intake to include classification procedures and release;
- xi. discipline and due process rights of incarcerated youth;

xii. access to health care (dental, mental, and medical);

xiii. crisis/conflict management, de-escalation techniques, and management of assaultive behavior, including when, how, what kind, and under what conditions physical force, mechanical restraints, and room confinement, isolation may be used;

xiv. suicide prevention and emergency procedures in case of suicide attempt;

xv. sexual misconduct including but not limited to the following:

(a). youth's rights to be free from sexual misconduct, and from retaliation for reporting sexual misconduct;

(b). dynamics of sexual misconduct in confinement;

(c). common reactions of sexual misconduct victims; and

(d). agency policy for prevention and response to sexual misconduct.

##### 3. First Year Training

a. Direct care staff shall receive an additional 120 hours of training during their first year of employment. This training shall include, at a minimum, the following:

i. within the first 60 calendar days of employment:

(a). adolescent development for males and females; and

(b). first aid/CPR;

ii. within the first year of employment:

(a). classification procedures to include intake screenings;

(b). an approved crisis/conflict intervention program;

(c). facility's policy and procedures for suicide prevention, intervention and response;

(d). lesbian, gay bisexual, transgender specific, cultural competence and sensitivity training;

(e). communication effectively and professionally with all youth;

(f). sexual misconduct including but not limited to the following:

(i). youth's rights to be free from sexual misconduct, and from retaliation for reporting sexual misconduct;

(ii). dynamics of sexual misconduct in confinement;

(iii.) common reactions of sexual misconduct victims; and

(iv). the agency policy for prevention and response to sexual misconduct;

(g). key control;

(h). universal safety precautions;

(i). effective report writing; and

(j). needs of youth with behavioral health disorders and intellectual disabilities and medication.

b. All support (non-direct care) staff shall receive an additional 40 hours of training during their first year of employment. The training shall include, at a minimum, the following:

i. philosophy, organization, program, practices and goals of the facility;

- ii. specific responsibilities of assigned job duties;
- iii. youth's rights;
- iv. detecting and reporting suspected abuse and neglect (mandatory reporting guidelines);
- v. infection control to include blood borne pathogens;
- vi. confidentiality;
- vii. reporting of incidents;
- viii. discipline and due process rights of incarcerated youth;
- ix. sexual misconduct including but not limited to the following:
  - (a). youth's rights to be free from sexual misconduct, and from the retaliation for reporting sexual misconduct;
  - (b). dynamics of sexual misconduct in confinement;
  - (c). common reactions of sexual misconduct victims; and
  - (d). agency policy for prevention and response to sexual misconduct.

- x. first aid/ CPR; and
- xi. basic safety and security practices.

#### 4. Annual Training

- a. All staff shall receive a minimum of 40 hours of training annually. This training shall include, at a minimum, the following:
  - i. classification procedures to include intake screenings;
  - ii. an approved crisis/conflict intervention program;
  - iii. facility's policy and procedures for suicide prevention, intervention and response;
  - iv. communication effectively and professionally with all youth;
  - v. sexual misconduct including but not limited to the following:
    - (a). youth's rights to be free from sexual misconduct, and from retaliation for reporting sexual misconduct;
    - (b). dynamics of sexual misconduct in confinement;
    - (c). common reactions of sexual misconduct victims-add additional; and
    - (d). the agency policy for prevention and response to sexual misconduct;
  - vi. key control;
  - vii. universal safety precautions;
  - viii. discipline and due process rights of incarcerated youth;
  - ix. detecting and reporting suspected abuse and neglect (mandatory reporting guidelines);
  - x. effective report writing; and
  - xi. needs of youth with behavioral health disorders and intellectual disabilities and medication.

#### 5. Volunteer Training

- a. All volunteers shall receive notification and acknowledge in writing their agreement to abide by the following prior to their beginning work and updated annually:
  - i. philosophy and goals of the facility;

- ii. specific responsibilities and limitations;
- iii. youth's rights;
- iv. detecting and reporting suspected abuse and neglect;
- v. confidentiality;
- vi. reporting of incidents;
- vii. discipline and due process rights of incarcerated youth;
- viii. sexual misconduct including but not limited to the following:
  - (a). youth's rights to be free from sexual misconduct, and from retaliation for reporting sexual misconduct;
  - (b). dynamics of sexual misconduct in confinement;
  - (c). common reactions of sexual misconduct victims-add additional; and
  - (d). the agency policy for prevention and response to sexual misconduct.
- ix. basic safety and security practices.

#### G. Staffing Requirements

1. The provider shall have sufficient available staff to meet the needs of all of the youth.
2. At least two direct care staff shall be on duty at all times in the facility.
3. There shall be a minimum of 1 to 8 ratio of direct care staff to youth during the hours that youth are awake.
4. There shall be a minimum of 1 to 16 ratio of direct care staff to youth during the hours that youth are asleep.
5. Direct care staff of one gender shall be the sole supervisor of youth of the same gender during showers, physical searches, pat downs, or during other times in which personal hygiene practices or needs would require the presence of a direct care staff of the same gender.
6. Video and audio monitoring devices shall not substitute for supervision of youth.
7. The provider shall provide youth that have limited English proficiency with meaningful access to all programs and activities. The provider shall provide reasonable modifications to policies and procedures to avoid discrimination against persons with disabilities.

#### H. Record Keeping

1. Personnel Files
  - a. The provider shall maintain a current, accurate, confidential personnel file on each staff. This file shall contain, at a minimum, the following:
    - i. an application for employment, including the resume of education, training, and experience, including evidence of professional or paraprofessional credentials/certifications according to state law, if applicable;
    - ii. a criminal background check in accordance with state law;
    - iii. documentation of staff orientation and annual training;
    - iv. staff hire and termination dates;
    - v. documentation of staff current driver's license, if applicable;
    - vi. annual performance evaluations; and
    - vii. any other information, reports, and notes relating to the individual's employment with the facility.

## 2. Youth Files

a. Active Files. The provider shall maintain active files for each youth. The files shall be maintained in an accessible, standardized order and format. The files shall be current and complete and shall be maintained in the facility in which the youth resides. The provider shall have sufficient space, facilities, and supplies for providing effective storage of files. The files shall be available for inspection by the department at all times. Youth files shall contain at least the following information:

- i. youth's name, date of birth, social security number, previous home address, sex, religion, and birthplace;
- ii. dates of admission and discharge;
- iii. other identification data including documentation of court status, legal status or legal custody, and who is authorized to give consents;
- iv. name, address, and telephone number of the legal guardian(s), and parent(s), if appropriate;
- v. name, address, and telephone number of a physician and dentist;
- vi. the pre-admission assessment and admission assessment;
- vii. youth's history including family data, educational background, employment record, prior medical history, and prior placement history;
- viii. a copy of the physical assessment report;
- ix. continuing record of any illness, injury, or medical or dental care when it impacts the youth's ability to function or impacts the services he or she needs;
- x. reports of any incidents of abuse, neglect, or incidents, including use of time out, personal restraints, or seclusion;
- xi. a summary of releases from the facility;
- xii. a summary of court visits;
- xiii. a summary of all visitors and contacts including dates, name, relationship, telephone number, address, the nature of such visits/contacts and feedback from the family;
- xiv. a record of all personal property and funds, which the youth has entrusted to the provider;
- xv. reports of any youth grievances and the conclusion or disposition of these reports;
- xvi. written acknowledgment that the youth has received clear verbal explanation and copies of his/her rights, the facility rules, written procedures for safekeeping of his/her valuable personal possessions, written statement explaining his/her rights regarding personal funds, and the right to examine his/her file;
- xvii. all signed informed consents; and
- xviii. a release order, as applicable.

### b. Confidentiality and Retention of Youth Files

- i. The provider shall maintain records in accordance with public records and confidentiality laws.
- ii. The provider shall maintain the confidentiality and security of all records. Staff shall not disclose or knowingly permit the disclosure of any information concerning the youth or his/her family, directly or indirectly, to any unauthorized person.

## I. Incident Reporting

1. Critical Incidents. The provider shall have written policies and procedures for documenting, reporting, investigating, and analyzing critical incidents.

a. The provider shall report any of the following critical incidents to parties noted in Section 7511.1.1.b below:

- i. suspected abuse;
  - ii. suspected neglect;
  - iii. injuries of unknown origin;
  - iv. death;
  - v. attempted suicide;
  - vi. escape;
  - vii. sexual assault;
  - viii. any serious injury that occurs in a facility, including youth on youth assaults, that requires medical treatment; and/or
  - ix. injury with substantial bodily harm while in confinement, during transportation or during use of physical intervention.
- b. The administrator or designee shall immediately report all critical incidents to the:
- i. parent/legal guardian;
  - ii. law enforcement authority, if appropriate, in accordance with state law;
  - iii. DCFS Licensing Section management staff;
  - iv. defense counsel for the youth; and
  - v. judge of record.
- c. At a minimum, the incident report shall contain the following:
- i. date and time the incident occurred;
  - ii. a brief description of the incident;
  - iii. where the incident occurred;
  - iv. any youth or staff involved in the incident;
  - v. immediate treatment provided, if any;
  - vi. symptoms of pain and injury discussed with the physician if applicable;
  - vii. signature of the staff completing the report;
  - viii. name and address of witnesses;
  - ix. date and time the legal guardian, and other interested parties were notified;
  - x. any follow-up required;
  - xi. actions to be taken in the future to prevent a reoccurrence; and
  - xii. any documentation of supervisory and administrative reviews.

### d. Investigation of Abuse and Neglect

i. The provider shall submit a final written report of the incident to the Licensing Section, if indicated, as soon as possible but no later than five calendar days following the incident.

ii. An internal investigation shall be conducted of any allegations involving staff and/or youth of abuse or neglect of a youth.

iii. Until the conclusion of the internal investigation, any person alleged to be a perpetrator of abuse or neglect may be placed on administrative leave or may be reassigned to a position having no contact with the complainant or any youth in the facility, relatives of the

alleged victim, participants in a juvenile justice program, or individuals under the jurisdiction of the juvenile court. The provider shall take any additional steps necessary to protect the alleged victim and witnesses.

iv. At the conclusion of the internal investigation, the administrator or designee shall take appropriate measures to provide for the safety of the youth.

v. In the event the administrator is alleged to be a perpetrator of abuse or neglect, the governing body or commission shall:

(a). conduct the internal investigation or appoint an individual who is not a staff of the facility to conduct the internal investigation;

(b). place the administrator on administrative leave, until the conclusion of the internal investigation, or ensure the administrator has no contact with the youth in the facility, relatives of the alleged victim, participants in a youth justice program, or individuals under the jurisdiction of the youth court.

vi. Copies of all written reports shall be maintained in the youth's file.

#### J. Abuse and Neglect

1. Provider shall ensure staff adheres to a code of conduct that prohibits the use of physical abuse, sexual abuse, profanity, threats, or intimidation. Youth shall not be deprived of basic needs, such as food, clothing, shelter, medical care, and/or security.

2. In accordance with Article 603 of the Louisiana Youth's Code, all staff employed by a Juvenile detention facility are mandatory reporters. In accordance with Article 609 of the Louisiana Youth's Code, a mandatory reporter who has cause to believe that a child's physical or mental health or welfare is endangered as a result of abuse or neglect or was a contributing factor in a child's death shall report in accordance with Article 610 of the Louisiana Youth's Code.

#### K. Grievance Procedure

1. The provider shall have a written policy and procedure which establishes the right of every youth and the youth's legal guardian(s) to file grievances without fear of retaliation.

2. The written grievance procedure shall include, but not be limited to:

a. a formal process for the youth and the youth's legal guardian(s) to file grievances that shall include procedures for filing verbal, written, or anonymous grievances. If written, the grievance form shall include the youth's name, date, and all pertinent information relating to the grievance;

b. a formal process for the provider to communicate with the youth about the grievance within 24 hours and to respond to the grievance in writing within five calendar days;

c. a formal appeals process for provider's response to grievance.

3. Assistance by staff not involved in the issue of the grievance shall be provided if the youth requests.

4. Documentation of any youth's or youth's legal guardian(s) grievance and the conclusion or disposition of these grievances shall be maintained in the youth's file. This documentation shall include any action taken by the provider

in response to the grievance and any follow up action involving the youth.

5. The provider shall maintain a log documenting all verbal, written, and/or anonymous grievances filed and the manner in which they were resolved.

6. A copy of the grievance and the resolution shall be given to the youth, a copy maintained in the youth's file, and a copy in a central grievance file.

#### L. Quality Improvement

1. The provider shall have a written policy and procedure for maintaining a quality improvement program to include:

a. systematic data collection and analysis of identified areas that require improvement;

b. objective measures of performance;

c. periodic review of youth files;

d. quarterly review of incidents and the use of personal restraints and seclusion to include documentation of the date, time and identification of youth and staff involved in each incident; and

e. implementation of plans of action to improve in identified areas.

2. Documentation related to the quality improvement program shall be maintained for at least two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:

### §7513. Admission and Release

#### A. Limitations for Admission

1. Pre-admission criteria shall limit eligibility to youth likely to commit a serious offense pending resolution of their case, youth likely to fail to appear in court or youth held pursuant to a specific court order for detention.

2. Status offenders shall be detained at the facility only in accordance with state law, or if they have violated a valid court order and have received due process protections and consideration of less restrictive alternatives to include as required by the Federal Juvenile Justice and Delinquency Prevention Act. (OJJDP Act 42 U.S.C.5633)

3. Youth with serious medical, mental health needs, or youth who are detectably intoxicated are not admitted into the facility unless and until appropriate medical professionals clear them. Youth transferred from or cleared by outside medical or mental health facilities are admitted only if the facility has the capacity to provide appropriate ongoing care.

#### B. Intake on Admission

1. The provider shall have written policies and procedures regarding admission to the facility. Upon admission to the facility, the following shall be adhered to:

a. staff shall review inactive files from any previous admission to obtain history on the youth;

b. each youth shall be informed of the process at the initiation of intake;

c. staff shall review paperwork with law enforcement; and

d. staff shall conduct electronic security wand scanner, frisk, and search of the youth.

2. Youth shall be processed into the facility within four hours of admission. Intake for the juvenile justice

system shall be available either onsite or through on-call arrangements 24 hours a day, 7 days a week.

3. Screenings shall include approaches that ensure that available medical/mental health services are explained to youth in a language suitable to his/her age and understanding.

4. All screenings shall be conducted by a qualified medical/mental health professional or staff who have received instruction and training by a qualified medical/mental health professional.

5. Screenings conducted by trained staff shall be reviewed by a qualified medical/mental health professional within 72 hours of admission.

6. The screenings shall occur within two hours of presentation for admission.

7. The screenings shall be in a confidential setting.

8. When a youth shows evidence of suicide risk, the facility's written procedures governing suicide intervention shall be immediately implemented.

#### C. Admission Screenings

##### 1. Mental Health Screening

a. The provider shall use a standardized, validated mental health screening tool to identify youth who may be at risk of suicide or who may need prompt mental health services. Provider will ensure that persons administering the mental health screening tool are annually trained/re-trained in its administration and the use of its scores, as recommended by the author of the screening tool if more frequent than annually.

b. All youth whose mental health screening indicates the need for an assessment shall be seen by a qualified mental health professional within 24 hours of admission.

##### 2. Medical Screening

a. The screening shall include:

i. inquiry into current and past illnesses, recent injuries, and history of medical and mental health problems and conditions, including:

(a) medical, dental, and psychiatric/mental health problems;

(b) current medication;

(c) allergies;

(d) use of drugs or alcohol, including types, methods of use, amounts, frequency, time of last use, previous history of problems after ceased use, and any recent hiding of drugs in his/her body;

(e) recent injuries (e.g. at or near the time of arrest);

(f) pregnancy status; and

(g) names and contact information for physicians and clinics treating youth in the community.

b. During this screening, staff shall observe:

i. behavior and appearance, indications of alcohol or drug intoxication, state of consciousness, and sweating;

ii. indications of possible disabilities to include but not limited to vision, hearing, intellectual disabilities and mobility limitations;

iii. conditions of skin, bruises, lesions, yellow skin, rash, swelling, and needle marks or other indications of drug use or physical abuse; and

iv. tattoos and piercings.

c. After the screening, staff shall refer the following youth for needed services.

i. Youth who are identified in the screening as requiring additional medical services shall be referred and receive an expedited medical follow-up within 24 hours or sooner if medically necessary.

ii. When a youth shows evidence or alleges abuse or neglect by a parent, guardian, or relative, a staff member shall immediately contact law enforcement and DCFS. In situations where a youth shows evidence of or alleges abuse by law enforcement officials, the parish district attorney's office shall be notified.

#### D. Processing

1. Staff shall document in the youth's file that the youth was allowed to attempt to contact parents/guardians by phone within six hours of arrival at the facility.

2. The provider shall provide the youth food regardless of the time of arrival.

3. Within 24 hours of admission, youth shall receive a written and oral orientation and documentation of the orientation shall be placed in the youth's file.

4. The orientation shall include the following:

a. identification of key staff and roles;

b. policy on contraband and searches;

c. due process protections;

d. grievance procedures;

e. access to emergency and routine health and mental health care;

f. housing assignments;

g. youth rights;

h. access to education, programs, and recreational materials;

i. policy on use of force, restraints, and isolation;

j. behavior management system;

k. emergency procedures;

l. how to report problems at the facility such as abuse, feeling unsafe, and theft;

m. non-discrimination policies;

n. a list of prohibited practices; and

o. facility rules and regulations.

5. Youth shall be showered and given uniforms and toiletry articles. The youth's own clothing may be laundered, then stored and ready for their release. If the youth refuses to have clothing laundered, there shall be documentation in the youth's file of the refusal.

6. Youth admitted to the facility shall be presented in court for a continued custody hearing within 72 hours or released as required in CC Article 819.

#### E. Admission Assessments

##### 1. Mental Health Assessment

a. Youth shall receive a mental health assessment performed by a qualified mental health professional within 72 hours unless the youth was assessed within 24 hours of admission. The assessment shall include:

i. history of psychiatric hospitalizations and outpatient treatment (including all past mental health diagnoses);

ii. current and previous use of psychotropic medication;

iii. suicidal ideation and history of suicidal behavior;

iv. history of drug and alcohol use;

- v. history of violent behavior;
  - vi. history of victimization or abuse (including sexual victimization and domestic violence);
  - vii. special education history;
  - viii. history of cerebral trauma or seizures;
  - ix. emotional response to incarceration and arrest;
- and
- x. history of services for intellectual/developmental disabilities.

## 2. Medical Assessment

a. Youth shall receive a medical assessment, performed by a qualified medical professional within 72 hours following admission. The medical assessment shall include the following:

- i. a review with the parent or legal guardian (phone or in person) of the physical issues of the youth;
- ii. detailed history of potentially preventable risks to life and health including smoking, drug and alcohol use, unsafe sexual practices, eating patterns, and physical activity;
- iii. contact with physician(s) in the community as needed to ensure continuity of medical treatment;
- iv. record of height, weight, pulse, blood pressure, and temperature;
- v. vision and hearing screening;
- vi. testing for pregnancy;
- vii. review of screening results and collection of additional data to complete the medical, dental, and mental health histories;
- viii. review of immunization history, if available, and attempt to notify parent(s)/guardian(s) of the needed immunization records;
- ix. testing for sexually transmitted infections, consistent with state recommendations;
- x. review of the results of medical examinations and tests, and initiation of treatment when appropriate; and
- xi. identification of signs and symptoms of victimization or abuse including sexual victimization and domestic violence.

b. Youth shall receive a Mantoux Tuberculin skin test within 72 hours of arrival at the facility, unless documentation has been received that a Mantoux Tuberculin skin test was completed in the last six months.

## F. Population Management

1. The facility staff shall review the institutional population on a daily basis to ensure that the institutional population does not exceed its capacity.

## G. Classification Decisions

1. The provider shall have written policies and procedures regarding housing and programming decisions. The administrator, or designee, will review, on a weekly basis, the process and any decisions that depart from established policies, and shall document such review and any departure from those policies.

2. Classification policies shall include potential safety concerns when making housing and programming decisions including:

- a. separation of younger from older youth;
- b. physical characteristics to include height, weight, and stature;
- c. separation of genders;
- d. separation of violent from non-violent youth;

- e. maturity;
- f. presence of mental or physical disabilities;
- g. suicide risk;
- h. alleged sex offenses;
- i. criminal behavior;
- j. specific information about youth who need to be separated from each other (not just general gang affiliation); and

k. identified or suspected risk to include medical, escape, and security.

3. Youth shall be assigned to a room based on classification and will be reclassified if changes in behavior or status are observed.

4. Decisions for housing or programming of youth who are or are perceived to be gay, lesbian, bisexual, or transgender youth on the basis of their actual or perceived sexual orientation shall be made on an individual basis in consultation with the youth and the reason(s) for the particular treatment shall be documented in the youth's file. The administrator or designee shall review each decision.

5. When necessary, staff shall develop individualized classification decisions to provide for the safety of particular youth.

## H. Release Procedures

1. The provider shall have a written policy and procedure for releasing youth to include, but not limited to, the following:

- a. verification of identity of the person who the youth is being released to;
- b. verification that a release order is obtained;
- c. completion of release arrangements, including the person or agency to whom the youth is to be released;
- d. return of personal property;
- e. completion of any pending action, such as claims for damaged or lost possessions;
- f. notification of arrangements for medical follow-up when needed, including continuity of medications; and
- g. instructions on forwarding of mail.

2. The provider shall have a written policy and procedure for the temporary release of youth for escorted and unescorted day leaves into the community for the following:

- a. needed medical and dental care;
- b. to visit ill family members or attend funerals; and
- c. to participate in community affairs and/or events that would have a positive influence on the youth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:

## §7515. Youth Protections

### A. Rights

1. The provider shall have written policies and procedures that ensure each youth's rights are guaranteed and protected.

2. A youth shall not be subjected to discrimination based on race, national origin, religion, sex, sexual orientation, gender identity, or disability.

3. A youth shall not be subjected to supervision or control by other youth. Supervision is to be exercised only by facility staff.



4. A youth has the right to be free from physical, verbal, or sexual assault by other youth or staff.

5. A youth shall not be required to work unless the activity is related to general housekeeping or as required by a court order or deferred prosecution agreement for community service restitution.

6. A youth shall not participate in medical, pharmaceutical, or cosmetic experiments.

7. A youth has the right to consult with clergy and participate in religious services in accordance with his/her faith, subject to the limitations necessary to maintain facility security and control. Youth shall not be forced to attend religious service and disciplinary action shall not be taken toward the youth who choose not to participate in such services.

8. Each youth shall be fully informed of these rights and of all rules and regulations governing youth conduct and responsibilities, as evidenced by written acknowledgment, at the time of admission of the receipt of a copy of youth rights, and when changes occur.

#### B. Access Issues

##### 1. Telephone Usage

a. The provider shall have a written policy and procedure regarding telephone use.

b. Youth shall be permitted to have unrestricted and confidential telephone contact with professionals, such as attorneys, probation officers, and caseworkers.

c. In addition to the persons identified above in (Section 7515.B.1.b), the youth shall be allowed a minimum of two free telephone calls per week, 10 minutes each to persons on the youth's approved list.

##### 2. Mail/Correspondence

a. The provider shall have a written policy and procedure regarding youth sending and receiving mail/correspondence.

b. A youth's written correspondence shall not be opened or read by staff unless the administrator, or designee, has compelling reasons to believe the correspondence contains material which presents a clear and present danger to the health or safety of the youth, other persons, or the security of the facility. A record shall be maintained in the youth's file when mail is read by staff, documenting the specific reason why the mail was read, and signed by the administrator or designee. Mail may be opened by staff only in the presence of the youth with inspection limited to searching for contraband.

c. Written communication with specific individuals may be restricted by:

i. the youth's court ordered rules of probation or parole;

ii. the facility's rules of separation; or

iii. a specific list of individuals furnished by the youth's parent/legal guardian indicating individuals who should not communicate with the youth.

d. Incoming correspondence from a restricted source shall be returned unopened to the sender. When mail is withheld from the youth, the reasons shall be documented in the youth's file and the youth shall be informed.

e. Youth shall be provided writing material and postage for the purpose of correspondence. Outgoing mail shall be sealed by the youth in the presence of staff.

f. Provisions shall be made to forward mail when the youth is released or transferred.

g. Money received in the mail shall be held for the youth in his/her personal property inventory or returned to the sender.

h. Incoming legal mail shall not be opened, read, or copied.

##### 3. Visitation

a. The parent/legal guardian shall be allowed to visit youth unless prohibited by the court.

b. Visits with youth by attorneys and/or their representatives, and other professionals associated with the youth shall not be restricted and shall be conducted in private such that confidentiality may be maintained.

c. Visits to youth may be restricted if it is determined by the administrator, or designee, that allowing the visit would pose a threat to the safety or security of the staff, other youth, visitors, or the facility. When a visit is restricted, the visitor(s) shall be notified at the time the determination is made. The reason why the visit was restricted shall be documented in the youth's file.

d. The visitors of the youth shall be provided a written copy of the visitation policy and schedule.

e. Visitation rules shall be posted in public view.

f. Other individuals may be granted visits at the discretion of the administrator or his/her designee.

g. Visitors who are under the influence of alcohol or drugs, in possession of contraband, exhibiting disruptive behavior, wearing improper attire, or unable to produce valid identification shall not be permitted to visit, and the occurrence shall be documented in the youth's file.

h. A record shall be maintained in the youth's file of the names of all persons who visit the youth.

i. A record shall be maintained in the youth's file of the names of individuals prohibited to visit with the youth and the reason(s) for the denial.

j. Visiting hours shall be regularly scheduled so that visitors have an opportunity to visit at set times at least twice a week.

k. Special visiting arrangements shall be made for visitors who cannot visit the youth during the regular visiting schedule.

l. Youth who do not have visitors shall not be routinely locked in their rooms during visiting hours.

#### C. Prohibited Practices

1. The provider shall have a written list of prohibited practices by staff. The following practices are prohibited:

a. the use of corporal punishment by any staff. Corporal punishment does not include the right of staff to protect themselves or others from attack, nor does it include the exercise of approved physical restraint as may be necessary to protect a youth from harming himself/herself or others;

b. any act or lack of care that injures or significantly impairs the health of any youth, or is degrading or humiliating in any way;

c. placement of a youth in unapproved quarters;

d. forcing a youth to perform any acts that could be considered cruel or degrading;

e. delegation of the staff's authority for administering discipline and privileges to other youth in the facility;

- f. group punishment for the acts of an individual;
- g. deprivation of a youth's meals or regular snacks;
- h. deprivation of a youth's court appearances;
- i. deprivation of a youth's clothing, except as necessary for the youth's safety;
- j. deprivation of a youth's sleep;
- k. deprivation of a youth's medical or mental health services;
- l. physical exercise used for discipline, compliance, or intimidation;
- m. use of any mechanical restraint as a punishment;
- n. use of any chemical restraint; and
- o. administration of medication for purposes other than treatment of a medical, dental, or mental health condition.

2. Use of force by staff on detained youth, through either acts of self-defense or the use of force to protect a youth from harming himself/herself or others, shall be immediately reported in writing to the administrator of the facility. A copy of the written report shall be maintained in the youth's file.

3. The youth shall receive a list of the prohibited practices. There shall be documentation of acknowledgement of receipt of the list of prohibited practices by the youth in the youth's file.

4. A list of prohibited practices shall be posted in the facility.

5. Any instance of a prohibited practice shall be documented immediately in the youths file.

#### D. Behavior Management System

1. The provider shall have a written policy and procedure for the behavior management system to be used to assist the youth in conforming to established standards of behavior and the rules and regulations of the facility.

2. The behavior management system shall provide written guidelines and parameters that are readily definable and easily understood by youth and staff.

3. The behavior management system shall be designed to provide graduated incentives for positive behavior and afford proportional measures of accountability for negative behavior.

4. Incentives shall not include any program, service, or physical amenity to which the youth is already entitled by these rules or federal, state, or local laws.

#### E. Room Confinement/Isolation/Segregation

1. The provider shall have written policies and procedures to be adhered to when a youth is confined to his/her sleeping room or an isolation room. They will include the use of room confinement, room isolation, protective isolation, and administrative segregation.

2. When a youth is placed in room confinement/isolation/segregation, the following shall be adhered to:

- a. the administrator or designee shall approve the confinement of a youth to his/her sleeping room or an isolation room;

- b. during the period of time a youth is in confinement, the youth shall be checked by a staff member at least every 15 minutes. The staff shall be alert at all times for indications of destructive behavior on the part of the youth, either self-directed or toward the youth's surroundings. Any potentially dangerous item on the youth

or in the sleeping rooms shall be removed to prevent acts of self-inflicted harm;

- c. the following information shall be recorded and maintained for that purpose prior to the end of the shift on which the restriction occurred:

- i. the name of the youth;
- ii. the date, time and type of the youth's restriction;
- iii. the name of the staff member requesting restriction;
- iv. the name of the administrator or designee authorizing restriction;
- v. the reason for restriction;
- vi. the date and time of the youth's release from restriction; and
- vii. the efforts made to de-escalate the situation and alternatives to isolation that were attempted;

- d. staff involved shall file an incident report with the shift supervisor by the end of the shift. The report shall outline in detail the presenting circumstances and a copy shall be kept in the youth's file and a central incident report file. At a minimum, the incident report shall contain the following:

- i. name of the youth;
- ii. date and time the incident occurred;
- iii. a brief description of the incident;
- iv. where the incident occurred;
- v. any youth and/or staff involved in the incident;
- vi. immediate treatment provided if any;
- vii. signature of the staff completing the report; and
- viii. any follow-up required;

- e. if the confinement continues through a change of shifts, a relieving staff member shall check the youth and the room prior to assuming his or her post and assure that the conditions set forth in these rules are being met;

- f. there shall be a means for the youth to communicate with staff at all times;

- g. there shall be no reduction in food or calorie intake;

- h. the youth shall have access to bathroom facilities, including a toilet and washbasin.

#### 3. Room Isolation

- a. This type of isolation shall be utilized only while the youth is an imminent threat to safety and security.

- b. Staff shall hold a youth in isolation only for the time necessary for the youth to regain self-control and no longer pose a threat. The amount of time shall in no case be longer than four hours.

#### 4. Room Confinement

- a. Room confinement shall not be imposed for longer than 72 hours.

- b. If a youth is placed in room confinement for longer than eight hours, the youth shall be allowed due process. Due process procedures include the following:

- i. written notice to the youth of the alleged rule violation;

- ii. a hearing before a disciplinary committee comprised of impartial staff who were not involved in the incident of alleged violation of the rule. The disciplinary committee may gather evidence and investigate the alleged violation. During the hearing, the youth will be allowed to be present provided he/she does not pose a safety threat. The

youth may have a staff member of his/her choosing present for assistance. The youth will be allowed to present his/her case and present evidence and/or call witnesses;

iii. following the hearing, the disciplinary committee shall render decision and find the youth at fault or not;

iv. the youth shall receive a written notice of the committee's decision and the reasons for the decision;

v. the youth may appeal a finding of being at fault to the administrator assigned to the JDF.

#### 5. Administrative Segregation

a. No youth shall be placed on administrative segregation for longer than 24 hours without a formal review of the youth's file by a qualified mental health professional and the facility administrator.

b. While a youth is on administrative segregation, the youth shall be provided with daily opportunities to engage in program activities such as education and large muscle exercise, as his/her behavior permits. The program activities may be individual or with the general population, at the discretion of the administrator or designee.

#### F. Staff Intervention/Restraints

1. The provider shall have written policies and procedures and practices regarding the progressive response for a youth who poses a danger to themselves, others, or property. Approved physical escort techniques, physical restraints and mechanical restraint devices are the only types of interventions that may be used in the facility. Physical and mechanical restraints shall only be used in instances where the youth's behavior threatens imminent harm to the youth or others, or serious property destruction, and shall only be used as a last resort. Plastic cuffs shall only be used in emergency situations. Use of any percussive or electrical shocking devices or chemical restraints is prohibited.

2. Restraints shall not be used for punishment, discipline, retaliation, harassment, intimidation or as a substitute for room restriction or confinement.

3. When a youth exhibits any behavior that may require staff intervention, the following protocol shall be adhered to when implementing the intervention unless the circumstances do not permit a progressive response.

a. Staff shall begin with verbal calming or de-escalation techniques.

b. Staff shall use an approved physical escort technique when it is necessary to direct the youth's movement from one place to another.

c. Staff shall use the least restrictive physical or mechanical restraint necessary to control the behavior.

d. If physical force is required, the use of force shall be reasonable under the circumstances existing at the moment the force is used and only the amount of force and type of restraint necessary to control the situation shall be used.

e. Staff may proceed to a mechanical restraint only when other interventions are inadequate to deal with the situation.

f. Staff shall stop using the intervention as soon as the youth re-gains self control.

4. During the period of time a restraint is being used:

a. the youth shall be checked by a staff member at least every 15 minutes. Documentation of these checks shall be recorded and maintained in the youth's file. If the use of

the restraint exceeds 60 minutes, a health professional must authorize the continued use of the restraint. However, restraints cannot be used for longer than four hours.;

b. there shall be a means for the youth to communicate with staff at all times;

c. staff shall not withhold food while a youth is in a mechanical restraint;

d. the youth shall have access to bathroom facilities, including a toilet and washbasin.

5. In all situations in which a restraint is used, staff involved shall record an incident report with the shift supervisor by the end of the shift. The report shall outline in detail the presenting circumstances and a copy shall be kept in the youth's file and a central incident report file. At a minimum, the incident report shall contain the following:

a. the name of the youth;

b. the date, time, and location the intervention was used;

c. the type of intervention used;

d. the name of the staff member requesting use of the intervention;

e. the name of the supervisor authorizing use of the intervention;

f. a brief description of the incident and the reason for the use of the intervention;

g. the efforts made to de-escalate the situation and alternatives to the use of intervention that were attempted;

h. any other youth and/or staff involved in the incident;

i. any injury that occurred during the intervention restraint and immediate treatment provided if any;

j. the date and time the youth was released from the intervention;

k. the name and title of the health professional authorizing continued use of a restraint if necessary beyond 60 minutes;

l. signature of the staff completing report; and

m. any follow-up required.

6. The youth shall receive a list of the prohibited practices. There shall be documentation of acknowledgement of receipt of the list of prohibited practices by the youth in the youth's file.

7. Facility staff shall not use physical restraints or mechanical restraints unless they have been trained in the use of such restraints. Training shall include methods of monitoring and assessing a restrained youth for injuries and loss of circulation as a result of the use of mechanical restraint.

8. After any incident of use of a restraint, medical follow-up shall occur as soon as a qualified medical professional is available at the facility, or sooner if medically necessary as determined by the facility administrator.

#### G. Prohibited Practices When Using Restraints

1. The provider shall have a written list of prohibited practices by staff members when using a restraint. This following are prohibited:

a. restraints that are solely intended to inflict pain;

b. restraints that put a youth face down with sustained or excessive pressure on the back, chest cavity, neck or head;

c. restraints that obstruct the airway or impair the breathing of the youth;

- d. restraints that restrict the youth's ability to communicate;
  - e. restraints that obstruct a view of the youth's face;
  - f. any technique that does not allow monitoring of the youth's respiration and other signs of physical distress during the restraint;
  - g. any use of four or five-point restraints, straightjackets, or restraint chairs;
  - h. mechanical restraint devices that are so tight they interfere with circulation or that are so loose they cause chafing of the skin;
  - i. use of a waistband restraint on a pregnant youth;
  - j. use of a mechanical restraint that secures a youth in a position with his/her arms and/or hands behind the youth's back (hog-tied) or front, with arms or hands secured to the youth's legs;
  - k. use of a mechanical restraint that affixes the youth to any fixed object, such as room furnishings or fixtures; and/or
    - 1. use of any maneuver that involves punching, hitting, poking, pinching, or shoving.
2. A youth in mechanical restraints shall not participate in any physical activity, other than walking for purposes of transportation.
3. A list of these prohibitions shall be posted in the facility.
4. The youth shall receive a list of the prohibitions when using a restraint. There shall be documentation of acknowledgement of receipt of the list of prohibitions in the youth's file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:

**§7517. Facility Services**

**A. Education**

- 1. The provider shall have written policies and procedures, and practices to ensure that each youth has access to the most appropriate educational services consistent with the youth's abilities and needs, taking into account his/her age, and level of functioning.
- 2. The provider shall provide accommodations for educational services to be provided by the local school district in accordance with local school board calendar.
- 3. Prior to the end of the first official school day following admission, the youth shall receive a brief educational history screening with respect to their school status, special education status, grade level, grades, and history of suspensions or expulsions. Staff shall use this information to determine initial placement in the facility educational program.
- 4. The youth shall receive a free and appropriate public education.
- 5. Within three calendar days of the youth's arrival at the facility, the provider shall request educational records from the youth's previous school.
- 6. The youth shall attend the facility school at the earliest possible time but within three calendar days of admission to the facility.
- 7. The youth's admission assessment shall identify if the youth has any disabilities. Youth with disabilities shall be identified to the local school district.

8. The provider shall ensure youth have access to vocational training, GED programs, and other alternative educational programming if available from the local school district.

9. Youth in restricted, disciplinary, or high security units shall receive an education program comparable to youth in other units in the facility consistent with safety needs.

10. When youth are suspended from the facility school, the suspension shall comply with local jurisdiction due process requirements.

11. Behavior intervention plans shall be developed for a youth whose behavior interferes with their school attendance and progress.

12. The provider shall have available reading materials geared to the reading levels, interests, and primary languages of confined youth.

13. The school classes shall be held in classrooms/multi-purpose rooms. The provider shall ensure that the educational space is adequate to meet the instructional requirements of each youth.

14. The provider shall ensure that youth are available for the minimum minutes in a school day required by law.

15. The administrator shall immediately report in writing to the local school district if the facility school is not being staffed adequately to meet state student to teacher ratios for education, including not but not limited to, special education staff and substitute teaching staff. If the issue is not timely resolved by the local school district, then the administrator shall file a written complaint with the State Board of Education and cooperate with any subsequent directives received from the State Board of Education.

**B. Daily Living Services**

- 1. Written schedules of daily routines shall be posted and available to the youth.
- 2. Personal Possessions
  - a. Space shall be provided for secure storage of each youth's personal property.
  - b. A separate locked cabinet or drop safe for money and other valuables shall be provided.
- 3. Clothing and Bedding
  - a. The provider shall maintain an inventory of clothing, and bedding to ensure consistent availability and replacement of items that are lost, destroyed, or worn out.
  - b. The provider shall provide clean underclothing, socks, and outerwear that fit properly.
  - c. The provider shall provide for the thorough cleaning and when necessary, disinfecting of youth's personal clothing.
  - d. The provider shall issue clean bedding and linen, including two sheets, a pillow, pillowcase, a mattress, and sufficient blankets to provide reasonable comfort.
  - e. Linen shall be exchanged weekly and towels exchanged daily.
- 4. Bathing and Personal Hygiene
  - a. Youth shall be given appropriate instructions on hygiene and shall be required to comply with facility rules of personal cleanliness and oral hygiene.
  - b. Youth shall be required to bath or shower daily and/or after strenuous exercise.
  - c. Youth shall have access to adequate personal hygiene and toiletry supplies, such as hairbrushes,

toothbrushes including hygiene supplies specific for females, if females are detained in the facility.

d. Items that could allow for spread of germs shall not be shared among youth.

e. Shaving equipment shall be made available upon request under close supervision on an as needed basis.

### C. Food Services

#### 1. Food Preparation

a. The provider shall develop and implement a written policy and procedure for providing food services. Accurate records shall be maintained of all meals served. All components of the food service operation in the facility shall be in compliance with all applicable public health requirements.

b. A staff member experienced in food service management shall supervise food service operations.

c. A nutritionist, dietitian, or other qualified professional shall ensure compliance with recommended food allowances and review a system of dietary allowances.

d. A different menu shall be followed for each day of the week and the provider shall keep dated records of menus, including substitutions and changes.

e. The kitchen, consisting of all food storage, food preparation, food distribution, equipment storage, and layout shall comply with Office of Public Health requirements.

#### 2. Nutritional Requirements

a. A youth shall receive no fewer than three nutritionally balanced meals in a 24 hour period.

b. Meals shall be planned and shall provide a well-balanced diet sufficient to meet nutritional needs.

c. Youth shall receive snacks in the evenings.

#### 3. Modified Diets

a. The provider shall provide meals for youth with special dietary requirements, such as youth with allergies or other medical issues, pregnant youth, and youth with dental problems, and youth with religious beliefs that require adherence to religious dietary laws.

#### 4. Daily Schedule

a. Three meals, two of which shall be hot, shall be provided daily, lasting a minimum of 20 minutes each.

b. No more than 14 hours shall elapse between the evening meal and breakfast meal.

c. Variations shall be allowed on weekends and holidays.

d. Regular meals and/or snacks shall not be withheld for any reason.

e. Youth shall not be forced to eat any given food item.

f. Provisions shall be made for the feeding of youth admitted after the kitchen has been closed for the day.

g. Normal table conversation shall be permitted during mealtimes.

h. There shall be a single menu for staff and youth.

#### 5. General Issues

a. The general population shall not be fed meals in sleeping rooms except under circumstances where safety and security of the building and/or staff would otherwise be jeopardized.

### D. Health Related Services

#### 1. Health Care

a. The provider shall have written policies and procedures and practices to ensure preventive, routine, and emergency medical, mental health and dental care for youth.

b. The provider shall have a responsible health authority accountable for health care services pursuant to a contract or job description.

c. The provider shall provide health services to youth free of charge.

d. Limit sharing of confidential information to those who need the information to provide for the safety, security, health, treatment, and continuity of care for youth, consistent with state and federal law.

e. Each provider shall provide a dedicated room or rooms for examinations.

#### 2. Medical Care

a. The provider shall have availability or access to a physician or local emergency room 24 hours, seven days a week.

b. Staff assigned to provide medical care shall be qualified to do so as required by law.

c. The youth shall be notified of how and to whom to report complaints about any health related issues or concerns.

d. The provider shall ensure that each youth receive medical care if they are injured or abused.

e. The provider shall immediately attempt to notify the youth's parent/legal guardian of a youth's illness or injury that requires service from a hospital.

f. Youth may request to be seen by a qualified medical professional without disclosing the medical reason and without having non-health care staff evaluate the legitimacy of the request.

g. The provider shall ensure that any medical examination and treatment conforms to state laws on medical treatment of minors, who may give informed consent for such treatment, and the right to refuse treatment.

h. Medical staff shall obtain informed consent from a youth and/or parent/legal guardian as required by law, and shall honor refusals of treatment.

i. When medical and/or mental health staff believe that involuntary treatment is necessary, the treatment shall be conducted in a hospital and not at the facility after compliance with legal requirements.

j. Staff shall document the youth and/or parent/legal guardian's consent or refusal, including counseling with respect to treatment, in the youth's medical file.

k. Pregnant youth shall be provided prenatal care. Any refusal for prenatal care by the pregnant youth shall be documented in their file.

l. Youth who are victims of sexual assault shall receive immediate medical treatment, counseling, and other services.

m. Files of all medical examinations, follow-ups and services, together with copies of all notices to a parent/legal guardian shall be kept in the youth's medical file.

n. Youth placed in medical isolation shall participate in programming as determined by the facility's qualified medical professional.

### 3. Mental Health Care

a. The provider shall ensure that 24-hour on-call or emergency mental health services are available for youth.

b. Youth shall be appropriately assessed and treated for suicide risk, to include the following principles:

i. All staff working with youth shall receive training on recognition of behavioral and verbal cues indicating vulnerability to suicide, and what to do in case of suicide attempts or suicides to include the use of a cut-down tool for youth hanging.

ii. Staff shall document the monitoring of youth on suicide watch at the time they conduct the monitoring.

iii. Qualified mental health professionals shall determine the level of supervision to be provided.

iv. Qualified mental health professionals shall provide clear, current information about the status of youth on suicide watch to staff supervising youth.

v. Staff shall not substitute supervision aids, such as closed circuit television or placement with roommates, for in-person one-on-one staff monitoring.

vi. Youth at risk of suicide shall be engaged in social interaction and shall not be isolated. Youth on all levels of suicide precautions shall have an opportunity to participate in school and activities to include the one-on-one staff person.

vii. Youth on suicide watch shall not be left naked. Clothing requirements shall be determined by a qualified mental health professional.

viii. Only a qualified mental health professional shall authorize the release of a youth from suicide watch or lower a youth's level of precautions. Qualified mental health professionals shall return youth to normal activity as soon as possible.

ix. A qualified mental health professional shall follow-up with youth during and after the youth is released from suicide watch. The follow-up shall be to the degree and frequency that the qualified mental health professional determines is necessary to meet the youth's mental health needs.

x. Suicides or attempts of suicide shall be accurately documented. There shall be an administrative and mental health review and debriefing after each such occurrence.

xi. Staff shall immediately notify the parent/legal guardian following any incident of suicidal behavior.

xii. Staff shall immediately notify the parent/legal guardian following any incident of self-harm as determined by a qualified mental health professional.

### 4. Medication

a. The provider shall ensure that medication is administered by a registered nurse, licensed practical nurse, or licensed medical physician; by persons with appropriate credentials, training, or expertise in accordance with R.S. 15:911.; or self-administered according to state law. All administration, conditions, and restrictions of medication administration shall be in accordance with R.S. 15:911.

b. The administration of all prescription and non-prescription medication shall be documented whether

administered by staff or supervised by staff while self-administering. This documentation shall include:

i. the youth's name;

ii. date;

iii. time;

iv. medication administered;

v. the name of the person administering the medication; and

vi. the youth's signature, if self-administered.

c. If a youth refuses to take medication, documentation shall include:

i. the youth's name;

ii. date;

iii. time;

iv. medication to be administered;

v. the name of the person attempting to administer the medication;

vi. the refusal;

vii. reason for the refusal; and

viii. the youth's signature, if youth is willing to sign.

d. Receipt of prescription medication shall be by a qualified medical professional or unlicensed trained personnel and the process shall be as follows.

i. When medication arrives at the facility, the qualified medical professional/unlicensed trained personnel shall conduct a count with the name of the person delivering the medication and document the count utilizing a facility form which includes the person delivering medication; the name of youth to whom the medication is prescribed and the amount, physician, and date prescribed for all medication.

ii. All medication shall be in the original container and not expired.

iii. The qualified medical professional shall prepare a medication administration record for all medications.

iv. The qualified medical professional shall place the medication in a locked medication location.

e. The qualified medical professional shall identify and confirm the prescription of all medication received at the facility.

f. There shall be a system in place to ensure that there is a sufficient supply of prescribed medication available for all youth at all times.

i. At shift change, a qualified medical professional or unlicensed trained personnel shall review the medication administration record to ensure that medication was administered as ordered and maintain an inventory of the medication.

ii. Any deviation in the medication count shall be reported to the administrator or designee when identified.

iii. The qualified medical professional or unlicensed trained personnel shall ensure that any medication given to a youth is in accordance with a physician's order.

iv. There shall be a system in place for the documentation of medication errors.

g. Standing orders for non-prescription medication, including directions from the physician indicating when they should be contacted, shall be signed by a physician. There shall be no standing orders for prescription medication. The orders shall be reviewed and signed annually.

h. Medication shall not be used as a disciplinary measure, for the convenience of staff, or as a substitute for programming.

i. The provider shall notify the youth's parent/legal guardian of the potential benefits and side effects of medication prescribed while the youth is in the facility. The youth or the youth's parent/legal guardian must consent to changes to their medication, prior to administration of any new or altered medication.

j. The qualified medical professional or unlicensed trained personnel shall ensure that the on call physician is immediately notified of any side effects observed by the youth, or by staff, as well as, any medication errors. Any negative side effects shall be promptly recorded in the youth record. The parent/legal guardian shall be notified verbally or in writing within 24 hours of any such side effects and a notation of such communication shall be documented in the youths file.

k. Medication shall be stored under proper conditions of sanitation, temperature, light, moisture, ventilation, and security, as required by manufacturer's guidelines and/or law.

l. Discontinued and outdated medication, as well as, medication with damaged containers, or illegible or missing labels shall be properly disposed of according to state law.

m. The provider shall maintain an adequate supply of emergency medication and easily accessible information to include the phone number of the poison control center in case of overdoses or toxicological emergencies.

#### 5. Dental Care

a. The provider shall have a written policy and procedure and practice for providing dental services to all youth to include the following.

i. Youth shall be allowed to brush their teeth at least twice daily.

ii. The provider shall provide a dental examination by a physician/dentist, as needed.

iii. The provider shall provide emergency dental care, as needed.

iv. The qualified medical professional will contact the youth's parents/legal guardian regarding any dental needs identified.

v. All dental examinations, follow-ups, and services shall be documented in the youth's medical file.

#### 6. Immunizations

a. The provider shall have a written policy and procedure and practice regarding the maintenance of immunization records.

b. Within seven days of admission, each youth's immunization records shall be requested from the school of record or other resources. If not received in the time specified, staff shall follow-up with school or other resources. Any immunization record received shall be included in the youth's medical file.

c. The provider shall provide or make arrangements for needed immunizations, as identified by a qualified medical professional.

#### E. Exercise/Recreation/Other Programming

1. The provider shall have a policy and procedure for approving a program of exercise, recreation, and other programming for all youth. The program will ensure that

girls have reasonable opportunities for similar activities, skill development, and an opportunity to participate in programs of comparable quality.

2. Youth in the facility, including youth on disciplinary or restricted status, shall receive at least one hour of large muscle exercise daily. This exercise shall be outside, weather permitting.

3. Youth in the facility shall receive a minimum of one hour of recreational time per day outside of the youth's sleeping room. Recreational activities shall include a range of activities in dayroom/multipurpose rooms or common areas, including but not limited to reading, listening to the radio, watching television or videos, board games, drawing or painting, listening to or making music, and letter writing.

4. The provider shall provide functioning recreational equipment and supplies for physical education activities.

5. Youth shall be provided unstructured free time. There shall be an adequate supply of games, cards, writing, and art materials for use during unstructured recreation time.

6. Reading materials appropriate for the age, interests, and literacy levels of youth shall be available in sufficient variety and quantity to the youth. Youth shall be allowed to keep reading materials in their rooms including religious reading material.

7. The provider shall offer life and social skill competency development, which helps youth function more responsibly and successfully in everyday life situations. These shall include social skills that specifically address interpersonal relationships, through staff interactions, organized curriculums, or other programming.

8. Staff, volunteers, and community groups shall provide additional programming reflecting the interests and needs of various racial and cultural groups within the facility and are gender-responsive. The facility activities may include art, music, drama, writing, health, fitness, meditation/yoga, substance abuse prevention, mentoring, and voluntary religious or spiritual groups.

9. The provider shall offer gender-responsive programming, to include topics such as physical and mental abuse, high-risk sexual behavior, mental health, parenting classes, and substance abuse issues.

10. The provider shall develop a daily activity schedule, which is posted in each living area and outlines the days and times of each youth activity.

#### F. Transportation

1. The provider shall have written policies and procedures and practices to ensure that each youth is provided with transportation necessary to meet his/her needs and in a safe and secure manner.

2. The provider shall ensure proper use of official vehicles and guard against use of a vehicle in an escape attempt.

3. Any vehicle used in transporting youth shall be properly licensed and inspected according to state law.

4. The driver shall be properly licensed.

5. The number of passengers shall not exceed vehicle rated capacity.

6. Youth shall not be permitted to drive facility vehicles.

7. Bodily injury and property damage liability shall be maintained for all vehicles.

8. Youth shall not be transported in open truck beds.

9. Seat belts shall be worn at all times.
10. Doors shall remain locked when in transport.
11. Youth shall not be affixed to any part of the vehicle or secured to another youth.
12. Mechanical restraints used during routine transportation in a vehicle or movement of a youth from the facility to another location outside the facility shall not be required to be documented as a restraint.
13. At least one staff member transporting a youth shall be of the same gender as the youth in transport.
14. The driver shall have the ability to communicate to the facility.
15. All vehicles used for the transportation of youth shall be maintained in a safe condition and in conformity with all applicable motor vehicle laws.
16. The provider shall ensure that an appropriately equipped first aid kit is available in all vehicles used to transport youth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:

### **§7519. Physical Environment**

#### **A. Physical Appearance and Conditions**

1. The provider shall have written policies and procedures and practices for the maintenance of a clean and sanitary facility that promotes a safe and secure environment for youth and addresses emergency repairs, replacement of equipment and general upkeep, preventive and ongoing maintenance of the physical plant and equipment.
2. Weekly sanitation inspections shall be made of all facility areas. A designated staff member shall submit a written sanitation report to the administrator. A copy of the report shall be kept on file.
3. The provider shall have an effective pest control program to prevent insect and rodent infestation.
4. The facility's perimeters shall be controlled by appropriate means to provide that youth remain within the perimeter and to prevent access by the general public without proper authorization. Facilities shall not utilize razor wire to secure the perimeter.
5. The provider shall provide heating, cooling and ventilation systems that are appropriate to summer and winter comfort zones, with no unhealthy extremes.
6. The provider shall ensure access to clean drinking water.

#### **B. Positive Institutional Atmosphere**

1. Staff demonstrates an appropriate level of tolerance of normal adolescent behavior in their day to day working with youth.
2. Furnishings and other decorations reflect a home-like, non-penal environment to the maximum extent possible.
3. Staff recognizes and celebrates important holidays, birthdays, and other dates of significance to youth.
4. The décor and programming acknowledge and value the diverse population of youth in the facility.

#### **C. Dining Areas**

1. Dining areas shall be clean, well lit, ventilated and equipped with dining tables and appropriate seating for the dining tables.

#### **D. Sleeping Areas**

1. Size requirements for single and double occupancy housing units shall be as follows.

- a. A single occupancy room shall have at least 35 square feet of unencumbered space. At least one dimension of the unencumbered space shall be no less than seven feet. In determining unencumbered space in the cell or room, the total square footage is obtained and the square footage of fixtures and equipment is subtracted.

- b. A double occupancy room shall have at least 50 square feet of unencumbered space.

2. Ceilings shall be a minimum of 10 feet from ceiling to floor.

3. There shall be separate sleeping rooms for male and female youth.

4. Youth held in sleeping rooms shall have access to a toilet above floor level, a washbasin, clean drinking water, running water, and a bed above floor level.

5. The provider shall not use any room that does not have natural lighting as a sleeping room.

6. The provider shall remove protrusions and other tie-off points from rooms.

#### **7. Doors**

- a. The doors of every sleeping room shall have a view panel that allows complete visual supervision of all parts of the room. The view panel shall be one-quarter inch tempered or safety glass panels at least 10 inches square.

- b. Doors shall be hinged to a metal frame set securely in the wall with sound insulation strips on the jamb.

- c. Hinge pins of doors shall be tamperproof and non-removable.

- d. In newly constructed or renovated facilities doors to sleeping rooms shall be arranged alternately so that they are not across the corridor from each other.

- e. Each youth's housing door shall be hung so that it opens outward, in the opposite direction of the youth living area, or slide horizontally into a recessed pocket in order to prevent the door from being barricaded.

8. Lighting in sleeping rooms shall provide adequate illumination and shall be protected by a tamperproof safety cover.

#### **9. Furniture and Fixtures**

- a. All furnishings, fixtures, and hardware in sleeping rooms shall be as suicide resistant as possible.

- b. All youth shall have a bed above floor level.

- c. Only flame-retardant furnishings shall be used in the facility.

10. There shall not be any exposed pipes in sleeping rooms. Traps and shut-off valves shall be behind locked doors outside the sleeping rooms.

#### **E. Bathrooms**

1. Individual showers shall be provided for all youth, with a ratio of not less than one shower for each six youth in the population.

2. At least one washbasin shall be provided for each six youth.

3. Urinals may be substituted for up to one-half of the toilets in male units.

4. A minimum of one toilet for each six youth shall be provided in each living unit.

5. Youth in "dry" rooms (without toilets) shall have immediate access to toilets (no longer than a five minute delay after a youth request).



6. Bathroom fixtures shall be sturdy, securely fastened to the floor and/or wall.

7. Showers shall be equipped to prevent slipping.

8. Bathroom facilities shall be designed so that youth are able to shower and perform bodily functions without staff or other youth viewing them naked.

F. Exercise Area

1. Facilities shall have outdoor exercise areas 100 square feet per youth for the maximum number of youth expected to use the space at one time, but not less than 1,500 square feet of unencumbered space.

G. Day Room Area

1. Facilities shall have dayrooms that provide a minimum of 35 square feet of space per youth (exclusive of lavatories, showers, and toilets) for the maximum number of youth per the unit capacity, and no dayroom encompasses less than 100 square feet of space (exclusive of lavatories, showers, and toilets).

H. Interview, Visitation and Counseling Areas

1. The provider shall provide sufficient space for interviewing, counseling, and visiting areas.

2. The interview and visiting room shall allow privacy, yet permit visual supervision by staff, and shall be located within the security perimeter completely separate from the youth living quarters.

I. Laundry

1. The provider shall have a process in place to ensure clean laundry is available for the youth.

J. Storage Areas

1. The provider shall have securely locked storage space for all potentially harmful materials. Keys to such storage spaces shall only be available to authorized staff members.

2. All service and maintenance areas shall be locked and shall be inaccessible to the youth.

3. Separate areas for mechanical equipment shall be provided in a location inaccessible to the youth.

4. Storage space shall be provided for janitorial supplies, food/kitchen supplies and equipment, arts and crafts materials, office supplies, and other supplies required for the maintenance of the facility.

5. Storage areas shall not be accessible by youth.

6. There shall be a location for secure storage of restraining devices and related security equipment. This equipment shall be readily accessible to authorized persons.

K. Housekeeping

1. There shall be a provision for providing housekeeping services for the facility's physical plant.

2. Cleaning and janitorial supplies shall be kept in a locked supply area. Supplies shall be issued and controlled by staff.

3. Unsupervised youth shall not have unrestricted access to areas where cleaning chemicals are stored.

4. Youth shall be directly supervised when cleaning chemicals and equipment are in use.

5. Chores shall be assigned in relation to the youth's age and abilities, and shall be planned so as not to interfere with regular school programs, study periods, recreation, or sleep.

6. The provider shall store and secure objects that can be used as weapons, including but not limited to knives, scissors, tools, and other instruments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:

**§7521. Emergency Preparedness**

A. The provider shall have a written policy and procedure and practice which ensures the smooth operation, evacuation, if necessary, and steps to be taken during a security threat or disaster, which could impact the operations of the facility or the safety of youth, staff and/or visitors. Quick reference guides shall be located in a designated area for easy access. These procedures shall be reviewed and revised, as necessary. Procedures will incorporate responses to the following events:

1. disturbances and riots;
2. hostages;
3. bomb threats;
4. use of emergency medical services;
5. gas leaks, spills or attacks;
6. power failure;
7. escapes;
8. hurricanes, tornados, severe weather, flooding;
9. fires/smoke;
10. chemical leaks;
11. work stoppage; or
12. national security threat.

B. The emergency preparedness plan shall cover:

1. the identification of key personnel and their specific responsibilities during an emergency or disaster;
  2. agreements with other agencies or departments;
  3. transportation to pre-determined evacuation sites;
  4. notification to families;
  5. needs of youth with disabilities in cases of an emergency;
  6. immediate release of a youth from locked areas in case of an emergency, with clearly delineated responsibilities for unlocking doors;
  7. the evacuation of youth to safe or sheltered areas.
- Evacuation plans shall include procedures for addressing both planned and unplanned evacuations and to alternate locations both in close proximity of the facility as well as long distance evacuations;
8. ensuring access to medication and other necessary supplies or equipment.

C. Drills

1. The provider shall conduct fire drills once per month, one drill per shift every 90 days, at varying times of the day. Documentation of the fire drill shall include the following:

- a. date of drill;
- b. time of drill;
- c. number of minutes to evacuate facility;
- d. number of youth evacuated;
- e. problems/concerns observed during the drill;
- f. corrections if problems or concerns noted; and
- g. signatures of staff present during drill.

2. The provider shall make every effort to ensure that staff and youth recognize the nature and importance of fire drills.

D. Alternate Power Source

1. An alternate power source policy shall be developed. The facility shall have an alternate source of

electrical power that provides for the simultaneous operations of life safety systems including:

- a. emergency lighting;
- b. illuminated emergency exit lights and signs;
- c. emergency audible communication systems and equipment;
- d. fire detection alarms systems;
- e. ventilation and smoke management systems;
- f. refrigeration of medication;
- g. medical devices; and
- h. door locking devices.

## 2. Testing of Alternate Power Source

a. The alternate power source system shall be tested by automatic self-checks or manual checks to ensure the system is in working condition.

b. Any system malfunctions or maintenance needs that are identified during a test, or at any other time, shall require that a written maintenance request be immediately submitted to the appropriate personnel.

## E. Emergency Plan for Unlocking Doors

1. The facility will adhere to Life Safety Code, Article 10-3141 and 10-3142.

2. The provider will ensure that reliable means are provided to permit the prompt release of youth confined in locked sections, spaces or rooms in the event of fire or other emergency.

3. Prompt release from secure areas shall be guaranteed on a 24 hour basis by sufficient personnel with ready access to keys.

## F. Declared State of Emergency

1. Facilities under a declared state of emergency due to a natural disaster or other operational emergency of facilities housing youth from these affected facilities shall be exempt from capacity requirements as determined by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:

## §7523. Safety Program

### A. Policies and Procedures

1. The provider shall have policies and procedures and practices that ensure an on-going safety program is maintained.

### B. General Safety Practices

1. Firearms and weapons shall be prohibited in secure areas. The provider shall require that visiting law enforcement personnel store their weapons either in provided lock-boxes or locked in their vehicles.

2. Staff shall accompany private contractors when in the presence of youth.

3. The provider shall ensure that a properly equipped first aid kit is available in each living unit.

### C. Security

#### 1. Doors and Perimeter Control

a. The provider shall maintain controlled access to the facility and internal doors at all times.

b. The provider shall designate entrances and exits for use by staff and the public. Designated perimeter entrances and doors will be secured to ensure that youth remain on facility grounds and to prevent unauthorized public access to the facility.

c. The provider shall record admissions and departures of visitors entering and exiting the facility to include the nature of business, arrival and departure times, and a brief notation of unusual circumstances surrounding any visit.

d. The provider shall control access to any vehicular entrance, when applicable.

e. The provider shall maintain security of all doors, unoccupied areas and storage rooms and accessibility of authorized persons to secured areas.

## 2. Youth Supervision and Movement

a. Supervision of movement shall include the following:

i. staff shall be aware of the location and the number of youth he/she is responsible for at all times;

ii. staff shall not leave his/her area of responsibility without first informing the supervisor;

iii. at least one escort must be the same sex and/or gender of youth during movement;

iv. staff shall conduct a periodic head count;

v. instruction shall be provided for staff escorting youth within and outside the facility;

vi. prohibition of the supervision of youth by youth; and

vii. shift assignments, including the use, location, and scope of assignment.

## 3. Searches

a. The provider shall have a written policy and procedure for conducting searches.

b. The provider shall conduct routine and unannounced searches/inspections of all areas of the physical plant and other areas deemed necessary by administration to ensure the facility remains secure at all times.

c. The provider shall conduct individual room searches when necessary with the least amount of disruption and with respect for youth's personal property.

d. Search of visitors shall be conducted when it is deemed necessary (as permitted by applicable law) to ensure the safety and security of the operation of the facility.

e. Searches of youth, except body cavity searches conducted by a qualified medical professional, shall be conducted by a facility staff member of the same gender as the youth and limited to the following conditions:

i. pat down/frisk search to prevent concealment of contraband and as necessary for facility security; and

ii. oral cavity search to prevent concealment of contraband, to ensure the proper administration of medication, and as necessary for facility security.

f. Youth may be required to surrender their clothing and submit to a strip search under the following guidelines:

i. only if there is reasonable suspicion to believe that youth are concealing contraband or it is necessary for facility security; and

ii. only with supervisory approval.

g. Youth may be required to undergo body cavity search under the following guidelines:

i. only if there is reasonable suspicion to believe that youth are concealing contraband;

ii. only with the approval of the administrator or designee; and

iii. only if conducted by a qualified medical professional, in the presence of one other staff member of the same gender as the youth being searched.

h. The provider shall document justification for a body cavity search and the results of the search placed in the youth's file.

i. All searches, excluding pat down/frisk searches, shall be conducted with youth individually and in a private setting.

j. Staff shall not conduct searches of youth and/or youth's room as harassment or for the purpose of punishment or discipline.

#### 4. Key Control

a. The provider shall ensure safe and secure inventory, accountability, distribution, storage, loss, transfer, and emergency availability of all keys. The provider shall develop and implement written policy addressing loss of keys.

#### 5. Equipment and Tool Control

a. The provider shall ensure safe and secure inventory, accountability, distribution, storage of all tools and equipment. The provider shall develop and implement a written policy addressing loss of equipment and tools.

b. Equipment and tool use by youth shall be under the direct supervision of designated staff and according to state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:

### §7525. Data

#### A. Admission Data

1. The provider shall maintain accurate records on all new admissions, to include the following data fields.

a. Demographics of youth admitted, aggregated by:

- i. race;
- ii. ethnicity;
- iii. gender;
- iv. date of birth;
- v. parish of residence; and
- vi. geographical zone determined by provider to include zip code, local law enforcement zones).

b. Legal status of youth, aggregated by:

- i. custody status of the youth; and
- ii. adjudication status;
  - (a). pre-adjudicated—status/delinquent; and
  - (b). post-adjudicated—status/delinquent.

c. Offenses of youth admitted, aggregated by:

- i. specific charge(s);
- ii. intake date; and
- iii. release data.

d. Youth participation in Families in Need of Services (FINS) program:

- i. dates of participation in FINS (formal or informal); and/or
- ii. referrals to FINS (formal or informal).

#### B. Operational Data

1. The provider shall maintain accurate records of operational events that include the following data fields:

a. Youth released, aggregated by:

- i. race;
- ii. ethnicity;

iii. gender; and

iv. custody status.

b. Average daily population of youth in the facility; and

c. Average length of stay of youth in the facility.

#### C. Detention Screening Data

1. If a provider conducts a Risk Assessment Instrument (RAI) on new admissions, it shall maintain an accurate record of the following data fields:

a. Demographics of youth screened, aggregated by:

- i. race;
- ii. ethnicity;
- iii. gender;
- iv. date of birth;
- v. parish of residence; and
- vi. geographical zone determined by provider to include zip code, local law enforcement zones.

b. Offense of youth screened:

- i. specific charge(s); and
- ii. release date.

c. Screen data:

- i. date completed;
- ii. overrides usage; and
- iii. screening outcomes: release/alternative to detention/secure detention.

d. Outcome data:

- i. successful/unsuccessful; and
- ii. recidivism/failure to appear (FTA).

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:

Ruth Johnson  
Secretary

1202#015

## DECLARATION OF EMERGENCY

### Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs  
(LAC 28:IV.2001, 2007, and 2013)

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 Sections 2001, 2007, and 2013 of LASFAC's scholarship/grants rules for the John R. Justice Student Grant Program to provide that LASFAC will set the award amount each year based upon the funding allocated to Louisiana by the United States Department of Justice.

This Emergency Rule is necessary to implement changes to the scholarship/grant programs to allow the Louisiana Office of Student Financial Assistance to effectively administer the programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible candidates. LASFAC has determined that these

emergency rules are necessary in order to prevent imminent financial peril to the welfare of the affected recipients.

This Declaration of Emergency is effective January 19, 2012 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG12136E)

**Title 28  
EDUCATION**

**Part IV. Student Financial Assistance—Higher  
Education Scholarship and Grant Programs  
Chapter 20. John R. Justice Student Grant Program  
§2001. General Provisions**

A. - C. ...

D. Award Amount

1. For the 2011 calendar year, twelve prosecutors will receive awards of \$5,000 each and six public defenders will receive awards of \$10,000 each. One public defender and two prosecutors will be selected for participation from each of the First, Second, Third, and Fifth Louisiana Circuit Court of Appeal Districts. Two public defenders and four prosecutors will be selected for participation from the Fourth Louisiana Circuit Court of Appeal.

2. Beginning in the 2012 calendar year, the number of awards and the amount of each grant shall be recalculated based on the amount of the federal grant allocated to Louisiana by the United States Department of Justice. Each calendar year's awards shall be allocated so that the total amount awarded to prosecutors is equal to the total amount awarded to public defenders.

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 37:1387 (May 2011), amended LR 38:

**§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 45 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 37:1387 (May 2011), amended LR 38:

**§2013. Responsibilities of LASFAC**

A. LASFAC shall:

1. - 2. ...

3. Approve the number of awards and the amount of each grant each year based upon the funding allocated to Louisiana by the United States Department of Justice.

LASFAC shall ensure that 50 percent of the funds awarded are allocated for awards to prosecutors and 50 percent of the funds awarded are allocated for awards to public defenders.

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 37:1387 (May 2011), amended LR 38:

George Badge Eldredge  
General Counsel

1202#005

**DECLARATION OF EMERGENCY**

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

Disproportionate Share Hospital Payments  
Distinct Part Psychiatric Units  
Payment Methodology (LAC 50:V.2709)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.2709 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 for the reimbursement of uncompensated care costs for psychiatric services provided by non-state acute care hospitals that expand their distinct part psychiatric units and enter into an agreement with the Office of Mental Health (OMH), and established provisions for disproportionate share hospital (DSH) payments to non-state acute care hospitals that enroll a new distinct part psychiatric unit and enter into an agreement with OMH (*Louisiana Register*, Volume 34, Number 8). The department now proposes to amend the provisions governing DSH payments to non-state distinct part psychiatric units that enter into a cooperative endeavor agreement with the department's Office of Behavioral Health.

This action is being taken to avoid a budget deficit in the medical assistance program. It is estimated that implementation of this Emergency Rule will reduce expenditures for DSH payments in the Medicaid Program by approximately \$574,056 for state fiscal year 2011-2012. However, there is an estimated increase in expenditures in the hospital program (for inpatient hospital psychiatric services) by approximately \$79,112 that directly correlates to this Rule amendment. It is estimated that there will be a net reduction in expenditures in the Medicaid Program by approximately \$494,944 in state fiscal year 2011-2012.

Effective February 10, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing disproportionate share hospital payments to distinct part psychiatric units.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part V. Hospitals**

**Subpart 3. Disproportionate Share Hospital Payments**  
**Chapter 27. Qualifying Hospitals**  
**§2709. Distinct Part Psychiatric Units**

A. Effective for dates of service on or after February 10, 2012, a Medicaid enrolled non-state acute care hospital that enters into a cooperative endeavor agreement (CEA) with the Department of Health and Hospitals, Office of Behavioral Health to provide inpatient psychiatric hospital services to Medicaid and uninsured patients shall be paid a per diem rate of \$581.11 per day for each uninsured inpatient.

B. Qualifying hospitals must submit costs and patient specific data in a format specified by the department.

1. Cost and lengths of stay will be reviewed for reasonableness before payments are made.

C. Payments shall be made on a quarterly basis.

D. - F. 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 34:1627 (August 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

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

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

Bruce D. Greenstein  
Secretary

1202#039

**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.8105, Chapter 83, 8501, 8701,  
8901-8903, 9301, and Chapter 95)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend LAC 50:XXI.8105, Chapter 83, §8501, §8701, §§8901-8903, §9301, and Chapter 95 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 adopted provisions which established the Community Choices Waiver Program to replace the Elderly and Disabled Adults (EDA) Waiver (*Louisiana Register*, Volume 37, Number 12). The department now proposes to amend the December 20, 2011 Rule to clarify provisions governing the delivery of services, to remove the wage pass-through language that was erroneously included in the Rule, and to comply with a court-mandated standard for use in the determination of expedited Community Choices Waiver slots and addition of waiver opportunities.

This action is being taken to promote the health and welfare of waiver participants and to ensure that these services are rendered in a more cost-effective manner. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program for the Community Choices Waiver by approximately \$287,100 in state fiscal year 2011-2012. However, there is an estimated reduction in expenditures for long-term personal care services (LT-PCS) by approximately \$136,290 (for persons moving from LT-PCS to the Community Choices Waiver) that directly correlates to this Rule amendment. Therefore, it is estimated that there will be a net increase in expenditures in the Medicaid Program by approximately \$150,810 in state fiscal year 2011-2012.

Effective February, 20, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend the provisions governing the Community Choices Waiver Program.

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

**Subpart 7. Community Choices Waiver**  
**Chapter 81. General Provisions**  
**§8105. Programmatic Allocation of Waiver**  
**Opportunities**

A. - D. ...

E. Notwithstanding the priority group provisions, up to 300 Community Choices Waiver opportunities may be granted to qualified individuals who require expedited waiver services. These individuals shall be offered an opportunity on a first-come, first-serve basis.

1. To be considered for an expedited waiver opportunity, the individual must, at the time of the request for the expedited opportunity, be approved for the maximum amount of services allowable under the Long Term Personal Care Services Program and require institutional placement, unless offered an expedited waiver opportunity.

2. The following criteria shall be considered in determining whether or not to grant an expedited waiver opportunity:

a. - b. ...

c. the support from an informal caregiver is not available due to a family crisis;

d. the person lives alone and has no access to informal support; or

e. for other reasons, the person lacks access to adequate informal support to prevent nursing facility placement.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3517 (December 2011), amended LR 38:

### **Chapter 83. Covered Services**

#### **§8301. Support Coordination**

A. Support coordination is services that will assist participants in gaining access to needed waiver and other State Plan services, as well as needed medical, social, educational, housing and other services, regardless of the funding source for these services. Support coordination agencies shall be required to perform the following core elements of support coordination services:

1. intake;
2. assessment;
3. plan of care development and revision;
4. linkage to direct services and other resources;
5. coordination of multiple services among multiple providers;
6. monitoring and follow-up;
7. reassessment;
8. evaluation and re-evaluation of level of care and need for waiver services;
9. ongoing assessment and mitigation of health, behavioral and personal safety risk;
10. responding to participant crisis;
11. critical incident management; and
12. transition/discharge and closure.

B. Support coordinators shall provide information and assistance to waiver participants in directing and managing their services.

1. When participants choose to self-direct their waiver services, the support coordinators are responsible for informing participants about:

- a. their responsibilities as an employer;
- b. how their activities as an employer are coordinated with the fiscal agent and support coordinator; and
- c. their responsibility to comply with all applicable state and federal laws, rules, policies, and procedures.

2. Support coordinators shall be available to participants for on-going support and assistance in these decision-making areas and with employer responsibilities.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3519 (December 2011), amended LR 38:

#### **§8305. Environmental Accessibility Adaptations**

A. - A.1. ...

a. Once identified by MDS-HC, a credentialed assessor must verify the need for, and draft specifications for, the environmental accessibility adaptation(s).

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 and the Office of Aging and Adult Services, LR 37:3519 (December 2011), amended LR 38:

#### **§8307. Personal Assistance Services**

A. - A.3. ...

4. supervision or assistance with health related tasks (any health related procedures governed under the Nurse Practice Act) in accordance with applicable laws governing the delegation of medical tasks/medication administration;

5. supervision or assistance while escorting/accompanying the participant outside of the home to perform tasks, including instrumental activities of daily living, health maintenance or other needs as identified in the POC and to provide the same supervision or assistance as would be rendered in the home; and

A.6. - C....

D. Community Choices Waiver participants cannot receive Long-Term Personal Care Services.

E. - E.4 ...

5. "A.m. and p.m." PAS cannot be "shared" and may not be provided on the same calendar day as other PAS delivery methods.

6. It is permissible to receive only the "a.m." or "p.m." portion of PAS within a calendar day. However, "a.m." or "p.m." PAS may not be provided on the same calendar day as other PAS delivery methods.

7. PAS providers must be able to provide both regular and "a.m." and "p.m." PAS and cannot refuse to accept a Community Choices Waiver participant solely due to the type of PAS delivery method that is listed on the POC.

F. ...

G. A home health agency direct service worker who renders PAS must be a qualified home health aide as specified in Louisiana's Minimum Licensing Standards for Home Health Agencies.

H. - I. ...

J. The following individuals are prohibited from being reimbursed for providing PAS services to a participant:

J.1. - K. ...

L. It is permissible for the PAS allotment to be used flexibly in accordance with the participant's preferences and personal schedule and OAAS' documentation requirements.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3519 (December 2011), amended LR 38:

#### **§8311. Adult Day Health Care Services**

A. - B. ...

1. meals, which shall not constitute a "full nutritional regimen" (three meals per day) but shall include a minimum of two snacks and a hot nutritious lunch;

2. transportation between the participant's place of residence and the ADHC in accordance with licensing standards;

B.3. - C. ...

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

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

Office of Aging and Adult Services, LR 37:3521 (December 2011), amended LR 38:

### **§8313. Caregiver Temporary Support Services**

A. ...  
B. Federal financial participation is not claimed for the cost of room and board except when provided as part of caregiver temporary support services furnished in a facility approved by the state that is not a private residence.

C. - E. ...  
F. When Caregiver temporary support is provided by an ADHC center, services may be provided no more than 10 hours per day.

G. Caregiver temporary support services may be utilized no more than 30 calendar days or 29 overnight stays per plan of care year for no more than 14 consecutive calendar days or 13 consecutive overnight stays. The service limit may be increased based on documented need and prior approval by OAAS.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3521 (December 2011), amended LR 38:

### **§8315. Assistive Devices and Medical Supplies**

A. Assistive devices and medical supplies are specialized medical equipment and supplies which include devices, controls, appliances, or nutritional supplements specified in the POC that enable participants to:

A.1. - H. ...  
AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3521 (December 2011), amended LR 38:

### **§8321. Nursing Services**

A. Nursing services are services that are medically necessary and may only be provided efficiently and effectively by a nurse practitioner, registered nurse, or a licensed practical nurse working under the supervision of a registered nurse. These nursing services must be provided within the scope of the Louisiana statutes governing the practice of nursing.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3522 (December 2011), amended LR 38:3522 (December 2011), amended LR 38:

### **§8323. Skilled Maintenance Therapy**

A. - F.3.i. ...  
4. Respiratory therapy services which provide preventative and maintenance of airway-related techniques and procedures including:

F.4.a. - H. ...  
AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3522 (December 2011), amended LR 38:

## **Chapter 85. Self-Direction Initiative**

### **§8501. Self-Direction Service Option**

A. The self-direction initiative is a voluntary, self-determination option which allows the participant to coordinate the delivery of personal assistance 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. - C.2.d.ii. ...  
iii. fails to provide required documentation of expenditures and related items;  
iv. fails to cooperate with the fiscal agent or support coordinator in preparing any additional documentation of expenditures and related items; or  
v. violates Medicaid Program Rules or guidelines of the self-direction option.

D. Employee Qualifications. All employers under the self-direction option must:

1. be at least 18 years of age on the date of hire; and
2. complete all training mandated by OAAS within the specified timelines.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3523 (December 2011), amended LR 38:

## **Chapter 87. Plan of Care**

### **§8701. Plan of Care**

A. The applicant and support coordinator have the flexibility to construct a plan of care that serves the participant's health and welfare needs. The service package provided under the POC shall include services covered under the Community Choices Waiver in addition to services covered under the Medicaid State Plan (not to exceed the established service limits for either waiver or state plan services) as well as other services, regardless of the funding source for these services. All services approved pursuant to the POC shall be medically necessary and provided in a cost-effective manner. The POC shall be developed using a person-centered process coordinated by the support coordinator.

B. - C.1. ...  
2. individual cost of each waiver service; and  
3. the total cost of waiver services covered by the POC.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3524 (December 2011), amended LR 38:

## **Chapter 89. Admission and Discharge Criteria**

### **§8901. Admission Criteria**

A. - A.5. ...  
B. Failure of the individual to cooperate in the eligibility determination or plan of care development processes or to meet any of the criteria above shall result in denial of admission to the Community Choices Waiver.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3524 (December 2011), amended LR 38:

**§8903. Admission Denial or Discharge Criteria**

A. - A.6. ...

7. The individual fails to cooperate in the eligibility determination or plan of care development processes or in the performance of the POC.

8. - 9. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3524 (December 2011), amended LR 38:

**Chapter 93. Provider Responsibilities**

**§9301. General Provisions**

A. ...

B. The provider agrees to not request payment unless the participant for whom payment is requested is receiving services in accordance with the Community Choices Waiver Program provisions and the services have been prior authorized and actually provided.

C. Any provider of services under the Community Choices Waiver shall not refuse to serve any individual who chooses their agency unless there is documentation to support an inability to meet the individual's health, safety and welfare needs, or all previous efforts to provide services and supports have failed and there is no option but to refuse services.

C.1. - D. ...

E. Any provider of services under the Community Choices Waiver shall not interfere with the eligibility, assessment, care plan development, or care plan monitoring processes including, but not limited to:

1. harassment;
2. intimidation; or
3. threats against program participants or members of their informal support network, of DHH, or support coordination staff.

F. Any provider of services under the Community Choices Waiver shall have the capacity and resources to provide all aspects of any service they are enrolled to provide in the specified 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 37:3524 (December 2011), amended LR 38:

**Chapter 95. Reimbursement**

**§9501. Reimbursement Methodology**

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

2. in-home caregiver temporary support service when provided by a personal care services or home health agency;

3. caregiver temporary support services when provided by an adult day health care center; and

4. adult day health care services.

B. - G. ...

H. Reimbursement shall not be made for Community Choices Waiver services provided prior to the department's approval of the POC.

I. 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 and the Office of Aging and Adult Services, LR 37:3525 (December 2011), amended LR 38:

**§9503. Direct Support Professionals Minimum Wage**

A. The minimum hourly rate paid to direct support professionals shall be at least the current federal minimum wage.

A.1. - B. 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 and the Office of Aging and Adult Services, LR 37:3525 (December 2011), amended LR 38:

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

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

Bruce D. Greenstein  
Secretary

1202#047

**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  
Repeal of Standards for Participation  
(LAC 50:XXI.Chapter 1)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services repeal LAC 50:XXI.Chapter 1 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 Community Supports and Services adopted provisions to establish minimum standards for



participation for enrolled home and community-based services (HCBS) waiver providers, with the exception of adult day health care facilities (*Louisiana Register*, Volume 29, Number 9).

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services promulgated an Emergency Rule which repealed the provisions governing the Standards for Participation for HCBS waiver providers as a result of the promulgation of new minimum licensing standards governing these providers which revise and stipulate the new participation requirements (*Louisiana Register*, Volume 37, Number 10). This Emergency Rule is being promulgated to continue the provisions of the November 1, 2011 Emergency Rule. This action is being taken to avoid federal sanctions due to inconsistent minimum standards for HCBS waiver providers. It is anticipated that implementation of this Emergency Rule will have no fiscal impact to the Medicaid Program in state fiscal year 2011-2012.

Effective March 1, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services repeal the provisions governing the Standards for Participation for home and community-based services waiver providers.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XXI. Home and Community Based Services**

##### **Waivers**

#### **Subpart 1. General Provisions**

#### **Chapter 1. Standards for Participation**

#### **§101. Provider Requirements**

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 Community Supports and Services, LR 29:1829 (September 2003), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 38:

#### **§103. Agency Responsibilities**

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 Community Supports and Services, LR 29:1833 (September 2003), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 38:

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

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A

copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Bruce D. Greenstein  
Secretary

1202#050

### **DECLARATION OF EMERGENCY**

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

Inpatient Hospital Services  
Distinct Part Psychiatric Units  
Reimbursement Methodology  
(LAC 50:V.915 and 959)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.915 and §959 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.

In compliance with Act 18 of the 2007 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing inpatient psychiatric services to allow acute care hospitals that enter into an agreement with the Office of Mental Health [currently the Office of Behavioral Health] to expand their distinct part psychiatric unit beds and receive Medicaid reimbursement for the patients who occupy the additional beds (*Louisiana Register*, Volume 34, Number 9).

The department now proposes to amend the provisions governing the reimbursement methodology for inpatient psychiatric hospital services rendered by distinct part psychiatric units of acute care hospitals that enter into a cooperative endeavor agreement (CEA) with the Department of Health and Hospitals, Office of Behavioral Health.

This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$79,112 for state fiscal year 2011-2012. However, there is an estimated reduction in expenditures of approximately \$574,056 in the Disproportionate Share Hospital Program that directly correlates to this Rule amendment. It is estimated that there will be a net reduction in expenditures in the Medicaid Program by approximately \$494,944 in state fiscal year 2011-2012.

Effective February 10, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient psychiatric hospital services rendered by distinct part psychiatric units.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part V. Hospitals**

**Subpart 1. Inpatient Hospitals Services**

**Chapter 9. Non-Rural, Non-State Hospitals**

**Subchapter A. General Provisions**

**§915. Distinct Part Psychiatric Units**

A. ...

1.a. - b.Repealed.

B. Effective for dates of service on or after February 10, 2012, a Medicaid enrolled non-state acute care hospital that enters into a cooperative endeavor agreement (CEA) with the Department of Health and Hospitals, Office of Behavioral Health to provide inpatient psychiatric hospital services to Medicaid and uninsured patients may make a one-time increase in its number of beds with a one-time opening of a new distinct part psychiatric unit.

1. This expansion or opening of a new unit will not be recognized, for Medicare purposes, until the beginning of the next cost reporting period. At the next cost reporting period, the hospital must meet the Medicare Prospective Payment System (PPS) exemption criteria and enroll as a Medicare PPS excluded distinct part psychiatric unit.

2. At the time of any expansion or opening of a new distinct part psychiatric unit, the provider must provide a written attestation that they meet all Medicare PPS rate exemption criteria.

3. Admissions to this expanded or new distinct part psychiatric unit may not be based on payer source.

C. Changes in the Status of Hospital Units. The status of each hospital unit is determined at the beginning of each cost reporting period and is effective for the entire cost reporting period. Any changes in the status of a unit are made only at the start of a cost reporting period.

1. 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 20:49 (January 1994), amended LR 34:1913 (September 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

**Subchapter B. Reimbursement Methodology**

**§959. Inpatient Psychiatric Hospital Services**

A. - J. ...

K. Effective for dates of service on or after February 10, 2012, a Medicaid enrolled non-state acute care hospital that enters into a cooperative endeavor agreement (CEA) with the Department of Health and Hospitals, Office of Behavioral Health to provide inpatient psychiatric hospital services to Medicaid and uninsured patients shall be paid a per diem rate of \$581.11 per day.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), repromulgated LR 35:2183 (October 2009), amended LR 36:1554 (July 2010), LR 36:2562 (November, 2010), LR 37:2162 (July 2011), LR 38:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of

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

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

Bruce D. Greenstein  
Secretary

1202#040

**DECLARATION OF EMERGENCY**

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

Inpatient Hospital Services  
Major Teaching Hospitals  
Qualifying Criteria  
(LAC 50:V.1301-1309)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:V.1301-1309 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 a Rule that established the reimbursement of major and minor teaching hospitals as peer groups under the prospective reimbursement methodology for hospitals (*Louisiana Register*, Volume 20, Number 6). The department amended the June 20, 1994 Rule to adopt new criteria for the reimbursement of graduate medical education (GME) pursuant to Section 15 Schedule 09 of Act 19 of the 1998 Regular Session of the Louisiana Legislature and R.S. 39:71 et seq. (*Louisiana Register*, Volume 26, Number 3).

Act 347 of the 2009 Regular Session of the Louisiana Legislature revised the qualifying criteria for major teaching hospitals. In compliance with Act 347, the department promulgated an Emergency Rule which amended the provisions governing the qualifying criteria for major teaching hospitals. This Emergency Rule also repromulgated the March 20, 2000 Rule governing teaching hospitals in a codified format for inclusion in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 36, Number 6). The department promulgated an Emergency Rule which amended the July 1, 2010 Emergency Rule to clarify the qualifying criteria for a major teaching hospital (*Louisiana Register*, Volume 37, Number 11). This Emergency Rule is being promulgated to continue the provisions of the November 20, 2011 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by encouraging provider participation in the Medicaid Program so as to assure sufficient access to hospital services.

Effective March 20, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing inpatient hospital services rendered by non-rural, non-state hospitals designated as teaching hospitals.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part V. Hospital Services**

##### **Subpart 1. Inpatient Hospital Services**

#### **Chapter 13. Teaching Hospitals**

##### **Subchapter A. General Provisions**

#### **§1301. Major Teaching Hospitals**

A. The Louisiana Medical Assistance Program's recognition of a major teaching hospital is limited to facilities having a documented affiliation agreement with a Louisiana medical school accredited by the Liaison Committee on Medical Education (LCME). A major teaching hospital shall meet one of the following criteria:

1. be a major participant in at least four approved medical residency programs and maintain an intern and resident full-time equivalency of at least 15 filled positions. At least two of the programs must be in medicine, surgery, obstetrics/gynecology, pediatrics, family practice, emergency medicine or psychiatry; or

2. maintain an intern and resident full-time equivalency of at least 20 filled positions with an approved medical residency program in family practice located more than 150 miles from the medical school accredited by the LCME.

B. For the purposes of recognition as a major teaching hospital, a facility shall be considered a "major participant" in a graduate medical education program if it meets the following criteria. The facility must:

1. pay for all of the costs of the training program in the non-hospital or hospital setting, including:

- a. the residents' salaries and fringe benefits;
- b. the portion of the cost of teaching physicians' salaries and fringe benefits attributable to direct graduate medical education; and
- c. other direct administrative costs of the program; and

2. participate in residency programs that:

- a. require residents to rotate for a required experience;

- b. require explicit approval by the appropriate Residency Review Committee (RRC) of the medical school with which the facility is affiliated prior to utilization of the facility; or

- c. provide residency rotations of more than one sixth of the program length or more than a total of six months at the facility and are listed as part of an accredited program in the *Graduate Medical Education Directory* of the Accreditation Council for Graduate Medical Education (ACGME).

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:

#### **§1303. Minor Teaching Hospitals**

A. The Louisiana Medical Assistance Program's recognition of a minor teaching hospital is limited to facilities having a documented affiliation agreement with a

Louisiana medical school accredited by the LCME. A minor teaching hospital shall meet the following criteria:

1. must participate significantly in at least one approved medical residency program in either medicine, surgery, obstetrics/gynecology, pediatrics, family practice, emergency medicine or psychiatry; and

2. maintain an intern and resident full time equivalency of at least six filled positions.

B. For the purposes of recognition as a minor teaching hospital, a facility is considered to "participate significantly" in a graduate medical education program if it meets the following criteria. The facility must:

1. pay for all of the costs of the training program in the non-hospital or hospital setting, including:

- a. the residents' salaries and fringe benefits;
- b. the portion of the cost of teaching physicians' salaries and fringe benefits attributable to direct graduate medical education; and
- c. other direct administrative costs of the program; and

2. participate in residency programs that:

- a. require residents to rotate for a required experience;

- b. require explicit approval by the appropriate Residency Review Committee of the medical school with which the facility is affiliated prior to utilization of the facility; or

- c. provide residency rotations of more than one sixth of the program length or more than a total of six months at the facility and are listed as part of an accredited program in the *Graduate Medical Education Directory* of the Accreditation Council for Graduate Medical Education.

- i. If not listed, the sponsoring institution must have notified the ACGME, in writing, that the residents rotate through the facility and spend more than 1/6th of the program length or more than a total of six months at the 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 38:

#### **§1305. Approved Medical Residency Program**

A. An approved medical residency program is one that meets one of the following criteria:

1. counts toward certification of the participant in a specialty or sub-specialty listed in the current edition of either *The Directory of Graduate Medical Education Programs* published by the American Medical Association, Department of Directories and Publications, or *The Annual Report and Reference Handbook* published by the American Board of Medical Specialties;

2. is approved by the ACGME as a fellowship program in geriatric medicine; or

3. is a program that would be accredited except for the accrediting agency's reliance upon an accreditation standard that requires an entity to perform an induced abortion or require, provide, or refer for training in the performance of induced abortions, or make arrangements for such training regardless of whether the standard provides exceptions or exemptions.

B. A residency program at a non-hospital facility may be counted by a hospital if:

1. there is a written agreement with the non-hospital facility that requires the hospital facility to pay for the cost of the training program; and

2. the agreement requires that the time that residents spend in the non-hospital setting is for patient care.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

### **§1307. Graduate Medical Education**

A. The bureau adopts criteria for the reimbursement of graduate medical education (GME) in facilities that do not qualify as major or minor teaching facilities. GME recognized by the Medical Assistance Program for reimbursement shall be limited to facilities having a documented affiliation agreement with a Louisiana medical school accredited by the LCME.

B. Payment for GME costs shall be limited to the direct cost of interns and residents in addition to the teaching physician supervisory costs. Teaching physician supervisory costs shall be limited in accordance with the provisions of the Medicare Provider Reimbursement Manual. The GME component of the rate shall be based on hospital specific graduate medical education Medicaid cost for the latest year on which hospital prospective reimbursements are rebased trended forward in accordance with the prospective reimbursement methodology for hospitals.

C. Hospitals implementing GME programs approved after the latest year on which hospital prospective reimbursements have been rebased shall have a GME component based on the first full cost reporting period that the approved GME program is in existence trended forward in accordance with the prospective reimbursement methodology for hospitals.

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:

### **§1309. Requirements for Reimbursement**

A. Qualification for teaching hospital status or to receive reimbursement for GME costs shall be re-established at the beginning of each fiscal year.

B. To be reimbursed as a teaching hospital or to receive reimbursement for GME costs, a facility shall submit the following documentation to the Bureau of Health Services, Program Operations Section within 30 days of the beginning of each state fiscal year:

1. a copy of the executed affiliation agreement for the time period for which the teaching hospital status or GME reimbursement applies;

2. a copy of any agreements with non-hospital facilities; and

3. a signed Certification For Teaching Hospital Recognition.

C. Each hospital which is reimbursed as a teaching hospital or receives reimbursement for GME costs shall submit the following documentation to the Bureau of Health Services, Program Operations Section, within 90 days of the end of each state fiscal year:

1. a copy of the Intern and Resident Information

System report that is submitted annually to the Medicare intermediary; and

2. a copy of any notice given to the ACGME that residents rotate through a facility for more than one sixth of the program length or more than a total of six months.

D. Copies of all contracts, payroll records and time allocations related to graduate medical education must be maintained by the hospital and available for review by the state and federal agencies or their agents upon request.

E. No teaching hospital shall receive a per diem rate greater than 115 percent of its facility specific cost based on the latest rebasing year trended forward to the rate year in accordance with the prospective reimbursement methodology for hospitals.

F. The peer group maximum for minor teaching hospitals shall be the peer group maximum for minor teaching hospitals or the peer group maximum for peer group five, whichever is greater.

G. If it is subsequently discovered that a hospital has been reimbursed as a major or minor teaching hospital and did not qualify for that peer group for any reimbursement period, retroactive adjustment shall be made to reflect the correct peer group to which the facility should have been assigned. The resulting overpayment will be recovered through either immediate repayment by the hospital or recoupment from any funds due to the hospital from 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:

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

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

Bruce D. Greenstein  
Secretary

1202#052

## **DECLARATION OF EMERGENCY**

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

Inpatient Hospital Services—Major Teaching Hospitals  
Supplemental Payments (LAC 50:V.1333)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.1333 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953.B(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for inpatient hospital services to provide for a supplemental Medicaid payment to non-rural, non-state acute care hospitals for having a Medicaid inpatient utilization greater than 30 percent and teaching hospitals for furnishing additional graduate medical education services as a result of the suspension of training programs at the Medical Center of Louisiana at New Orleans due to the impact of Hurricane Katrina (*Louisiana Register*, Volume 34, Number 5).

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to provide a supplemental Medicaid payment to acute care hospitals designated as major teaching hospitals to facilitate the development of public-private collaborations in order to preserve access to medically necessary services for Medicaid recipients (*Louisiana Register*, Volume 37, Number 6). This Emergency Rule is being promulgated to continue the provisions of the July 1, 2011 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by encouraging provider participation in the Medicaid Program so as to assure sufficient access to hospital services.

Effective February 28, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state hospitals designated as major teaching hospitals.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part V. Hospital Services**

#### **Subpart 1. Inpatient Hospitals**

#### **Chapter 13. Teaching Hospitals**

#### **Subchapter B. Reimbursement Methodology**

#### **§1333. Major Teaching Hospitals**

A. ...

B. Effective for dates of service on or after July 1, 2011, a quarterly supplemental payment shall be issued to non-rural, non-state acute care hospitals for inpatient services rendered during the quarter. These payments shall be used to facilitate the development of public-private collaborations to preserve access to medically necessary services for Medicaid recipients. Aggregate payments to qualifying hospitals shall not exceed the maximum allowable cap for the quarter.

1. Qualifying Criteria. In order to qualify for the supplemental payments the non-rural, non-state acute care hospital must:

- a. be designated as a major teaching hospital by the Department of Health and Hospitals in state fiscal year 2011;
- b. have provided at least 25,000 Medicaid acute care paid days for state fiscal year 2010 dates of service; and
- c. have provided at least 5,000 Medicaid distinct part psychiatric unit paid days for state fiscal year 2010 dates of service.

2. Payments shall be distributed quarterly and shall be calculated using the Medicaid paid days for service dates in state fiscal year 2010 as a proxy for SFY 2012 service dates.

3. Payments are applicable to Medicaid service dates provided during the first quarter of state fiscal year 2012 only and shall not exceed \$14,000,000.

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:

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

Bruce D. Greenstein  
Secretary

1202#051

### **DECLARATION OF EMERGENCY**

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

Inpatient Hospital Services  
Neonatal and Pediatric Intensive Care Units and  
Outlier Payment Methodologies  
(LAC 50:V.953, 954, and 967)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.953, 954, and 967 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state hospitals to align the prospective per diem rates more closely with reported costs, including the neonatal intensive care unit (NICU) and pediatric intensive care unit (PICU) rates (*Louisiana Register*, Volume 35, Number 9).

The Department of Health and Hospitals, Bureau of Health Services Financing repromulgated all of the provisions governing outlier payments for inpatient hospital services in a codified format for inclusion in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 36, Number 3).

The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to adjust the reimbursement rates paid for NICU and PICU services rendered by non-rural, non-state hospitals and to revise the outlier payment methodology (*Louisiana Register*, Volume 37, Number 3). This Emergency Rule is being promulgated to continue the provisions of the March 1, 2011 Emergency Rule. This action is being taken to promote the health and

welfare of Medicaid recipients by maintaining access to neonatal and pediatric intensive care unit services and encouraging the continued participation of hospitals in the Medicaid Program.

Effective February 27, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services to adjust the reimbursement rates paid to non-rural, non-state hospitals for neonatal and pediatric intensive care unit services and to revise the provisions governing outlier payments.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part V. Hospital Services**

##### **Subpart 1. Inpatient Hospital Services**

#### **Chapter 9. Non-Rural, Non-State Hospitals**

##### **Subchapter B. Reimbursement Methodology**

#### **§953. Acute Care Hospitals**

A. - G. ...

H. Neonatal Intensive Care Units (NICU)

1. - 2. ...

3. Effective for dates of service on or after March 1, 2011, the per diem rates for Medicaid inpatient services rendered by NICU Level III and NICU Level III regional units, recognized by the department as such on December 31, 2010, shall be adjusted to include an increase that varies based on the following five tiers:

a. Tier 1. If the qualifying hospital's average percentage exceeds 10 percent, the additional per diem increase shall be \$601.98;

b. Tier 2. If the qualifying hospital's average percentage is less than or equal to 10 percent, but exceeds 5 percent, the additional per diem increase shall be \$624.66;

c. Tier 3. If the qualifying hospital's average percentage is less than or equal to 5 percent, but exceeds 1.5 percent, the additional per diem increase shall be \$419.83;

d. Tier 4. If the qualifying hospital's average percentage is less than or equal to 1.5 percent, but greater than 0 percent, and the hospital received greater than .25 percent of the outlier payments for dates of service in state fiscal year (SFY) 2008 and SFY 2009 and calendar year 2010, the additional per diem increase shall be \$263.33; or

e. Tier 5. If the qualifying hospital received less than .25 percent, but greater than 0 percent of the outlier payments for dates of service in SFY 2008 and SFY 2009 and calendar year 2010, the additional per diem increase shall be \$35.

4. A qualifying hospital's placement into a tier will be determined by the average of its percentage of paid NICU Medicaid days for SFY 2010 dates of service to the total of all qualifying hospitals' paid NICU days for the same time period, and its percentage of NICU patient outlier payments made as of December 31, 2010 for dates of service in SFY 2008 and SFY 2009 and calendar year 2010 to the total NICU outlier payments made to all qualifying hospitals for these same time periods.

a. This average shall be weighted to provide that each hospital's percentage of paid NICU days will comprise 25 percent of this average, while the percentage of outlier payments will comprise 75 percent. In order to qualify for Tiers 1 through 4, a hospital must have received at least .25

percent of outlier payments in SFY 2008, SFY 2009, and calendar year 2010.

b. SFY 2010 is used as the base period to determine the allocation of NICU and PICU outlier payments for hospitals having both NICU and PICU units.

c. If the daily paid outlier amount per paid NICU day for any hospital is greater than the mean plus one standard deviation of the same calculation for all NICU Level III and NICU Level III regional hospitals, then the basis for calculating the hospital's percentage of NICU patient outlier payments shall be to substitute a payment amount equal to the highest daily paid outlier amount of any hospital not exceeding this limit, multiplied by the exceeding hospital's paid NICU days for SFY 2010, to take the place of the hospital's actual paid outlier amount.

NOTE: Children's specialty hospitals are not eligible for the per diem adjustments established in §953.H.3.

5. The department shall evaluate all rates and tiers two years after implementation.

I. Pediatric Intensive Care Unit (PICU)

1. - 2. ...

3. Effective for dates of service on or after March 1, 2011, the per diem rates for Medicaid inpatient services rendered by PICU Level I and PICU Level II units, recognized by the department as such on December 31, 2010, shall be adjusted to include an increase that varies based on the following four tiers:

a. Tier 1. If the qualifying hospital's average percentage exceeds 20 percent, the additional per diem increase shall be \$418.34;

b. Tier 2. If the qualifying hospital's average percentage is less than or equal to 20 percent, but exceeds 10 percent, the additional per diem increase shall be \$278.63;

c. Tier 3. If the qualifying hospital's average percentage is less than or equal to 10 percent, but exceeds 0 percent and the hospital received greater than .25 percent of the outlier payments for dates of service in SFY 2008 and SFY 2009 and calendar year 2010, the additional per diem increase shall be \$178.27; or

d. Tier 4. If the qualifying hospital received less than .25 percent, but greater than 0 percent of the outlier payments for dates of service in SFY 2008, SFY 2009 and calendar year 2010, the additional per diem increase shall be \$35.

4. A qualifying hospital's placement into a tier will be determined by the average of its percentage of paid PICU Medicaid days for SFY 2010 dates of service to the total of all qualifying hospitals' paid PICU days for the same time period, and its percentage of PICU patient outlier payments made as of December 31, 2010 for dates of service in SFY 2008 and SFY 2009 and calendar year 2010 to the total PICU outlier payments made to all qualifying hospitals for these same time periods.

a. This average shall be weighted to provide that each hospital's percentage of paid PICU days will comprise 25 percent of this average, while the percentage of outlier payments will comprise 75 percent. In order to qualify for Tiers 1 through 3, a hospital must have received at least .25 percent of outlier payments in SFY 2008, SFY 2009, and calendar year 2010.

b. SFY 2010 is used as the base period to determine the allocation of NICU and PICU outlier payments for hospitals having both NICU and PICU units.

c. If the daily paid outlier amount per paid PICU day for any hospital is greater than the mean plus one standard deviation of the same calculation for all PICU Level I and PICU Level II hospitals, then the basis for calculating the hospital's percentage of PICU patient outlier payments shall be to substitute a payment amount equal to the highest daily paid outlier amount of any hospital not exceeding this limit, multiplied by the exceeding hospital's paid PICU days for SFY 2010, to take the place of the hospital's actual paid outlier amount.

NOTE: Children's specialty hospitals are not eligible for the per diem adjustments established in §953.I.3.

5. The department shall evaluate all rates and tiers two years after implementation.

J. - O.1. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:1552 (July 2010), LR 36:2561 (November 2010), LR 38:

#### §954. Outlier Payments

A. - B. ...

C. To qualify as a payable outlier claim, a deadline of not later than six months subsequent to the date that the final claim is paid shall be established for receipt of the written request for outlier payments.

1. Effective March 1, 2011, in addition to the 6 month timely filing deadline, outlier claims for dates of service on or before February 28, 2011 must be received by the department on or before May 31, 2011 in order to qualify for payment. Claims for this time period received by the department after May 31, 2011 shall not qualify for payment.

D. Effective for dates of service on or after March 1, 2011, a catastrophic outlier pool shall be established with annual payments limited to \$10,000,000. In order to qualify for payments from this pool, the following conditions must be met:

1. the claims must be for cases for:
  - a. children less than six years of age who received inpatient services in a disproportionate share hospital setting; or
  - b. infants less than one year of age who receive inpatient services in any acute care hospital setting; and
2. the costs of the case must exceed \$150,000.

a. The hospital specific cost to charge ratio utilized to calculate the claim costs shall be calculated using the Medicaid NICU or PICU costs and charge data from the most current cost report.

E. The initial outlier pool will cover eligible claims with admission dates from the period beginning March 1, 2011 through June 30, 2011.

1. Payment for the initial partial year pool will be \$3,333,333 and shall be the costs of each hospital's qualifying claims net of claim payments divided by the sum of all qualifying claims costs in excess of payments, multiplied by \$3,333,333.

2. Cases with admission dates on or before February 28, 2011 that continue beyond the March 1, 2011 effective

date, and that exceed the \$150,000 cost threshold, shall be eligible for payment in the initial catastrophic outlier pool.

3. Only the costs of the cases applicable to dates of service on or after March 1, 2011 shall be allowable for determination of payment from the pool.

F. Beginning with SFY 2012, the outlier pool will cover eligible claims with admission dates during the state fiscal year (July 1 through June 30) and shall not exceed \$10,000,000 annually. Payment shall be the costs of each hospital's eligible claims less the prospective payment, divided by the sum of all eligible claims costs in excess of payments, multiplied by \$10,000,000.

G. The claim must be submitted no later than six months subsequent to the date that the final claim is paid and no later than September 15 of each year.

H. Qualifying cases for which payments are not finalized by September 1 shall be eligible for inclusion for payment in the subsequent state fiscal year outlier pool.

I. Outliers are not payable for:

1. transplant procedures; or
2. services provided to patients with Medicaid coverage that is secondary to other payer sources.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:519 (March 2010), amended LR 38:

#### §967. Children's Specialty Hospitals

A. - F. ...

G. Children's specialty hospitals are not eligible for the per diem adjustments established in §953.H.3 and §953.I.3.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2562 (November 2010), amended LR 38:

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

Bruce D. Greenstein  
Secretary

1202#053

### DECLARATION OF EMERGENCY

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

Inpatient Hospital Services  
Reimbursement Methodology  
Medical Education Payments  
(LAC 50:V.551, 967 and 1331)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.551, §967 and §1331 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 adopted provisions under the Medicaid State Plan to establish a coordinated system of care through an integrated network for the delivery of healthcare services to Medicaid recipients (*Louisiana Register*, Volume 37, Number 6). This delivery system, comprised of managed care organizations (MCOs), was implemented to improve performance and health care outcomes for Medicaid recipients. The per member per month reimbursements to MCOs do not include payments for medical education services rendered by participating hospitals.

Therefore, the department has now determined that it is necessary to amend the provisions governing the reimbursement methodology for inpatient hospital services in order to continue medical education payments to state hospitals, children's specialty hospitals and acute care hospitals classified as teaching hospitals when the hospitals are reimbursed by prepaid risk-bearing MCOs for inpatient hospital services. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation and recipient access to services. It is estimated that this Emergency Rule will have no fiscal impact in state fiscal year 2011-2012 since qualifying hospitals will continue to receive the same payment amounts.

Effective February 1, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part V. Hospital Services**

##### **Subpart 1. Inpatient Hospital Services**

#### **Chapter 5. State Hospitals**

##### **Subchapter B. Reimbursement Methodology**

#### **§551. Acute Care Hospitals**

A. - D. ...

E. Effective for dates of service on or after February 1, 2012, medical education payments for inpatient services which are reimbursed by a prepaid risk-bearing managed care organization (MCO) shall be paid monthly as interim lump sum payments.

1. Hospitals with qualifying medical education programs shall submit a listing of inpatient claims paid each month by each MCO.

a. For purposes of these provisions, qualifying medical education programs are defined as graduate medical education, paramedical education, and nursing schools.

2. Monthly payments shall be calculated by multiplying the number of qualifying inpatient days times the medical education costs included in each state hospital's interim per diem rate as calculated per the latest filed Medicaid cost report.

3. Final payment shall be determined based on the actual MCO covered days and allowable inpatient Medicaid medical education costs for the cost reporting period per the Medicaid cost report.

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:

#### **Chapter 9. Non-Rural, Non-State Hospitals**

##### **Subchapter B. Reimbursement Methodology**

#### **§967. Children's Specialty Hospitals**

A. - H. ...

I. Effective for dates of service on or after February 1, 2012, medical education payments for inpatient services which are reimbursed by a prepaid risk-bearing managed care organization (MCO) shall be paid monthly as interim lump sum payments.

1. Hospitals with qualifying medical education programs shall submit a listing of inpatient claims paid each month by each MCO.

a. For purposes of these provisions, qualifying medical education programs are defined as graduate medical education, paramedical education, and nursing schools.

2. Monthly payments shall be calculated by multiplying the number of qualifying inpatient days submitted by the medical education costs component included in each children's specialty hospital's interim per diem rate as calculated per the latest filed Medicaid cost report.

3. Final payment shall be determined based on the actual MCO covered days and medical education costs for the cost reporting period per the Medicaid cost report. Reimbursement shall be at the same percentage that is reimbursed for fee-for-service covered Medicaid costs after application of reimbursement caps as specified in §967.A.-C and reductions specified in §967.F-H.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2562 (November 2010), LR 37:2162 (July 2011), LR 38:

#### **Chapter 13. Teaching Hospitals**

##### **Subchapter B. Reimbursement Methodology**

#### **§1331. Acute Care Hospitals**

A. - E. ...

F. Effective for dates of service on or after February 1, 2012, medical education payments for inpatient services which are reimbursed by a prepaid risk-bearing managed care organization (MCO) shall be paid monthly as interim lump sum payments.

1. Hospitals with qualifying medical education programs shall submit a listing of inpatient claims paid each month by each MCO.

a. For purposes of these provisions, qualifying medical education programs are defined as graduate medical education, paramedical education, and nursing schools.

2. Qualifying hospitals must have a direct medical education add-on component included in their prospective Medicaid per diem rates as of January 31, 2012 which was carved-out of the per diem rate reported to the MCOs.

3. Monthly payments shall be calculated by multiplying the number of qualifying inpatient days submitted by the medical education costs component included in each hospital's fee-for-service prospective per diem rate. Monthly payment amounts shall be verified by the



department semi-annually using reports of MCO covered days generated from encounter data. Payment adjustments or recoupments shall be made as necessary based on the MCO encounter data reported 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 34:877 (May 2008), amended LR 38:

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

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

Bruce D. Greenstein  
Secretary

1202#014

## DECLARATION OF EMERGENCY

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

#### Nursing Facilities Reimbursement Methodology Low Income and Needy Care Collaboration (LAC 50:II.20023)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:II.20023 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 if 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 the reimbursement methodology for nursing facilities to adopt provisions to establish a supplemental Medicaid payment for nursing facilities who enter into an agreement with a state or local governmental entity for the purpose of providing health care services to low income and needy patients (*Louisiana Register*, Volume 37, Number 11). This Emergency Rule is being promulgated to continue the provisions of the November 1, 2011 Emergency Rule. This action is being taken to secure new federal funding and to promote the public health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Hospital Services Program.

Effective March 1, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing amends the

provisions governing the reimbursement methodology for nursing facilities to establish a supplemental Medicaid payment to nursing facilities who participate in the Low Income and Needy Care Collaboration.

## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part II. Nursing Facilities

##### Subpart 5. Reimbursement

#### Chapter 200. Reimbursement Methodology

##### §20023. Low Income and Needy Care Collaboration

A. Effective for dates of service on or after November 1, 2011, quarterly supplemental payments shall be issued to qualifying nursing facilities for services rendered during the quarter. Maximum aggregate payments to all qualifying nursing facilities shall not exceed the available upper payment limit per state fiscal year.

B. Qualifying Criteria. In order to qualify for the supplemental payment, the nursing facility must be affiliated with a state or local governmental entity through a Low Income and Needy Care Nursing Facility Collaboration Agreement.

1. A *nursing facility* is defined as a currently licensed and certified nursing facility which is owned or operated by a private entity or non-state governmental entity.

2. A *Low Income and Needy Care Nursing Facility Collaboration Agreement* is defined as an agreement between a nursing facility and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

C. Each qualifying nursing facility shall receive quarterly supplemental payments for nursing facility services. Quarterly payment distribution shall be limited to one-fourth of the aggregated difference between each qualifying nursing facility's Medicare rate and Medicaid payments the nursing facility receives for covered services provided to Medicaid recipients during a 12 consecutive month period. Medicare rates in effect for the dates of service included in the supplemental payment period will be used to establish the upper payment limit. Medicaid payments will be used for the same time period.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

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

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

Bruce D. Greenstein  
Secretary

1202#054

## DECLARATION OF EMERGENCY

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

Nursing Facilities  
Reimbursement Methodology  
Private Room Conversions  
(LAC 50:II.20010)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:II.20010 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 if the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for nursing facilities to allow for additional payments for private room conversions when a Medicaid participating nursing facility converts one or more semi-private rooms to private rooms for occupancy by Medicaid recipients (*Louisiana Register*, Volume 33, Number 8). Act 150 of the 2010 Regular Session of the Louisiana Legislature directed the department to increase the fair rental value minimum occupancy percentage from 70 percent to 85 percent. The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for nursing facilities to ensure that the provisions governing private room conversions are consistent with the increase in the fair rental value minimum occupancy percentage which was adopted on July 1, 2011 (*Louisiana Register*, Volume 37, Number 10). This Emergency Rule is being promulgated to continue the provisions of the November 1, 2011 Emergency Rule. This action is being taken in order to avoid a budget deficit in the medical assistance programs.

Effective March 1, 2012, 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

#### §20010. Additional Payments and Square Footage Adjustments for Private Room Conversion [Formerly LAC 50:VII.1310]

A. - D.2.c. ...

3. Resident days used in the fair rental value per diem calculation will be the greater of the annualized actual resident days from the base year cost report or 85 percent of the revised annual bed days available after the change in licensed beds.

D.4 - E.2. ...

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 33:1646 (August 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

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

Bruce D. Greenstein  
Secretary

1202#055

## DECLARATION OF EMERGENCY

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

Outpatient Hospital Services  
State-Owned Hospitals  
Medical Education Payments  
(LAC 50:V.5319, 5519, 5919 and 6127)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.5319, §5519, §5919 and amends §6127 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 adopted provisions under the Medicaid State Plan to establish a coordinated system of care through an integrated network for the delivery of healthcare services to Medicaid recipients (*Louisiana Register*, Volume 37, Number 6). This delivery system, comprised of managed care organizations (MCOs), was implemented to improve performance and health care outcomes for Medicaid recipients. The per member per month reimbursements to MCOs do not include payments for medical education services rendered by participating hospitals.

Therefore, the department has now determined that it is necessary to amend the provisions governing the reimbursement methodology for outpatient hospital services in order to continue medical education payments to state-owned hospitals when the hospitals are reimbursed by prepaid risk-bearing MCOs for outpatient surgeries, clinic services, rehabilitation services, and other covered outpatient hospital services. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation and recipient access to services. It is estimated that this Emergency Rule will have no fiscal impact in state fiscal year 2011-2012 since state-owned hospitals will continue to receive the same payment amounts.

Effective February 10, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing amends

the provisions governing the reimbursement methodology for outpatient hospital services.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part V. Hospitals**

#### **Subpart 5. Outpatient Hospital Services**

### **Chapter 53. Outpatient Surgery**

#### **Subchapter B. Reimbursement Methodology**

#### **§5319. State-Owned Hospitals**

A. Effective for dates of service on or after February 10, 2012, medical education payments for outpatient surgery services which are reimbursed by a prepaid risk-bearing managed care organization (MCO) shall be reimbursed annually through the Medicaid cost report settlement process.

1. For purposes of these provisions, qualifying medical education programs are defined as graduate medical education, paramedical education, and nursing schools.

2. Final payment shall be determined based on the actual MCO covered outpatient surgery services and Medicaid medical education costs for the cost reporting period per the Medicaid cost report.

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:

### **Chapter 55. Clinic Services**

#### **Subchapter B. Reimbursement Methodology**

#### **§5519. State-Owned Hospitals**

A. Effective for dates of service on or after February 10, 2012, medical education payments for outpatient clinic services which are reimbursed by a prepaid risk-bearing managed care organization (MCO) shall be reimbursed annually through the Medicaid cost report settlement process.

1. For purposes of these provisions, qualifying medical education programs are defined as graduate medical education, paramedical education, and nursing schools.

2. Final payment shall be determined based on the actual MCO covered outpatient clinic services and Medicaid medical education costs for the cost reporting period per the Medicaid cost report.

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:

### **Chapter 59. Rehabilitation Services**

#### **Subchapter B. Reimbursement Methodology**

#### **§5519. State-Owned Hospitals**

A. Effective for dates of service on or after February 10, 2012, medical education payments for outpatient rehabilitation services which are reimbursed by a prepaid risk-bearing managed care organization (MCO) shall be reimbursed annually through the Medicaid cost report settlement process.

1. For purposes of these provisions, qualifying medical education programs are defined as graduate medical education, paramedical education, and nursing schools.

2. Final payment shall be determined based on the actual MCO covered outpatient rehabilitation services and Medicaid medical education costs for the cost reporting period per the Medicaid cost report.

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:

### **Chapter 61. Other Outpatient Hospital Services**

#### **Subchapter B. Reimbursement Methodology**

#### **§6127. State-Owned Hospitals**

A. ...

B. Effective for dates of service on or after February 10, 2012, medical education payments which are reimbursed by a prepaid risk-bearing managed care organization (MCO) shall be reimbursed annually through the Medicaid cost report settlement process to state-owned hospitals for outpatient hospital services other than outpatient surgery services, clinic services, laboratory services, and rehabilitation services.

1. For purposes of these provisions, qualifying medical education programs are defined as graduate medical education, paramedical education, and nursing schools.

2. Final payment shall be determined based on the actual MCO covered outpatient services and Medicaid medical education costs for the cost reporting period per the Medicaid cost report.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:957 (May 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

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

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

Bruce D. Greenstein  
Secretary

1202#041

### **DECLARATION OF EMERGENCY**

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

Personal Care Services—Long-Term  
Policy Clarifications and Service Limit Reduction  
(LAC 50:XV.12901-12909 and 12911-12915)

Editor's Note: This Emergency Rule is being repromulgated in order to correct a typographical error. The original Emergency Rule can be viewed in the January 2012 issue of the *Louisiana Register* on pages 20-24.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend LAC 50:XV.12901-12909 and §§12911-

12915 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Senate Resolution 180 and House Resolution 190 of the 2008 Regular Session of the Louisiana Legislature directed the department to develop and implement cost control mechanisms to provide the most cost-effective means of financing the Long-Term Personal Care Services (LT-PCS) Program. In compliance with these legislative directives, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amended the provisions governing the LT-PCS Program to: 1) implement uniform needs-based assessments for authorizing service units; 2) reduce the limit on LT-PCS service hours; 3) mandate that providers must show cause for refusing to serve clients; and 4) incorporate provisions governing an allocation of weekly service hours (*Louisiana Register*, Volume 35, Number 11).

The department promulgated an Emergency Rule which amended the provisions governing long-term personal care services to: 1) establish provisions that address requests for services; 2) revise the eligibility criteria for LT-PCS; 3) clarify the provisions governing restrictions for paid direct care staff and the place of service; and 4) reduce the maximum allowed service hours (*Louisiana Register*, Volume 36, Number 8). The department promulgated an Emergency Rule which amended the provisions of the September 5, 2010 Emergency Rule to clarify the provisions of the Rule (*Louisiana Register*, Volume 36, Number 12). The department promulgated an Emergency Rule which amended the provisions of the December 20, 2010 Emergency Rule to further clarify the provisions of the Rule (*Louisiana Register*, Volume 37, Number 4). The department promulgated an Emergency Rule which amended the provisions of the April 20, 2011 Emergency Rule to bring these provisions in line with current licensing standards (*Louisiana Register*, Volume 37, Number 11). The department now proposes to amend the November 20, 2011 Emergency Rule to clarify the provisions governing the staffing requirements for LT-PCS. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective January 20, 2012, 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, 2011 Emergency Rule governing long-term personal care services.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XV. Services for Special Populations**

##### **Subpart 9. Personal Care Services**

#### **Chapter 129. Long Term Care**

##### **§12901. General Provisions**

A. The purpose of personal care services is to assist individuals with functional impairments with their daily living activities. Personal care services must be provided in accordance with an approved service plan and supporting documentation. In addition, personal care services must be coordinated with the other Medicaid and non-Medicaid

services being provided to the recipient and will be considered in conjunction with those other services.

B. Each recipient requesting or receiving long-term personal care services (LT-PCS) shall undergo a functional eligibility screening utilizing an eligibility screening tool called the Level of Care Eligibility Tool (LOCET), or a subsequent eligibility tool designated by the Office of Aging and Adult Services (OAAS).

C. Each LT-PCS applicant/recipient shall be assessed using a uniform assessment tool called the Minimum Data Set-Home Care (MDS-HC) or a subsequent assessment tool designated by OAAS. The MDS-HC is designed to verify that an individual meets eligibility qualifications and to determine resource allocation while identifying his/her need for support in performance of activities of daily living (ADLs) and instrumental activities of daily living (IADLs). The MDS-HC assessment generates a score which measures the recipient's degree of self-performance of late-loss activities of daily living during the period just before the assessment.

1. The late-loss ADLs are eating, toileting, transferring and bed mobility. An individual's assessment will generate a score which is representative of the individual's degree of self-performance on these four late-loss ADLs.

2. – 7. Repealed.

D. Based on the applicant/recipient's uniform assessment score, he/she is assigned to a level of support category and is eligible for a set allocation of weekly service hours associated with that level.

1. If the applicant/recipient disagrees with his/her allocation of weekly service hours, the applicant/recipient or his/her responsible representative may request a fair hearing to appeal the decision.

2. The applicant/recipient may qualify for more hours if it can be demonstrated that:

a. one or more answers to the questions involving late-loss ADLs are incorrect as recorded on the assessment; or

b. he/she needs additional hours to avoid entering into a nursing facility.

E. Requests for personal care services shall be accepted from the following individuals:

1. a Medicaid recipient who wants to receive personal care services;

2. an individual who is legally responsible for a recipient who may be in need of personal care services; or

3. a responsible representative designated by the recipient to act on his/her behalf in requesting personal care services.

F. Each recipient who requests PCS has the option to designate a responsible representative. For purposes of these provisions, a responsible representative shall be defined as the person designated by the recipient to act on his/her behalf in the process of accessing and/or maintaining personal care services.

1. The appropriate form authorized by OAAS shall be used to designate a responsible representative.

a. The written designation of a responsible representative does not give legal authority for that individual to independently handle the recipient's business without his/her involvement.

b. The written designation is valid until revoked by the recipient. To revoke the written designation, the revocation must be submitted in writing to OAAS or its designee.

2. The functions of a responsible representative are to:

a. assist and represent the recipient in the assessment, care plan development and service delivery processes; and

b. to aid the recipient in obtaining all necessary documentation for these processes.

3 – 4. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:911 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 32:2082 (November 2006), LR 34:2577 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2450 (November 2009), LR 38:

### §12902. Participant Direction Option

A. The Office of Aging and Adult Services implements a pilot program, the Louisiana Personal Options Program (La POP), which will allow recipients who receive long term personal care services (LT-PCS) to have the option of utilizing an alternative method to receive and manage their services. Recipients may direct and manage their own services by electing to participate in La POP, rather than accessing their services through a traditional personal care agency.

1. La POP shall be implemented through a phase-in process in Department of Health and Hospitals administrative regions designated by OAAS.

A.2. - B.1. ...

2. With the assistance of a services consultant, participants develop a personal support plan based on their approved plan of care and choose the individuals they wish to hire to provide the services.

C. - E.1. ...

2. Change in Condition. The participant's ability to direct his/her own care diminishes to a point where he/she can no longer do so and there is no responsible representative available to direct the care.

3. Misuse of Monthly Allocation of Funds. The LA POP participant or his/her responsible representative uses the monthly budgeted funds to purchase items unrelated to personal care needs or otherwise misappropriate the funds.

4. Failure to Provide Required Documentation. The participant or his/her responsible representative fails to complete and submit employee time sheets in a timely and accurate manner, or provide required documentation of expenditures and related items as prescribed in the Louisiana Personal Options Program's Roles and Responsibility agreement.

5. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2578 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 38:

### §12903. Covered Services

A. Personal care services are defined as those services that provide assistance with the distinct tasks associated with the performance of the activities of daily living (ADLs) and the instrumental activities of daily living (IADLs). Assistance may be either the actual performance of the personal care task for the individual or supervision and prompting so the individual performs the task by him/herself. ADLs are those personal, functional activities required by the recipient. ADLs include tasks such as:

1. - 5. ...

6. ambulation;

7. toileting; and

8. bed mobility.

B. IADLs are those activities that are considered essential, but may not require performance on a daily basis. IADLs cannot be performed in the recipient's home when he/she is absent from the home. IADLs include tasks such as:

1. light housekeeping;

2. food preparation and storage;

3. shopping;

4. laundry;

5. assisting with scheduling medical appointments when necessary;

6. accompanying the recipient to medical appointments when necessary;

7. assisting the recipient to access transportation;

8. reminding the recipient to take his/her medication as prescribed by the physician; and

9. medically non-complex tasks where the direct service worker has received the proper training pursuant to R.S. 37:1031-1034.

C. Emergency and nonemergency medical transportation is a covered Medicaid service and is available to all recipients. Non-medical transportation is not a required component of personal care services. However, providers may choose to furnish transportation for recipients during the course of providing personal care services. If transportation is furnished, the provider agency must accept any liability for their employee transporting a recipient. It is the responsibility of the provider agency to ensure that the employee has a current, valid driver's license and automobile liability insurance.

1. La POP participants may choose to use some of their monthly budget to purchase non-medical transportation.

a. If transportation is furnished, the participant must accept all liability for their employee transporting them. It is the responsibility of the participant to ensure that the employee has a current, valid driver's license and automobile liability insurance.

D. ...

E. La POP participants may choose to use their services budgets to pay for items that increase their independence or substitute for their dependence on human assistance. Such items must be purchased in accordance with the policies and procedures established by OAAS.

F. Personal care services may be provided by one worker for up to three long-term personal care service recipients who live together and who have a common direct service provider.

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 of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2578 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 38:

**§12905. Eligibility Criteria**

A. ...

B. Recipients must meet the eligibility criteria established by OAAS or its designee. Personal care services are medically necessary if the recipient:

1. meets the medical standards for admission to a nursing facility and requires limited assistance with at least one or more activities of daily living;

B.2. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services, LR 32:2082 (November 2006), LR 34:2579 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 38:

**§12907. Recipient Rights and Responsibilities**

A. - A.2. ...

3. training the individual personal care worker in the specific skills necessary to maintain the recipient's independent functioning while maintaining him/her in the home;

4. developing an emergency component in the plan of care that includes a list of personal care staff who can serve as back-up when unforeseen circumstances prevent the regularly scheduled worker from providing services;

5. - 9. ...

B. Changing Providers. Recipients may request to change PCS agencies without cause once after each three month interval during the service authorization period. Recipients may request to change PCS providers with good cause at any time during the service authorization period. Good cause is defined as the failure of the provider to furnish services in compliance with the plan of care. Good cause shall be determined by OAAS or its designee.

C. In addition to these rights, a La POP participant has certain responsibilities, including:

1. ...

2. notifying the services consultant at the earliest reasonable time of admission to a hospital, nursing facility, rehabilitation facility or any other institution;

2.a. - 8....

9. training the direct service worker in the specific skills necessary to maintain the participant's independent functioning to remain in the home;

10. - 13. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health

Services Financing, LR 29:912 (June 2003), amended LR 30:2832 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2579 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 38:

**§12909. Standards for Participation**

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

d. any federal or state laws, Rules, regulations, policies and procedures contained in the Medicaid provider manual for personal care services, or other document issued by the department. Failure to do may result in sanctions.

A.2. ...

B. In addition, a Medicaid enrolled agency must:

1. maintain adequate documentation as specified by OAAS, or its designee, to support service delivery and compliance with the approved POC and will provide said documentation at the request of the department or its designee; and

2. assure that all agency staff is employed in accordance with Internal Revenue Service (IRS) and Department of Labor regulations.

3. - 12.c. Repealed.

C. An LT-PCS provider shall not refuse to serve any individual who chooses his agency unless there is documentation to support an inability to meet the individual's needs, or all previous efforts to provide service and supports have failed and there is no option but to refuse services.

C.1. - D.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2832 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2579 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2451 (November 2009), amended LR 38:

**§12910. La POP Standards for Participation**

A. Direct service workers employed under LA POP must meet the same requirements as those hired by a PCS agency.

B. All workers must be employed in accordance with Internal Revenue Service (IRS) and Department of Labor regulations.

B.1. - 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, Office of Aging and Adult Services, LR 34:2580 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and Office of Aging and Adult Services, LR 38:

**§12911. Staffing Requirements**

A. All staff providing direct care to the recipient, whether they are employed by a PCS agency or a recipient participating in La POP, must meet the qualifications for furnishing personal care services per the licensing regulations. The direct service worker shall demonstrate empathy toward the elderly and persons with disabilities, an ability to provide care to these recipients, and the maturity and ability to deal effectively with the demands of the job.

B. - B.3. Repealed.

C. Restrictions

1. The following individuals are prohibited from being reimbursed for providing services to a recipient:

- a. the recipient’s spouse;
- b. the recipient’s curator;
- c. the recipient’s tutor;
- d. the recipient’s legal guardian;
- e. the recipient’s designated responsible representative; or

f. the person to whom the recipient has given Representative and Mandate authority (also known as Power of Attorney).

D. - E.1.b. 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 30:2832 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2580 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 38:

**§12912. Training**

A. Training costs for direct service workers employed by La POP participants shall be paid out of the La POP participant’s personal supports plan budget.

B. - H. 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 Aging and Adult Services, LR 34:2580 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 38:

**§12913. Service Delivery**

A. Personal care services shall be provided in the recipient’s home or in another location outside of the recipient’s home if the provision of these services allows the recipient to participate in normal life activities pertaining to the IADLs cited in the plan of care. The recipient’s home is defined as the place where he/she resides such as a house, an apartment, a boarding house, or the house or apartment of a family member or unpaid primary care-giver. IADLs cannot be performed in the recipient’s home when the recipient is absent from the home.

1. - 4. Repealed.

B. The provision of services outside of the recipient’s home does not include trips outside of the borders of the state without written prior approval of OAAS or its designee, through the plan of care or otherwise.

C. Participants are not permitted to receive LT-PCS while living in a home or property owned, operated, or controlled by a provider of services who is not related by blood or marriage to the participant.

C.1. - E. ...

F. It is permissible for an LT-PCS recipient to use his/her approved LT-PCS weekly allotment flexibly provided that it is done so in accordance with the recipient’s preferences and personal schedule and is properly documented in accordance with OAAS policy.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health

Services Financing, LR 29:913 (June 2003), amended LR 30:2833 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2581 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 38:

**§12915. Service Limitations**

A. Personal care services shall be limited to up to 32 hours per week. Authorization of service hours shall be considered on a case-by-case basis as substantiated by the recipient’s plan of care and supporting documentation.

B. There shall be no duplication of services.

1. Personal care services may not be provided while the recipient is admitted to or attending a program which provides in-home assistance with IADLs or ADLs or while the recipient is admitted to or attending a program or setting where such assistance is available to the recipient.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:913 (June 2003), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2581 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2451 (November 2009), amended LR 38:

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

Bruce D. Greenstein  
Secretary

1202#049

**DECLARATION OF EMERGENCY**

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

Personal Care Services—Long-Term  
Policy Clarifications and Service Limit Reduction  
(LAC 50:XV.12901-12909 and 12911-12915)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend 901-12909 and §§12911-12915 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Senate Resolution 180 and House Resolution 190 of the 2008 Regular Session of the Louisiana Legislature directed the department to develop and implement cost control mechanisms to provide the most cost-effective means of financing the Long-Term Personal Care Services (LT-PCS)

Program. In compliance with these legislative directives, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amended the provisions governing the LT-PCS Program to: 1) implement uniform needs-based assessments for authorizing service units; 2) reduce the limit on LT-PCS service hours; 3) mandate that providers must show cause for refusing to serve clients; and 4) incorporate provisions governing an allocation of weekly service hours (*Louisiana Register*, Volume 35, Number 11).

The department promulgated an Emergency Rule which amended the provisions governing long-term personal care services to: 1) establish provisions that address requests for services; 2) revise the eligibility criteria for LT-PCS; 3) clarify the provisions governing restrictions for paid direct care staff and the place of service; and 4) reduce the maximum allowed service hours (*Louisiana Register*, Volume 36, Number 8). The department promulgated an Emergency Rule which amended the provisions of the September 5, 2010 Emergency Rule to clarify the provisions of the Rule (*Louisiana Register*, Volume 36, Number 12). The department promulgated an Emergency Rule which amended the provisions of the December 20, 2010 Emergency Rule to further clarify the provisions of the Rule (*Louisiana Register*, Volume 37, Number 4). The department promulgated an Emergency Rule which amended the provisions of the April 20, 2011 Emergency Rule to bring these provisions in line with current licensing standards (*Louisiana Register*, Volume 37, Number 11). The department promulgated an Emergency Rule which amended the November 20, 2011 Emergency Rule to clarify the provisions governing the staffing requirements for LT-PCS (*Louisiana Register*, Volume 38, Number 1). The January 20, 2012 Emergency Rule was published with an error in the effective date and repromulgated with an editor's note in the February 2012 *Louisiana Register* (*Louisiana Register*, Volume 38, Number 2). The department now proposes to amend the January 20, 2012 Emergency Rule to clarify provisions governing the place of service delivery. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective February 20, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend the provisions of the January 20, 2012 Emergency Rule governing long-term personal care services.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XV. Services for Special Populations**

##### **Subpart 9. Personal Care Services**

#### **Chapter 129. Long Term Care**

##### **§12901. General Provisions**

A. The purpose of personal care services is to assist individuals with functional impairments with their daily living activities. Personal care services must be provided in accordance with an approved service plan and supporting documentation. In addition, personal care services must be coordinated with the other Medicaid and non-Medicaid services being provided to the recipient and will be considered in conjunction with those other services.

B. Each recipient requesting or receiving long-term personal care services (LT-PCS) shall undergo a functional

eligibility screening utilizing an eligibility screening tool called the Level of Care Eligibility Tool (LOCET), or a subsequent eligibility tool designated by the Office of Aging and Adult Services (OAAS).

C. Each LT-PCS applicant/recipient shall be assessed using a uniform assessment tool called the Minimum Data Set-Home Care (MDS-HC) or a subsequent assessment tool designated by OAAS. The MDS-HC is designed to verify that an individual meets eligibility qualifications and to determine resource allocation while identifying his/her need for support in performance of activities of daily living (ADLs) and instrumental activities of daily living (IADLs). The MDS-HC assessment generates a score which measures the recipient's degree of self-performance of late-loss activities of daily living during the period just before the assessment.

1. The late-loss ADLs are eating, toileting, transferring and bed mobility. An individual's assessment will generate a score which is representative of the individual's degree of self-performance on these four late-loss ADLs.

2. - 7. Repealed.

D. Based on the applicant/recipient's uniform assessment score, he/she is assigned to a level of support category and is eligible for a set allocation of weekly service hours associated with that level.

1. If the applicant/recipient disagrees with his/her allocation of weekly service hours, the applicant/recipient or his/her responsible representative may request a fair hearing to appeal the decision.

2. The applicant/recipient may qualify for more hours if it can be demonstrated that:

a. one or more answers to the questions involving late-loss ADLs are incorrect as recorded on the assessment; or

b. he/she needs additional hours to avoid entering into a nursing facility.

E. Requests for personal care services shall be accepted from the following individuals:

1. a Medicaid recipient who wants to receive personal care services;

2. an individual who is legally responsible for a recipient who may be in need of personal care services; or

3. a responsible representative designated by the recipient to act on his/her behalf in requesting personal care services.

F. Each recipient who requests PCS has the option to designate a responsible representative. For purposes of these provisions, a responsible representative shall be defined as the person designated by the recipient to act on his/her behalf in the process of accessing and/or maintaining personal care services.

1. The appropriate form authorized by OAAS shall be used to designate a responsible representative.

a. The written designation of a responsible representative does not give legal authority for that individual to independently handle the recipient's business without his/her involvement.

b. The written designation is valid until revoked by the recipient. To revoke the written designation, the revocation must be submitted in writing to OAAS or its designee.



2. The functions of a responsible representative are to:
  - a. assist and represent the recipient in the assessment, care plan development and service delivery processes; and
  - b. to aid the recipient in obtaining all necessary documentation for these processes.

3 - 4. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:911 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 32:2082 (November 2006), LR 34:2577 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2450 (November 2009), LR 38:

**§12902. Participant Direction Option**

A. The Office of Aging and Adult Services implements a pilot program, the Louisiana Personal Options Program (La POP), which will allow recipients who receive long term personal care services (LT-PCS) to have the option of utilizing an alternative method to receive and manage their services. Recipients may direct and manage their own services by electing to participate in La POP, rather than accessing their services through a traditional personal care agency.

1. La POP shall be implemented through a phase-in process in Department of Health and Hospitals administrative regions designated by OAAS.

A.2. - B.1. ...

2. With the assistance of a services consultant, participants develop a personal support plan based on their approved plan of care and choose the individuals they wish to hire to provide the services.

C. - E.1. ...

2. Change in Condition. The participant's ability to direct his/her own care diminishes to a point where he/she can no longer do so and there is no responsible representative available to direct the care.

3. Misuse of Monthly Allocation of Funds. The LA POP participant or his/her responsible representative uses the monthly budgeted funds to purchase items unrelated to personal care needs or otherwise misappropriate the funds.

4. Failure to Provide Required Documentation. The participant or his/her responsible representative fails to complete and submit employee time sheets in a timely and accurate manner, or provide required documentation of expenditures and related items as prescribed in the Louisiana Personal Options Program's Roles and Responsibility agreement.

5. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2578 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 38:

**§12903. Covered Services**

A. Personal care services are defined as those services that provide assistance with the distinct tasks associated with the performance of the activities of daily living (ADLs) and

the instrumental activities of daily living (IADLs). Assistance may be either the actual performance of the personal care task for the individual or supervision and prompting so the individual performs the task by him/herself. ADLs are those personal, functional activities required by the recipient. ADLs include tasks such as:

1. - 5. ...
6. ambulation;
7. toileting; and
8. bed mobility.

B. IADLs are those activities that are considered essential, but may not require performance on a daily basis. IADLs cannot be performed in the recipient's home when he/she is absent from the home. IADLs include tasks such as:

1. light housekeeping;
2. food preparation and storage;
3. shopping;
4. laundry;
5. assisting with scheduling medical appointments when necessary;
6. accompanying the recipient to medical appointments when necessary;
7. assisting the recipient to access transportation;
8. reminding the recipient to take his/her medication as prescribed by the physician; and
9. medically non-complex tasks where the direct service worker has received the proper training pursuant to R.S. 37:1031-1034.

C. Emergency and nonemergency medical transportation is a covered Medicaid service and is available to all recipients. Non-medical transportation is not a required component of personal care services. However, providers may choose to furnish transportation for recipients during the course of providing personal care services. If transportation is furnished, the provider agency must accept any liability for their employee transporting a recipient. It is the responsibility of the provider agency to ensure that the employee has a current, valid driver's license and automobile liability insurance.

1. La POP participants may choose to use some of their monthly budget to purchase non-medical transportation.

a. If transportation is furnished, the participant must accept all liability for their employee transporting them. It is the responsibility of the participant to ensure that the employee has a current, valid driver's license and automobile liability insurance.

D. ...

E. La POP participants may choose to use their services budgets to pay for items that increase their independence or substitute for their dependence on human assistance. Such items must be purchased in accordance with the policies and procedures established by OAAS.

F. Personal care services may be provided by one worker for up to three long-term personal care service recipients who live together and who have a common direct service provider.

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 of the Secretary, Bureau of Health

Services Financing, LR 29:912 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2578 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 38:

#### **§12905. Eligibility Criteria**

A. ...

B. Recipients must meet the eligibility criteria established by OAAS or its designee. Personal care services are medically necessary if the recipient:

1. meets the medical standards for admission to a nursing facility and requires limited assistance with at least one or more activities of daily living;

B.2. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services, LR 32:2082 (November 2006), LR 34:2579 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 38:

#### **§12907. Recipient Rights and Responsibilities**

A. - A.2. ...

3. training the individual personal care worker in the specific skills necessary to maintain the recipient's independent functioning while maintaining him/her in the home;

4. developing an emergency component in the plan of care that includes a list of personal care staff who can serve as back-up when unforeseen circumstances prevent the regularly scheduled worker from providing services;

5. - 9. ...

B. Changing Providers. Recipients may request to change PCS agencies without cause once after each three month interval during the service authorization period. Recipients may request to change PCS providers with good cause at any time during the service authorization period. Good cause is defined as the failure of the provider to furnish services in compliance with the plan of care. Good cause shall be determined by OAAS or its designee.

C. In addition to these rights, a La POP participant has certain responsibilities, including:

1. ...

2. notifying the services consultant at the earliest reasonable time of admission to a hospital, nursing facility, rehabilitation facility or any other institution;

2.a - 8. ...

9. training the direct service worker in the specific skills necessary to maintain the participant's independent functioning to remain in the home;

10. - 13. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2832 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2579 (December 2008), amended by the Department of Health and

Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 38:

#### **§12909. Standards for Participation**

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

d. any federal or state laws, Rules, regulations, policies and procedures contained in the Medicaid provider manual for personal care services, or other document issued by the department. Failure to do may result in sanctions.

2. ...

B. In addition, a Medicaid enrolled agency must:

1. maintain adequate documentation as specified by OAAS, or its designee, to support service delivery and compliance with the approved POC and will provide said documentation at the request of the department or its designee; and

2. assure that all agency staff is employed in accordance with Internal Revenue Service (IRS) and Department of Labor regulations.

3 - 12.c. Repealed.

C. An LT-PCS provider shall not refuse to serve any individual who chooses his agency unless there is documentation to support an inability to meet the individual's needs, or all previous efforts to provide service and supports have failed and there is no option but to refuse services.

C.1. - D.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2832 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2579 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2451 (November 2009), amended LR 38:

#### **§12910. La POP Standards for Participation**

A. Direct service workers employed under LA POP must meet the same requirements as those hired by a PCS agency.

B. All workers must be employed in accordance with Internal Revenue Service (IRS) and Department of Labor regulations.

B.1. - 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, Office of Aging and Adult Services, LR 34:2580 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and Office of Aging and Adult Services, LR 38:

#### **§12911. Staffing Requirements**

A. All staff providing direct care to the recipient, whether they are employed by a PCS agency or a recipient participating in La POP, must meet the qualifications for furnishing personal care services per the licensing regulations. The direct service worker shall demonstrate empathy toward the elderly and persons with disabilities, an ability to provide care to these recipients, and the maturity and ability to deal effectively with the demands of the job.

B. - B.3. Repealed.

C. Restrictions

1. The following individuals are prohibited from being reimbursed for providing services to a recipient:

- a. the recipient's spouse;
- b. the recipient's curator;
- c. the recipient's tutor;
- d. the recipient's legal guardian;
- e. the recipient's designated responsible representative; or
- f. the person to whom the recipient has given Representative and Mandate authority (also known as Power of Attorney).

D. - E.1.b. 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 30:2832 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2580 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 38:

**§12912. Training**

A. Training costs for direct service workers employed by La POP participants shall be paid out of the La POP participant's personal supports plan budget.

B. - H. 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 Aging and Adult Services, LR 34:2580 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 38:

**§12913. Service Delivery**

A. Personal care services shall be provided in the recipient's home or in another location outside of the recipient's home if the provision of these services allows the recipient to participate in normal life activities pertaining to the IADLs cited in the plan of care. The recipient's home is defined as the place where he/she resides such as a house, an apartment, a boarding house, or the house or apartment of a family member or unpaid primary care-giver. IADLs cannot be performed in the recipient's home when the recipient is absent from the home.

1. - 4. Repealed.

B. The provision of services outside of the recipient's home does not include trips outside of the borders of the state without written prior approval of OAAS or its designee, through the plan of care or otherwise.

C. Participants are not permitted to receive LT-PCS while living in a home or property owned, operated, or controlled by a provider of services who is not related by blood or marriage to the participant.

1 - 3. Repealed.

D. - E. ...

F. It is permissible for an LT-PCS recipient to use his/her approved LT-PCS weekly allotment flexibly provided that it is done so in accordance with the recipient's preferences and personal schedule and is properly documented in accordance with OAAS policy.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:913 (June 2003), amended LR 30:2833 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2581

(December 2008), amended by the Department of Health and Hospitals, Bureau of Health Financing and the Office of Aging and Adult Services, LR 38:

**§12915. Service Limitations**

A. Personal care services shall be limited to up to 32 hours per week. Authorization of service hours shall be considered on a case-by-case basis as substantiated by the recipient's plan of care and supporting documentation.

B. There shall be no duplication of services.

1. Personal care services may not be provided while the recipient is admitted to or attending a program which provides in-home assistance with IADLs or ADLs or while the recipient is admitted to or attending a program or setting where such assistance is available to the recipient.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:913 (June 2003), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2581 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2451 (November 2009), amended LR 38:

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

Bruce D. Greenstein  
Secretary

1202#048

**DECLARATION OF EMERGENCY**

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

Professional Services Program  
Reimbursement Methodology  
Supplemental Payments  
(LAC 50:IX.15151 and 15153)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts §15151 and §15153 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 in the Professional Services Program to provide supplemental payments to physicians and other eligible professional service practitioners employed by state-owned or operated entities (*Louisiana Register*, Volume 32, Number 6). The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for professional services to provide a supplemental payment to physicians and other professional

practitioners employed by, or under contract with, non-state owned or operated governmental entities (*Louisiana Register*, Volume 36, Number 6). In addition, this Emergency Rule also repromulgated the provisions of the June 20, 2006 Rule in a codified format for inclusion in the *Louisiana Administrative Code*. This Emergency Rule is being promulgated to continue the provisions of the July 1, 2010 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by encouraging continued provider participation in the Medicaid Program and ensuring recipient access to services.

Effective February 26, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for services rendered by physicians and other professional service practitioners.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part IX. Professional Services Program**

##### **Subpart 15. Reimbursement**

#### **Chapter 151. Reimbursement Methodology**

##### **Subchapter F. Supplemental Payments**

#### **§15151. Qualifying Criteria – State Owned or Operated Professional Services Practices**

A. In order to qualify to receive supplemental payments, physicians and other eligible professional service practitioners must be:

1. licensed by the state of Louisiana;
2. enrolled as a Louisiana Medicaid provider; and
3. employed by a state-owned or operated entity, such as a state-operated hospital or other state entity, including a state academic health system, which:
  - a. has been designated by the bureau as an essential provider; and
  - b. has furnished satisfactory data to DHH regarding the commercial insurance payments made to its employed physicians and other professional service practitioners.

B. The supplemental payment to each qualifying physician or other eligible professional services practitioner in the practice plan will equal the difference between the Medicaid payments otherwise made to these qualifying providers for professional services and the average amount that would have been paid at the equivalent community rate. The community rate is defined as the average amount that would have been paid by commercial insurers for the same services.

C. The supplemental payments shall be calculated by applying a conversion factor to actual charges for claims paid during a quarter for Medicaid services provided by the state-owned or operated practice plan providers. The commercial payments and respective charges shall be obtained for the state fiscal year preceding the reimbursement year. If this data is not provided satisfactorily to DHH, the default conversion factor shall equal “1”. This conversion factor shall be established annually for qualifying physicians/practitioners by:

1. determining the amount that private commercial insurance companies paid for commercial claims submitted by the state-owned or operated practice plan or entity; and
2. dividing that amount by the respective charges for these payers.

D. The actual charges for paid Medicaid services shall be multiplied by the conversion factor to determine the maximum allowable Medicaid reimbursement. For eligible non-physician practitioners, the maximum allowable Medicaid reimbursement shall be limited to 80 percent of this amount.

E. The actual base Medicaid payments to the qualifying physicians/practitioners employed by a state-owned or operated entity shall then be subtracted from the maximum Medicaid reimbursable amount to determine the supplemental payment amount.

F. The supplemental payment for services provided by the qualifying state-owned or operated physician practice plan will be implemented through a quarterly supplemental payment to providers, based on specific Medicaid paid claim data.

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:

#### **§15153. Qualifying Criteria – Non-State Owned or Operated Professional Services Practices**

A. Effective for dates of service on or after July 1, 2010, physicians and other professional service practitioners who are employed by, or under contract with, a non-state owned or operated governmental entity, such as a non-state owned or operated public hospital, may qualify for supplemental payments for services rendered to Medicaid recipients. To qualify for the supplemental payment, the physician or professional service practitioner must be:

1. licensed by the state of Louisiana; and
2. enrolled as a Louisiana Medicaid provider.

B. The supplemental payment will be determined in a manner to bring payments for these services up to the community rate level.

1. For purposes of these provisions, the community rate shall be defined as the rates paid by commercial payers for the same service.

C. The non-state governmental entity shall periodically furnish satisfactory data for calculating the community rate as requested by DHH.

D. The supplemental payment amount shall be determined by establishing a Medicare to community rate conversion factor for the physician or physician practice plan. At the end of each quarter, for each Medicaid claim paid during the quarter, a Medicare payment amount will be calculated and the Medicare to community rate conversion factor will be applied to the result. Medicaid payments made for the claims paid during the quarter will then be subtracted from this amount to establish the supplemental payment amount for that quarter.

E. The supplemental payments shall be made on a quarterly basis and the Medicare to community rate conversion factor shall be recalculated periodically as determined 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:

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A

copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Bruce D. Greenstein  
Secretary

1202#056

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Licensed Professional Counselors Board of Examiners

Practice of Mental Health Counseling for  
Serious Mental Illnesses (LAC 46:LX.505)

The Louisiana Department of Health and Hospitals, Louisiana Professional Counselors Board of Examiners has exercised the emergency provisions of the Administrative Procedures Act, specifically R.S. 49:953(B), to adopt rules relative to the practice of mental health counseling, to be designated Section 505 of the board rules. This Emergency Rule containing all new material was initially effective July 1, 2011, for a period of 120 days. The same Emergency Rule is now effective March 1, 2012 for a period of 120 days. The Licensed Professional Counselor Board of Examiners is still in the process of developing permanent rules for Act 320 of 2011.

This action is necessary due to the immediate effect of Act 320 of 2011, which places additional duties on Louisiana professional counselors who treat serious mental illnesses. Because Act 320 was effective on June 28, 2011 upon the governor's signature, and because of the substantive changes made, there is insufficient time to promulgate these rules under the usual Administrative Procedures Act rulemaking process. However, a Notice of Intent to adopt a permanent Rule will be promulgated in the March 20, 2012 *Louisiana Register* in connection with the proposed adoption of emergency rules on this subject.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LX. Licensed Professional Counselors Board of Examiners

##### Subpart 1. Licensed Professional Counselors

#### Chapter 5. License and Practice of Counseling

##### §505. Serious Mental Illnesses

A. Introduction. Act 320 of the 2011 Regular Session of the Louisiana Legislative amended the Louisiana Professional Counselors Practice Act as follows.

1. *Mental Health Counseling Services*—rendering or offering prevention, assessment, diagnosis, and treatment, which include psychotherapy, of mental, emotional, behavioral, and addiction disorders to individuals, groups, organizations, or the general public by a licensed professional counselor, which is consistent with his professional training as prescribed by R.S. 37:1107(A)(8), and code of ethics/behavior involving the application of principles, methods, or procedures of the mental health counseling profession.

2. However, an LPC may not assess, diagnose, or provide treatment to any individual suffering from a serious mental illness unless that individual is under the active care of a practitioner who is licensed by the State Board of Medical Examiners and is authorized to prescribe medications in the management of psychiatric illness and only in the context of an ongoing consultation and collaboration with that practitioner.

B. Applicability. The requirement for collaboration and consultation set forth above shall apply only if any of the following conditions are assessed, diagnosed, or treated by the counselor:

1. schizophrenia or schizoaffective disorder;
2. bipolar disorder;
3. panic disorder;
4. obsessive-compulsive disorder;
5. major depressive disorder;
6. anorexia/bulimia;
7. intermittent explosive disorder;
8. autism;
9. psychosis NOS (not otherwise specified) when diagnosed in a child under 17 years of age;
10. Rett's disorder;
11. Tourette's disorder;
12. dementia.

#### C. Definitions

1. As used herein *ongoing consultation and collaboration*—upon the initial diagnosis of a serious mental illness, the counselor shall initiate contact with the medical practitioner for the purpose of communicating the diagnosis and plan of care. The counselor will provide information to the medical practitioner regarding client progress as conditions warrant. Ongoing consultation and collaboration, for purposes of these rules and otherwise, shall not be construed as supervision. Further, “ongoing consultation and collaboration does not include the transfer between the consulting professionals of responsibility for the client's care or the ongoing management of the client's presenting problem(s).

2. As used herein *active care*—the individual has or agrees to maintain or initiate a relationship with a practitioner who is licensed by the Louisiana State Board of Medical Examiners.

D. Effect on existing rules. All existing rules or parts thereof are hereby superceded and amended to the extent that they specifically conflict with these emergency rules. Existing board rules shall be revised and re-codified at such time as the final board rules implementing Act 320 are adopted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1105(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 38:

Mary Alice Olsan  
Executive Director

1202#024

## DECLARATION OF EMERGENCY

### Department of Natural Resources Office of Conservation

#### Amendment to Statewide Orders No. 29-B and 29-B-a

This is an order extending the deadline of drilling and completion operational and safety requirements for wells drilled in search or for the production of oil or natural gas at water locations.

Pursuant to the power delegated under the laws of the state of Louisiana, and particularly Title 30 of the Revised Statutes of 1950, as amended, and in conformity with the provisions of the Louisiana Administrative Procedure Act, Title 49, Sections 953(B)(1) and (2), 954(B)(2), as amended, the following Emergency Rule and reasons therefore are now adopted and promulgated by the commissioner of Conservation as being necessary to protect the public health, safety and welfare of the people of the state of Louisiana, as well as the environment generally, by extending the effectiveness of the Emergency Rule it supersedes for drilling and completion operational and safety requirements for wells drilled in search of oil and natural gas at water locations. The following Emergency Rule provides for the extension of the rule allowing more time to complete comprehensive rule amendments.

In light of the Gulf of Mexico Deepwater Horizon oil spill incident in federal waters approximately 50 miles off Louisiana's coast and the threat posed to the natural resources of the state, and the economic livelihood and property of the citizens of the state caused thereby, the Office of Conservation began a new review of its current drilling and completion operational and safety requirements for wells drilled in search of oil and natural gas at water locations. While the incidents of blowout of Louisiana wells is minimal, occurring at less than three-tenths of one percent of the wells drilled in Louisiana since 1987, the great risk posed by blowouts at water locations to the public health, safety and welfare of the people of the state, as well as the environment generally, necessitated the rule amendments contained herein.

After implementation of the Emergency Rule, Conservation formed an ad hoc committee to further study comprehensive rulemaking in order to promulgate new permanent regulations which ensure increased operational and safety requirements for the drilling or completion of oil and gas wells at water locations within the state.

The Emergency Rule set forth hereinafter is intended to provide greater protection to the public health, safety and welfare of the people of the state, as well as the environment generally by extending the effectiveness of new operational and safety requirements for the drilling and completion of oil and gas wells at water locations. Following the Gulf of Mexico-Deepwater Horizon oil spill, the Office of Conservation ("Conservation") investigated the possible expansion of Statewide Orders No. 29-B and 29-B-a requirements relating to well control at water locations. As part of the rule expansion project, Conservation reviewed the well control regulations of the U.S. Department of the Interior's Mineral Management Service or MMS (now named the Bureau of Safety and Environmental

Enforcement). Except in the instances where it was determined that the MMS provisions were repetitive of other provisions already being incorporated, were duplicative of existing Conservation regulations or were not applicable to the situations encountered in Louisiana's waters, all provisions of the MMS regulations concerning well control issues at water locations were promulgated in the preceding Emergency Rules, which this rule supersedes, were integrated into Conservation's Statewide Orders No. 29-B and 29-B-a.

Conservation is currently performing a comprehensive review of its regulations as it considers future amendments to its operational rules and regulations found in Statewide Order No. 29-B and elsewhere. Specifically, the Emergency Rule extends the effectiveness of a new chapter within Statewide Order No. 29-B (LAC 43:XIX.Chapter 2) to provide additional rules concerning the drilling and completion of oil and gas wells at water locations, specifically providing for the following: rig movement and reporting requirements, additional requirements for applications to drill, casing program requirements, mandatory diverter systems and blowout preventer requirements, oil and gas well-workover operations, diesel engine safety requirements, and drilling fluid regulations. Further, the Emergency Rule amends Statewide Order No. 29-B-a (LAC 43:XIX.Chapter 11) to provide for and expand upon rules concerning the required use of storm chokes in oil and gas wells at water locations.

Recognizing the potential advantages of expanding the operational and safety requirements for the drilling and completion of oil and gas wells at water locations within the state, it has been determined that failure to establish such requirements in the form of an administrative rule may lead to the existence of an imminent peril to the public health, safety and welfare of the people of the state of Louisiana, as well as the environment generally. By this Rule Conservation extends the effectiveness of the following requirements until such time as final comprehensive rules may be promulgated or 120 days from the effective date of this rule, whichever occurs first.

Protection of the public and our environment therefore requires the commissioner of Conservation to extend the following rules in order to assure that drilling and completion of oil and gas wells at water locations within the state are undertaken in accordance with all reasonable care and protection to the health, safety of the public, oil and gas personnel and the environment generally. The Emergency Rule, Amendment to Statewide Order No. 29-B (LAC 43:XIX.Chapter 2) and Statewide Order No. 29-B-a (LAC 43:XIX.Chapter 11) ("Emergency Rule") set forth hereinafter are adopted and extended by the Office of Conservation.

The Emergency Rule signed by the commissioner on September 22, 2011 and effective September 23, 2011 is hereby rescinded and replaced by the following Emergency Rule.

The effective date of this Emergency Rule will be January 23, 2012.

The Emergency Rule herein adopted as a part thereof, shall remain effective for a period of not less than 120 days hereafter, or until the adoption of the final version of an amendment to Statewide Order No. 29-B and Statewide Order No. 29-B-a as noted herein, whichever occurs first.

## Title 43

### NATURAL RESOURCES

#### Part XIX. Office of Conservation—General Operations

##### Subpart 1. Statewide Order No. 29-B

#### Chapter 2. Additional Requirements for Water Locations

##### §201. Applicability

A. In addition to the requirements set forth in Chapter 1 of this Subpart, all oil and gas wells being drilled or completed at a water location within the state shall comply with this Chapter.

B. Unless otherwise stated herein, nothing within this Chapter shall alter the obligation of oil and gas operators to meet the requirements of Chapter 1 of this Subpart.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 38:

##### §203. Application to Drill

A. In addition to the requirements set forth in Section 103 of this Subpart, at the time of submittal of an application for permit to drill, the applicant will provide an electronic copy on a disk of the spill prevention control (SPC) plan that was submitted to DEQ pursuant to the provisions of Part IX of Title 33 of the Louisiana Administrative Code or any successor rule. Such plan shall become a part of the official well file.

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 38:

##### §204. Rig Movement and Reporting

A. The operator must report the movement of all drilling and workover rig units on and off locations to the appropriate district manager with the rig name, well serial number and expected time of arrival and departure.

B. Drilling operations on a platform with producing wells or other hydrocarbon flow must comply with the following.

1. An emergency shutdown station must be installed near the driller's console.

2. All producible wells located in the affected wellbay must be shut in below the surface and at the wellhead when:

a. a rig or related equipment is moved on and off a platform. This includes rigging up and rigging down activities within 500 feet of the affected platform;

b. a drilling unit is moved or skid between wells on a platform;

c. a mobile offshore drilling unit (MODU) moves within 500 feet of a platform.

3. Production may be resumed once the MODU is in place, secured, and ready to begin drilling operations.

C. The movement of rigs and related equipment on and off a platform or from well to well on the same platform, including rigging up and rigging down, shall be conducted in a safe manner. All wells in the same well-bay which are capable of producing hydrocarbons shall be shut in below the surface with a pump-through-type tubing plug and at the surface with a closed master valve prior to moving well-completion rigs and related equipment, unless otherwise approved by the district manager. A closed surface-controlled subsurface safety valve of the pump-through type may be used in lieu of the pump-through-type tubing plug,

provided that the surface control has been locked out of operation. The well from which the rig or related equipment is to be moved shall also be equipped with a back-pressure valve prior to removing the blowout preventer (BOP) system and installing the tree.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 38:

##### §205. Casing Program

###### A. General Requirements

1. The operator shall case and cement all wells with a sufficient number of strings of casing and quantity and quality of cement in a manner necessary to prevent fluid migration in the wellbore, protect the underground source of drinking water (USDW) from contamination, support unconsolidated sediments, and otherwise provide a means of control of the formation pressures and fluids.

2. The operator shall install casing necessary to withstand collapse, bursting, tensile, and other stresses that may be encountered and the well shall be cemented in a manner which will anchor and support the casing. Safety factors in casing program design shall be of sufficient magnitude to provide optimum well control while drilling and to assure safe operations for the life of the well.

3. All tubulars and cement shall meet or exceed API standards. Cementing jobs shall be designed so that cement composition, placement techniques, and waiting times ensure that the cement placed behind the bottom 500 feet of casing attains a minimum compressive strength of 500 psi before drilling out of the casing or before commencing completion operations.

###### 4. Centralizers

a. Surface casing shall be centralized by means of placing centralizers in the following manner.

i. A centralizer shall be placed on every third joint from the shoe to surface, with two centralizers being placed on each of the lowermost three joints of casing.

ii. If conductor pipe is set, three centralizers shall be equally spaced on surface casing to fall within the conductor pipe.

b. Intermediate and production casing, and drilling and production liners shall be centralized by means of a centralizer placed every third joint from the shoe to top of cement. Additionally, two centralizers shall be placed on each of the lowermost three joints of casing.

c. All centralizers shall meet API standards.

5. A copy of the documentation furnished by the manufacturer, if new, or supplier, if reconditioned, which certifies tubular condition, shall be provided with the well history and work resume report (Form WH-1).

B. Conductor Pipe. A conductor pipe is that pipe ordinarily used for the purpose of supporting unconsolidated surface deposits. A conductor pipe shall be used during the drilling of any oil and gas well and shall be set at depth that allows use of a diverter system.

###### C. Surface Casing

1. Where no danger of pollution of the USDW exists, the minimum amount of surface or first-intermediate casing to be set shall be determined from Table 1 hereof, except that in no case shall less surface casing be set than an amount needed to protect the USDW unless an alternative method of USDW protection is approved by the district manager.

<b>Total Depth of Contact</b>	<b>Casing Required</b>	<b>Surface Casing Test Pressure (lbs. per sq. in.)</b>
0-2500	100	300
2500-3000	150	600
3000-4000	300	600
4000-5000	400	600
5000-6000	500	750
6000-7000	800	1000
7000-8000	1000	1000
8000-9000	1400	1000
9000-Deeper	1800	1000

a. In known low-pressure areas, exceptions to the above may be granted by the commissioner or his agent. If, however, in the opinion of the commissioner, or his agent, the above regulations shall be found inadequate, and additional or lesser amount of surface casing and/or test pressure shall be required for the purpose of safety and the protection of the USDW.

2. Surface casing shall be cemented with a sufficient volume of cement to insure cement returns to the surface.

3. Surface casing shall be tested before drilling the plug by applying a minimum pump pressure as set forth in Table 1 after at least 200 feet of the mud-laden fluid has been displaced with water at the top of the column. If at the end of 30 minutes the pressure gauge shows a drop of 10 percent of test pressure as outlined in Table 1, the operator shall be required to take such corrective measures as will insure that such surface casing will hold said pressure for 30 minutes without a drop of more than 10 percent of the test pressure. The provisions of Paragraph E.7, below, for the producing casing, shall also apply to the surface casing.

4. Cement shall be allowed to stand a minimum of 12 hours under pressure before initiating test or drilling plug. Under pressure is complied with if one float valve is used or if pressure is held otherwise.

**D. Intermediate Casing/Drilling liner**

1. Intermediate casing is that casing used as protection against caving or heaving formations or when other means are not adequate for the purpose of segregating upper oil, gas or water-bearing strata. Intermediate casing/drilling liner shall be set when required by abnormal pressure or other well conditions.

2. If an intermediate casing string is deemed necessary by the district manager for the prevention of underground waste, such regulations pertaining to a minimum setting depth, quality of casing, and cementing and testing of sand, shall be determined by the Office of Conservation after due hearing. The provisions of Paragraph E.7 below, for the producing casing, shall also apply to the intermediate casing.

3. Intermediate casing/drilling liner shall be at minimum, cemented in such a manner, at least 500 feet above all known hydrocarbon bearing formations to insure isolation and, if applicable, all abnormal pressure formations are isolated from normal pressure formations, but in no case shall less cement be used than the amount necessary to fill the casing/liner annulus to a point 500 feet above the shoe or the top of the liner whichever is less. If a liner is used as an intermediate string, the cement shall be tested by a fluid

entry test (-0.5 ppg EMW) to determine whether a seal between the liner top and next larger casing string has been achieved, and the liner-lap point must be at least 300 feet above the previous casing shoe. The drilling liner (and liner-lap) shall be tested to a pressure at least equal to the anticipated pressure to which the liner will be subjected to during the formation-integrity test below that liner shoe, or subsequent liner shoes if set. Testing shall be in accordance with Subsection G below.

4. Before drilling the plug in the intermediate string of casing, the casing shall be tested by pump pressure, as determined from Table 2 hereof, after 200 feet of mud-laden fluid in the casing has been displaced by water at the top of the column.

<b>Depth Set</b>	<b>Test Pressure (lbs. per sq. in.)</b>
2000-3000'	800
3000-6000'	1000
6000-9000'	1200
9000-and deeper	1500

a. If at the end of 30 minutes the pressure gauge shows a drop of 10 percent of the test pressure or more, the operator shall be required to take such corrective measures as will insure that casing is so set and cemented that it will hold said pressure for 30 minutes without a drop of more than 10 percent of the test pressure on the gauge.

5. Cement shall be allowed to stand a minimum of 12 hours under pressure and a minimum total of 24 hours before initiating pressure test. Under pressure is complied with if one or more float valves are employed and are shown to be holding the cement in place, or when other means of holding pressure is used. When an operator elects to perforate and squeeze or to cement around the shoe, he may proceed with such work after 12 hours have elapsed after placing the first cement.

6. If the test is unsatisfactory, the operator shall not proceed with the drilling of the well until a satisfactory test has been obtained.

**E. Producing String**

1. Producing string, production casing or production liner is that casing used for the purpose of segregating the horizon from which production is obtained and affording a means of communication between such horizons and the surface.

2. The producing string of casing shall consist of new or reconditioned casing, tested at mill test pressure or as otherwise designated by the Office of Conservation.

3. Cement shall be by the pump-and-plug method, or another method approved by the Office of Conservation. Production casing/production liner shall be at minimum, cemented in such a manner, at least 500 feet above all known hydrocarbon bearing formations to insure isolation and, if applicable, all abnormal pressure formations are isolated from normal pressure formations, but in no case shall less cement be used than the amount necessary to fill the casing/liner annulus to a point 500 feet above the shoe or the top of the liner whichever is less. If a liner is used as a producing string, the cement shall be tested by a fluid entry test (-0.5 ppg EMW) to determine whether a seal between



the liner top and next larger casing string has been achieved, and the liner-lap point must be at least 300 feet above the previous casing shoe. The production liner (and liner-lap) shall be tested to a pressure at least equal to the anticipated pressure to which the liner will be subjected to during the formation-integrity test below that liner shoe, or subsequent liner shoes if set. Testing shall be in accordance with Subsection G below.

4. The amount of cement to be left remaining in the casing, until the requirements of Paragraph 5 below have been met, shall be not less than 20 feet. This shall be accomplished through the use of a float-collar, or other approved or practicable means, unless a full-hole cementer, or its equivalent, is used.

5. Cement shall be allowed to stand a minimum of 12 hours under pressure and a minimum total of 24 hours before initiating pressure test in the producing or oil string. Under pressure is complied with if one or more float valves are employed and are shown to be holding the cement in place, or when other means of holding pressure is used. When an operator elects to perforate and squeeze or to cement around the shoe, he may proceed with such work after 12 hours have elapsed after placing the first cement.

6. Before drilling the plug in the producing string of casing, the casing shall be tested by pump pressure, as determined from Table 3 hereof, after 200 feet of mud-laden fluid in the casing has been displaced by water at the top of the column.

<b>Depth Set</b>	<b>Test Pressure (lbs. per sq. in.)</b>
2000-3000'	800
3000-6000'	1000
6000-9000'	1200
9000-and deeper	1500

a. If at the end of 30 minutes the pressure gauge shows a drop of 10 percent of the test pressure or more, the operator shall be required to take such corrective measures as will insure that the producing string of casing is so set and cemented that it will hold said pressure for 30 minutes without a drop of more than 10 percent of the test pressure on the gauge.

7. If the commissioner's agent is not present at the time designated by the operator for inspection of the casing tests of the producing string, the operator shall have such tests witnessed, preferably by an offset operator. An affidavit of test, on the form prescribed by the district office, signed by the operator and witness, shall be furnished to the district office showing that the test conformed satisfactorily to the above mentioned regulations before proceeding with the completion. If test is satisfactory, normal operations may be resumed immediately.

8. If the test is unsatisfactory, the operator shall not proceed with the completion of the well until a satisfactory test has been obtained.

**F. Cement Evaluation**

1. Cement evaluation tests (cement bond or temperature survey) shall be conducted for all casing and liners installed below surface casing to assure compliance with LAC 43:XIX.205.D.3 and E.3.

2. Remedial cementing operations that are required to achieve compliance with LAC 43:XIX.205.D.3 and E.3 shall be conducted following receipt of an approved work permit from the district manager for the proposed operations.

3. Cementing and wireline records demonstrating the presence of the required cement tops shall be retained by the operator for a period of two years.

**G. Leak-off Tests**

1. A pressure integrity test must be conducted below the surface casing or liner and all intermediate casings or liners. The district manager may require a pressure-integrity test at the conductor casing shoe if warranted by local geologic conditions or the planned casing setting depth. Each pressure integrity test must be conducted after drilling at least 10 feet but no more than 50 feet of new hole below the casing shoe and must be tested to either the formation leak-off pressure or to the anticipated equivalent drilling fluid weight at the setting depth of the next casing string.

a. The pressure integrity test and related hole-behavior observations, such as pore-pressure test results, gas-cut drilling fluid, and well kicks must be used to adjust the drilling fluid program and the setting depth of the next casing string. All test results must be recorded and hole-behavior observations made during the course of drilling related to formation integrity and pore pressure in the driller's report.

b. While drilling, a safe drilling margin must be maintained. When this safe margin cannot be maintained, drilling operations must be suspended until the situation is remedied.

**H. Prolonged Drilling Operations**

1. If wellbore operations continue for more than 30 days within a casing string run to the surface.

a. Drilling operations must be stopped as soon as practicable, and the effects of the prolonged operations on continued drilling operations and the life of the well evaluated. At a minimum, the operator shall:

- i. caliper or pressure test the casing; and
- ii. report evaluation results to the district manager and obtain approval of those results before resuming operations.

b. If casing integrity as determined by the evaluation has deteriorated to a level below minimum safety factors, the casing must be repaired or another casing string run. Approval from the district manager shall be obtained prior to any casing repair activity.

**I. Tubing and Completion**

1. Well-completion operations means the work conducted to establish the production of a well after the production-casing string has been set, cemented, and pressure-tested.

2. Prior to engaging in well-completion operations, crew members shall be instructed in the safety requirements of the operations to be performed, possible hazards to be encountered, and general safety considerations to protect personnel, equipment, and the environment. Date and time of safety meetings shall be recorded and available for review by the Office of Conservation.

3. When well-completion operations are conducted on a platform where there are other hydrocarbon-producing wells or other hydrocarbon flow, an emergency shutdown system (ESD) manually controlled station shall be installed

near the driller's console or well-servicing unit operator's work station.

4. No tubing string shall be placed in service or continue to be used unless such tubing string has the necessary strength and pressure integrity and is otherwise suitable for its intended use.

5. A valve, or its equivalent, tested to a pressure of not less than the calculated bottomhole pressure of the well, shall be installed below any and all tubing outlet connections.

6. When a well develops a casing pressure, upon completion, equivalent to more than three-quarters of the internal pressure that will develop the minimum yield point of the casing, such well shall be required by the district manager to be killed, and a tubing packer to be set so as to keep such excessive pressure off of the casing.

7. Wellhead Connections. Wellhead connections shall be tested prior to installation at a pressure indicated by the district manager in conformance with conditions existing in areas in which they are used. Whenever such tests are made in the field, they shall be witnessed by an agent of the Office of Conservation. Tubing and tubingheads shall be free from obstructions in wells used for bottomhole pressure test purposes.

8. When the tree is installed, the wellhead shall be equipped so that all annuli can be monitored for sustained pressure. If sustained casing pressure is observed on a well, the operator shall immediately notify the district manager.

9. Wellhead, tree, and related equipment shall have a pressure rating greater than the shut-in tubing pressure and shall be designed, installed, used, maintained, and tested so as to achieve and maintain pressure control. New wells completed as flowing or gas-lift wells shall be equipped with a minimum of one master valve and one surface safety valve, installed above the master valve, in the vertical run of the tree.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 38:

#### **§207. Diverter Systems and Blowout Preventers**

A. Diverter System. A diverter system shall be required when drilling surface hole in areas where drilling hazards are known or anticipated to exist. The district manager may, at his discretion, require the use of a diverter system on any well. In cases where it is required, a diverter system consisting of a diverter sealing element, diverter lines, and control systems must be designed, installed, used, maintained, and tested to ensure proper diversion of gases, water, drilling fluids, and other materials away from facilities and personnel. The diverter system shall be designed to incorporate the following elements and characteristics:

1. dual diverter lines arranged to provide for maximum diversion capability;

2. at least two diverter control stations. One station shall be on the drilling floor. The other station shall be in a readily accessible location away from the drilling floor;

3. remote-controlled valves in the diverter lines. All valves in the diverter system shall be full-opening. Installation of manual or butterfly valves in any part of the diverter system is prohibited;

4. minimize the number of turns in the diverter lines, maximize the radius of curvature of turns, and minimize or eliminate all right angles and sharp turns;

5. anchor and support systems to prevent whipping and vibration;

6. rigid piping for diverter lines. The use of flexible hoses with integral end couplings in lieu of rigid piping for diverter lines shall be approved by the district manager.

#### **B. Diverter Testing Requirements**

1. When the diverter system is installed, the diverter components including the sealing element, diverter valves, control systems, stations and vent lines shall be function and pressure tested.

2. For drilling operations with a surface wellhead configuration, the system shall be function tested at least once every 24-hour period after the initial test.

3. After nipping-up on conductor casing, the diverter sealing element and diverter valves are to be pressure tested to a minimum of 200 psig. Subsequent pressure tests are to be conducted within seven days after the previous test.

4. Function tests and pressure tests shall be alternated between control stations.

#### **5. Recordkeeping Requirements**

a. Pressure and function tests are to be recorded in the driller's report and certified (signed and dated) by the operator's representative.

b. The control station used during a function or pressure test is to be recorded in the driller's report.

c. Problems or irregularities during the tests are to be recorded along with actions taken to remedy same in the driller's report.

d. All reports pertaining to diverter function and/or pressure tests are to be retained for inspection at the wellsite for the duration of drilling operations.

C. BOP Systems. The operator shall specify and insure that contractors design, install, use, maintain and test the BOP system to ensure well control during drilling, workover and all other appropriate operations. The surface BOP stack shall be installed before drilling below surface casing.

1. BOP system components for drilling activity located over a body of water shall be designed and utilized, as necessary, to control the well under all potential conditions that might occur during the operations being conducted and at minimum, shall include the following components:

a. annular-type well control component;

b. hydraulically-operated blind rams;

c. hydraulically-operated shear rams;

d. two sets of hydraulically-operated pipe rams.

2. Drilling activity with a tapered drill string shall require the installation of two or more sets of conventional or variable-bore pipe rams in the BOP stack to provide, at minimum, two sets of rams capable of sealing around the larger-size drill string and one set of pipe rams capable of sealing around the smaller-size drill string.

3. A set of hydraulically-operated combination rams may be used for the blind rams and shear rams.

4. All connections used in the surface BOP system must be flanged, including the connections between the well control stack and the first full-opening valve on the choke line and the kill line.

5. The commissioner of Conservation, following a public hearing, may grant exceptions to the requirements of LAC 43:XIX.207.C-J.

D. BOP Working Pressure. The working pressure rating of any BOP component, excluding annular-type preventers, shall exceed the maximum anticipated surface pressure (MASP) to which it may be subjected.

E. BOP Auxiliary Equipment. All BOP systems shall be equipped and provided with the following.

1. A hydraulically actuated accumulator system which shall provide 1.5 times volume of fluid capacity to close and hold closed all BOP components, with a minimum pressure of 200 psig above the pre-charge pressure without assistance from a charging system.

2. A backup to the primary accumulator-charging system, supplied by a power source independent from the power source to the primary, which shall be sufficient to close all BOP components and hold them closed.

3. Accumulator regulators supplied by rig air without a secondary source of pneumatic supply shall be equipped with manual overrides or other devices to ensure capability of hydraulic operation if the rig air is lost.

4. At least one operable remote BOP control station in addition to the one on the drilling floor. This control station shall be in a readily accessible location away from the drilling floor. If a BOP control station does not perform properly, operations shall be suspended until that station is operable.

5. A drilling spool with side outlets, if side outlets are not provided in the body of the BOP stack, to provide for separate kill and choke lines.

6. A kill line and a separate choke line are required. Each line must be equipped with two full-opening valves and at least one of the valves must be remotely controlled. The choke line shall be installed above the bottom ram. A manual valve must be used instead of the remotely controlled valve on the kill line if a check valve is installed between the two full-opening manual valves and the pump or manifold. The valves must have a working pressure rating equal to or greater than the working pressure rating of the connection to which they are attached, and must be installed between the well control stack and the choke or kill line. For operations with expected surface pressures greater than 3,500 psi, the kill line must be connected to a pump or manifold. The kill line inlet on the BOP stack must not be used for taking fluid returns from the wellbore.

7. A valve installed below the swivel (upper kelly cock), essentially full-opening, and a similar valve installed at the bottom of the kelly (lower kelly cock). An operator must be able to strip the lower kelly cock through the BOP stack. A wrench to fit each valve shall be stored in a location readily accessible to the drilling crew. If drilling with a mud motor and utilizing drill pipe in lieu of a kelly, you must install one kelly valve above, and one strippable kelly valve below the joint of pipe used in place of a kelly. On a top-drive system equipped with a remote-controlled valve, you must install a strippable kelly-type valve below the remote-controlled valve.

8. An essentially full-opening drill-string safety valve in the open position on the rig floor shall be available at all times while drilling operations are being conducted. This valve shall be maintained on the rig floor to fit all

connections that are in the drill string. A wrench to fit the drill-string safety valve shall be stored in a location readily accessible to the drilling crew.

9. A safety valve shall be available on the rig floor assembled with the proper connection to fit the casing string being run in the hole.

10. Locking devices installed on the ram-type preventers.

F. BOP Maintenance and Testing Requirements

1. The BOP system shall be visually inspected on a daily basis.

2. Pressure tests (low and high pressure) of the BOP system are to be conducted at the following times and intervals:

a. during a shop test prior to transport of the BOPs to the drilling location. Shop tests are not required for equipment that is transported directly from one well location to another;

b. immediately following installation of the BOPs;

c. within 14 days of the previous BOP pressure test, alternating between control stations and at a staggered interval to allow each crew to operate the equipment. If either control system is not functional, further operations shall be suspended until the nonfunctional, system is operable. Exceptions may be granted by the district manager in cases where a trip is scheduled to occur within 2 days after the 14-day testing deadline;

d. before drilling out each string of casing or liner (The district manager may require that a conservation enforcement specialist witness the test prior to drilling out each casing string or liner.);

e. Not more than 48 hours before a well is drilled to a depth that is within 1000 feet of a hydrogen sulfide zone (The district manager may require that a conservation enforcement specialist witness the test prior to drilling to a depth that is within 1000 feet of a hydrogen sulfide zone.);

f. when the BOP tests are postponed due to well control problem(s), the BOP test is to be performed on the first trip out of the hole, and reasons for postponing the testing are to be recorded in the driller's report.

3. Low pressure tests (200-300 psig) of the BOP system (choke manifold, kelly valves, drill-string safety valves, etc.) are to be performed at the times and intervals specified in LAC 43:XIX.207.F.2 in accordance with the following provisions.

a. Test pressures are to be held for a minimum of five minutes.

b. Variable bore pipe rams are to be tested against the largest and smallest sizes of pipe in use, excluding drill collars and bottom hole assembly.

c. Bonnet seals are to be tested before running the casing when casing rams are installed in the BOP stack.

4. High pressure tests of the BOP system are to be performed at the times and intervals specified in LAC 43:XIX.207.F.2 in accordance with the following provisions.

a. Test pressures are to be held for a minimum of five minutes.

b. Ram-type BOP's, choke manifolds, and associated equipment are to be tested to the rated working pressure of the equipment or 500 psi greater than the calculated MASP for the applicable section of the hole.

c. Annular-type BOPs are to be tested to 70 percent of the rated working pressure of the equipment.

5. The annular and ram-type BOPs with the exception of the blind-shear rams are to be function tested every seven days between pressure tests. All BOP test records should be certified (signed and dated) by the operator's representative.

a. Blind-shear rams are to be tested at all casing points and at an interval not to exceed 30 days.

6. If the BOP equipment does not hold the required pressure during a test, the problem must be remedied and a retest of the affected component(s) performed. Additional BOP testing requirements.

a. Use water to test the surface BOP system.

b. If a control station is not functional operations shall be suspended until that station is operable.

c. Test affected BOP components following the disconnection or repair of any well-pressure containment seal in the wellhead or BOP stack assembly.

G. BOP Record Keeping. The time, date and results of pressure tests, function tests, and inspections of the BOP system are to be recorded in the driller's report. All pressure tests shall be recorded on an analog chart or digital recorder. All documents are to be retained for inspection at the wellsite for the duration of drilling operations and are to be retained in the operator's files for a period of two years.

H. BOP Well Control Drills. Weekly well control drills with each drilling crew are to be conducted during a period of activity that minimizes the risk to drilling operations. The drills must cover a range of drilling operations, including drilling with a diverter (if applicable), on-bottom drilling, and tripping. Each drill must be recorded in the driller's report and is to include the time required to close the BOP system, as well as, the total time to complete the entire drill.

I. Well Control Safety Training. In order to ensure that all drilling personnel understand and can properly perform their duties prior to drilling wells which are subject to the jurisdiction of the Office of Conservation, the operator shall require that contract drilling companies provide and/or implement the following:

1. periodic training for drilling contractor employees which ensures that employees maintain an understanding of, and competency in, well control practices;

2. procedures to verify adequate retention of the knowledge and skills that the contract drilling employees need to perform their assigned well control duties.

J. Well Control Operations.

1. The operator must take necessary precautions to keep wells under control at all times and must:

a. use the best available and safest drilling technology to monitor and evaluate well conditions and to minimize the potential for the well to flow or kick;

b. have a person onsite during drilling operations who represents the operators interests and can fulfill the operators responsibilities;

c. ensure that the tool pusher, operator's representative, or a member of the drilling crew maintains continuous surveillance on the rig floor from the beginning of drilling operations until the well is completed or abandoned, unless you have secured the well with blowout preventers (BOPs), bridge plugs, cement plugs, or packers;

d. use and maintain equipment and materials necessary to ensure the safety and protection of personnel, equipment, natural resources, and the environment.

2. Whenever drilling operations are interrupted, a downhole safety device must be installed, such as a cement plug, bridge plug, or packer. The device must be installed at an appropriate depth within a properly cemented casing string or liner.

a. Among the events that may cause interruption to drilling operations are:

i. evacuation of the drilling crew;

ii. inability to keep the drilling rig on location; or

iii. repair to major drilling or well-control equipment.

3. If the diverter or BOP stack is nipped down while waiting on cement, it must be determined, before nipping down, when it will be safe to do so based on knowledge of formation conditions, cement composition, effects of nipping down, presence of potential drilling hazards, well conditions during drilling, cementing, and post cementing, as well as past experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 38:

#### **§209. Casing-Heads**

A. All wells shall be equipped with casing-heads with a test pressure in conformance with conditions existing in areas in which they are used. Casing-head body, as soon as installed shall be equipped with proper connections and valves accessible to the surface. Reconditioning shall be required on any well showing pressure on the casing-head, or leaking gas or oil between the oil string and next larger size casing string, when, in the opinion of the district managers, such pressure or leakage assume hazardous proportions or indicate the existence of underground waste. Mud-laden fluid may be pumped between any two strings of casing at the top of the hole, but no cement shall be used except by special permission of the commissioner or his agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 38:

#### **§211. Oil and Gas Well-Workover Operations**

A. Definitions. When used in this Section, the following terms shall have the meanings given below.

*Expected Surface Pressure*—the highest pressure predicted to be exerted upon the surface of a well. In calculating expected surface pressure, reservoir pressure as well as applied surface pressure must be considered.

*Routine Operations*—any of the following operations conducted on a well with the tree installed including cutting paraffin, removing and setting pump-through-type tubing plugs, gas-lift valves, and subsurface safety valves which can be removed by wireline operations, bailing sand, pressure surveys, swabbing, scale or corrosion treatment, caliper and gauge surveys, corrosion inhibitor treatment, removing or replacing subsurface pumps, through-tubing logging, wireline fishing, and setting and retrieving other subsurface flow-control devices.

*Workover Operations*—the work conducted on wells after the initial completion for the purpose of maintaining or restoring the productivity of a well.

B. When well-workover operations are conducted on a well with the tree removed, an emergency shutdown system (ESD) manually controlled station shall be installed near the driller's console or well-servicing unit operator's work station, except when there is no other hydrocarbon-producing well or other hydrocarbon flow on the platform.

C. Prior to engaging in well-workover operations, crew members shall be instructed in the safety requirements of the operations to be performed, possible hazards to be encountered, and general safety considerations to protect personnel, equipment, and the environment. Date and time of safety meetings shall be recorded and available for review.

D. Well-control fluids, equipment, and operations. The following requirements apply during all well-workover operations with the tree removed.

1. The minimum BOP-system components when the expected surface pressure is less than or equal to 5,000 psi shall include one annular-type well control component, one set of pipe rams, and one set of blind-shear rams.

2. The minimum BOP-system components when the expected surface pressure is greater than 5,000 psi shall include one annular-type well control component, two sets of pipe rams, and one set of blind-shear rams.

3. BOP auxiliary equipment in accordance with the requirements of LAC 43:XIX.207.E.

4. When coming out of the hole with drill pipe or a workover string, the annulus shall be filled with well-control fluid before the change in such fluid level decreases the hydrostatic pressure 75 pounds per square inch (psi) or every five stands of drill pipe or workover string, whichever gives a lower decrease in hydrostatic pressure. The number of stands of drill pipe or workover string and drill collars that may be pulled prior to filling the hole and the equivalent well-control fluid volume shall be calculated and posted near the operator's station. A mechanical, volumetric, or electronic device for measuring the amount of well-control fluid required to fill the hold shall be utilized.

5. The following well-control-fluid equipment shall be installed, maintained, and utilized:

- a. a fill-up line above the uppermost BOP;
- b. a well-control, fluid-volume measuring device for determining fluid volumes when filling the hole on trips; and
- c. a recording mud-pit-level indicator to determine mud-pit-volume gains and losses. This indicator shall include both a visual and an audible warning device.

E. The minimum BOP-system components for well-workover operations with the tree in place and performed through the wellhead inside of conventional tubing using small-diameter jointed pipe (usually 3/4 inch to 1 1/4 inch) as a work string, i.e., small-tubing operations, shall include two sets of pipe rams, and one set of blind rams.

1. An essentially full-opening work-string safety valve in the open position on the rig floor shall be available at all times while well-workover operations are being conducted. This valve shall be maintained on the rig floor to fit all connections that are in the work string. A wrench to fit the

work-string safety valve shall be stored in a location readily accessible to the workover crew.

F. For coiled tubing operations with the production tree in place, you must meet the following minimum requirements for the BOP system:

1. BOP system components must be in the following order from the top down when expected surface pressures are less than or equal to 3,500 psi:

- a. stripper or annular-type well control component;
- b. hydraulically-operated blind rams;
- c. hydraulically-operated shear rams;
- d. kill line inlet;
- e. hydraulically operated two-way slip rams;
- f. hydraulically operated pipe rams.

2. BOP system components must be in the following order from the top down when expected surface pressures are greater than 3,500 psi:

- a. stripper or annular-type well control component;
- b. hydraulically-operated blind rams;
- c. hydraulically-operated shear rams;
- d. kill line inlet;
- e. hydraulically-operated two-way slip rams;
- f. hydraulically-operated pipe rams;
- g. hydraulically-operated blind-shear rams. These

rams should be located as close to the tree as practical.

3. BOP system components must be in the following order from the top down for wells with returns taken through an outlet on the BOP stack:

- a. stripper or annular-type well control component;
- b. hydraulically-operated blind rams;
- c. hydraulically-operated shear rams;
- d. kill line inlet;
- e. hydraulically-operated two-way slip rams;
- f. hydraulically-operated pipe rams;
- g. a flow tee or cross;
- h. hydraulically-operated pipe rams;
- i. hydraulically-operated blind-shear rams on wells

with surface pressures less than or equal to 3,500 psi. As an option, the pipe rams can be placed below the blind-shear rams. The blind-shear rams should be placed as close to the tree as practical.

4. A set of hydraulically-operated combination rams may be used for the blind rams and shear rams.

5. A set of hydraulically-operated combination rams may be used for the hydraulic two-way slip rams and the hydraulically-operated pipe rams.

6. A dual check valve assembly must be attached to the coiled tubing connector at the downhole end of the coiled tubing string for all coiled tubing well-workover operations. To conduct operations without a downhole check valve, it must be approved by the district manager.

7. A kill line and a separate choke line are required. Each line must be equipped with two full-opening valves and at least one of the valves must be remotely controlled. A manual valve must be used instead of the remotely controlled valve on the kill line if a check valve is installed between the two full-opening manual valves and the pump or manifold. The valves must have a working pressure rating equal to or greater than the working pressure rating of the connection to which they are attached, and must be installed between the well control stack and the choke or kill line. For

operations with expected surface pressures greater than 3,500 psi, the kill line must be connected to a pump or manifold. The kill line inlet on the BOP stack must not be used for taking fluid returns from the wellbore.

8. The hydraulic-actuating system must provide sufficient accumulator capacity to close-open-close each component in the BOP stack. This cycle must be completed with at least 200 psi above the pre-charge pressure without assistance from a charging system.

9. All connections used in the surface BOP system from the tree to the uppermost required ram must be flanged, including the connections between the well control stack and the first full-opening valve on the choke line and the kill line.

10. The coiled tubing connector must be tested to a low pressure of 200 to 300 psi, followed by a high pressure test to the rated working pressure of the connector or the expected surface pressure, whichever is less. The dual check valves must be successfully pressure tested to the rated working pressure of the connector, the rated working pressure of the dual check valve, expected surface pressure, or the collapse pressure of the coiled tubing, whichever is less.

G. The minimum BOP-system components for well-workover operations with the tree in place and performed by moving tubing or drill pipe in or out of a well under pressure utilizing equipment specifically designed for that purpose, i.e., snubbing operations, shall include the following:

1. one set of pipe rams hydraulically operated, and
2. two sets of stripper-type pipe rams hydraulically operated with spacer spool.

H. Test pressures must be recorded during BOP and coiled tubing tests on a pressure chart, or with a digital recorder, unless otherwise approved by the district manager. The test interval for each BOP system component must be 5 minutes, except for coiled tubing operations, which must include a 10 minute high-pressure test for the coiled tubing string.

I. Wireline Operations. The operator shall comply with the following requirements during routine, as defined in Subsection A of this Section, and nonroutine wireline workover operations:

1. Wireline operations shall be conducted so as to minimize leakage of well fluids. Any leakage that does occur shall be contained to prevent pollution.

2. All wireline perforating operations and all other wireline operations where communication exists between the completed hydrocarbon-bearing zone(s) and the wellbore shall use a lubricator assembly containing at least one wireline valve.

3. When the lubricator is initially installed on the well, it shall be successfully pressure tested to the expected shut-in surface pressure.

J. Following completion of the well-workover activity, all such records shall be retained by the operator for a period of two years.

K. An essentially full-opening work-string safety valve in the open position on the rig floor shall be available at all times while well-workover operations are being conducted. This valve shall be maintained on the rig floor to fit all connections that are in the work string. A wrench to fit the

work-string safety valve shall be stored in a location readily accessible to the workover crew.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 38:

### **§213. Diesel Engine Safety Requirements**

A. Each diesel engine with an air take device must be equipped to shut down the diesel engine in the event of a runaway.

1. A diesel engine that is not continuously manned, must be equipped with an automatic shutdown device.

2. A diesel engine that is continuously manned, may be equipped with either an automatic or remote manual air intake shutdown device.

3. A diesel engine does not have to be equipped with an air intake device if it meets one of the following criteria:

- a. starts a larger engine;
- b. powers a firewater pump;
- c. powers an emergency generator;
- d. powers a BOP accumulator system;
- e. Provides air supply to divers or confined entry personnel;
- f. powers temporary equipment on a nonproducing platform;
- g. powers an escape capsule; or
- h. powers a portable single-cylinder rig washer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 38:

### **§215. Drilling Fluids**

A. The inspectors and engineers of the Office of Conservation shall have access to the mud records of any drilling well, except those records which pertain to special muds and special work with respect to patentable rights, and shall be allowed to conduct any essential test or tests on the mud used in the drilling of a well. When the conditions and tests indicate a need for a change in the mud or drilling fluid program in order to insure proper control of the well, the district manager shall require the operator or company to use due diligence in correcting any objectionable conditions.

B. Well-control fluids, equipment, and operations shall be designed, utilized, maintained, and/or tested as necessary to control the well in foreseeable conditions and circumstances.

C. The well shall be continuously monitored during all operations and shall not be left unattended at any time unless the well is shut in and secured.

D. The following well-control-fluid equipment shall be installed, maintained, and utilized:

1. a fill-up line above the uppermost BOP;
2. a well-control, fluid-volume measuring device for determining fluid volumes when filling the hole on trips; and
3. a recording mud-pit-level indicator to determine mud-pit-volume gains and losses. This indicator shall include both a visual and an audible warning device.

E. Safe Practices

1. Before starting out of the hole with drill pipe, the drilling fluid must be properly conditioned. A volume of drilling fluid equal to the annular volume must be circulated with the drill pipe just off-bottom. This practice may be omitted if documentation in the driller's report shows:

a. no indication of formation fluid influx before starting to pull the drill pipe from the hole;

b. the weight of returning drilling fluid is within 0.2 pounds per gallon of the drilling fluid entering the hole.

2. Record each time drilling fluid is circulated in the hole in the driller's report.

3. When coming out of the hole with drill pipe, the annulus must be filled with drilling fluid before the hydrostatic pressure decreases by 75 psi, or every five stands of drill pipe, whichever gives a lower decrease in hydrostatic pressure. The number of stands of drill pipe and drill collars that you may pull must be calculated before you fill the hole. Both sets of numbers must be posted near the driller's station. A mechanical, volumetric, or electronic device must be used to measure the drilling fluid required to fill the hole.

4. Controlled rates must be used to run and pull drill pipe and downhole tools so you do not swab or surge the well.

5. When there is an indication of swabbing or influx of formation fluids, appropriate measures must be taken to control the well. Circulate and condition the well, on or near-bottom, unless well or drilling-fluid conditions prevent running the drill pipe back to the bottom.

6. The maximum pressures must be calculated and posted near the driller's console that you may safely contain under a shut-in BOP for each casing string. The pressures posted must consider the surface pressure at which the formation at the shoe would break down, the rated working pressure of the BOP stack, and 70 percent of casing burst (or casing test as approved by the district manager). As a minimum, you must post the following two pressures:

a. the surface pressure at which the shoe would break down. This calculation must consider the current drilling fluid weight in the hole; and

b. the lesser of the BOP's rated working pressure or 70 percent of casing-burst pressure (or casing test otherwise approved by the district manager).

7. An operable drilling fluid-gas separator and degasser must be installed before you begin drilling operations. This equipment must be maintained throughout the drilling of the well.

8. The test fluids in the hole must be circulated or reverse circulated before pulling drill-stem test tools from the hole. If circulating out test fluids is not feasible, with an appropriate kill weight fluid test fluids may be bullhead out of the drill-stem test string and tools.

9. When circulating, the drilling fluid must be tested at least once each work shift or more frequently if conditions warrant. The tests must conform to industry-accepted practices and include density, viscosity, and gel strength; hydrogen ion concentration; filtration; and any other tests the district manager requires for monitoring and maintaining drilling fluid quality, prevention of downhole equipment problems and for kick detection. The test results must be recorded in the drilling fluid report.

#### F. Monitoring Drilling Fluids

1. Once drilling fluid returns are established, the following drilling fluid-system monitoring equipment must be installed throughout subsequent drilling operations. This equipment must have the following indicators on the rig floor:

a. pit level indicator to determine drilling fluid-pit volume gains and losses. This indicator must include both a visual and an audible warning device;

b. volume measuring device to accurately determine drilling fluid volumes required to fill the hole on trips;

c. return indicator devices that indicate the relationship between drilling fluid-return flow rate and pump discharge rate. This indicator must include both a visual and an audible warning device; and

d. gas-detecting equipment to monitor the drilling fluid returns. The indicator may be located in the drilling fluid-logging compartment or on the rig floor. If the indicators are only in the logging compartment, you must continually man the equipment and have a means of immediate communication with the rig floor. If the indicators are on the rig floor only, an audible alarm must be installed.

#### G. Drilling Fluid Quantities

1. Quantities of drilling fluid and drilling fluid materials must be maintained and replenished at the drill site as necessary to ensure well control. These quantities must be determined based on known or anticipated drilling conditions, rig storage capacity, weather conditions, and estimated time for delivery.

2. The daily inventories of drilling fluid and drilling fluid materials must be recorded, including weight materials and additives in the drilling fluid report.

3. If there are not sufficient quantities of drilling fluid and drilling fluid material to maintain well control, the drilling operations must be suspended.

#### H. Drilling Fluid-Handling Areas

1. Drilling fluid-handling areas must be classified according to API RP 500, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities, Classified as Class I, Division 1 and Division 2 or API RP 505, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities, Classified as Class 1, Zone 0, Zone 1, and Zone 2. In areas where dangerous concentrations of combustible gas may accumulate. A ventilation system and gas monitors must be installed and maintained. Drilling fluid-handling areas must have the following safety equipment:

a. a ventilation system capable of replacing the air once every five minutes or 1.0 cubic feet of air-volume flow per minute, per square foot of area, whichever is greater. In addition:

i. if natural means provide adequate ventilation, then a mechanical ventilation system is not necessary;

ii. if a mechanical system does not run continuously, then it must activate when gas detectors indicate the presence of 1 percent or more of combustible gas by volume; and

iii. if discharges from a mechanical ventilation system may be hazardous, the drilling fluid-handling area must be maintained at a negative pressure. The negative pressure area must be protected by using at least one of the following: a pressure-sensitive alarm, open-door alarms on each access to the area, automatic door-closing devices, air locks, or other devices approved by the district manager;

b. gas detectors and alarms except in open areas where adequate ventilation is provided by natural means. Gas detectors must be tested and recalibrated quarterly. No more than 90 days may elapse between tests;

c. explosion-proof or pressurized electrical equipment to prevent the ignition of explosive gases. Where air is used for pressuring equipment, the air intake must be located outside of and as far as practicable from hazardous areas; and

d. alarms that activate when the mechanical ventilation system fails.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 38:

#### **Subpart 4. Statewide Order No. 29-B-a**

### **Chapter 11. Required Use of Storm Chokes**

#### **§1101. Scope**

A. Order establishing rules and regulations concerning the required use of storm chokes to prevent blowouts or uncontrolled flow in the case of damage to surface equipment.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislature of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 15, 1946, amended March 1, 1961, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 20:1127 (October 1994), LR 38:

#### **§1103. Applicability**

A. All wells capable of flow with a surface pressure in excess of 100 pounds, falling within the following categories, shall be equipped with storm chokes:

1. any locations inaccessible during periods of storm and/or floods, including spillways;

2. located in bodies of water being actively navigated;

3. located in wildlife refuges and/or game preserves;

4. located within 660 feet of railroads, ship channels, and other actively navigated bodies of water;

5. located within 660 feet of state and federal highways in Southeast Louisiana, in that area east of a north-south line drawn through New Iberia and south of an east-west line through Opelousas;

6. located within 660 feet of state and federal highways in Northeast Louisiana, in that area bounded on the west by the Ouachita River, on the north by the Arkansas-Louisiana line, on the east by the Mississippi River, and on the south by the Black and Red Rivers;

7. located within 660 feet of the following highways:

a. U.S. Highway 71 between Alexandria and Krotz Springs;

b. U.S. Highway 190 between Opelousas and Krotz Springs;

c. U.S. Highway 90 between Lake Charles and the Sabine River;

8. located within the corporate limits of any city, town, village, or other municipality.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislature of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 15, 1946, amended March 1, 1961, amended and promulgated by Department of Natural Resources, Office of Conservation, LR 20:1128 (October 1994), LR 38:

### **§1104. General Requirements for Storm Choke Use at Water Locations**

A. This Section only applies to oil and gas wells at water locations.

B. A subsurface safety valve shall be designed, installed, used, maintained, and tested to ensure reliable operation.

1. The device shall be installed at a depth of 100 feet or more below the seafloor within 2 days after production is established.

2. Until a subsurface safety device is installed, the well shall be attended in the immediate vicinity so that emergency actions may be taken while the well is open to flow. During testing and inspection procedures, the well shall not be left unattended while open to production unless a properly operating subsurface-safety device has been installed in the well.

3. The well shall not be open to flow while the subsurface safety device is removed, except when flowing of the well is necessary for a particular operation such as cutting paraffin, bailing sand, or similar operations.

4. All SSSV's must be inspected, installed, used, maintained, and tested in accordance with American Petroleum Institute Recommended Practice 14B, Recommended Practice for Design, Installation, Repair, and Operation of Subsurface Safety Valve Systems.

C. Temporary Removal for Routine Operations

1. Each wireline or pumpdown-retrievable subsurface safety device may be removed, without further authorization or notice, for a routine operation which does not require the approval of Form DM-4R,

2. The well shall be identified by a sign on the wellhead stating that the subsurface safety device has been removed. If the master valve is open, a trained person shall be in the immediate vicinity of the well to attend the well so that emergency actions may be taken, if necessary.

3. A platform well shall be monitored, but a person need not remain in the well-bay area continuously if the master valve is closed. If the well is on a satellite structure, it must be attended or a pump-through plug installed in the tubing at least 100 feet below the mud line and the master valve closed, unless otherwise approved by the district manager.

4. Each operator shall maintain records indicating the date a subsurface safety valve is removed, the reason for its removal, and the date it is reinstalled.

D. Emergency action. In the event of an emergency, such as an impending storm, any well not equipped with a subsurface safety device and which is capable of natural flow shall have the device properly installed as soon as possible with due consideration being given to personnel safety.

E. Design and Operation

1. All SSSVs must be inspected, installed, maintained, and tested in accordance with API RP 14H, Recommended Practice for Installation, Maintenance, and Repair of Surface Safety Valves and Underwater Safety Valves Offshore.

2. Testing requirements for subsurface safety devices are as follows.

a. All SSSV's shall be tested for operation and for leakage at least once each calendar month, but at no time shall more than six weeks elapse between tests. SSSV's must be tested in accordance with the test procedures specified in



API RP 14H. If a SSSV does not operate properly or if any fluid flow is observed during the leakage test, the valve shall be repaired or replaced.

b. Each subsurface-controlled SSSV installed in a well shall be removed, inspected, and repaired or adjusted, as necessary, and reinstalled or replaced at intervals not exceeding 6 months for those valves not installed in a landing nipple and 12 months for those valves installed in a landing nipple.

3. Records must be retained for a period of two years for each safety device installed.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislature of 1940, as amended.

HISTORICAL NOTE: Promulgated by Department of Natural Resources, Office of Conservation, LR 38:

**§1105. Waivers**

A. Onshore Wells. Where the use of storm chokes would unduly interfere with normal operation of a well, the district manager may, upon submission of pertinent data, in writing, waive the requirements of this order.

B. Offshore Wells

1. The district manager, upon submission of pertinent data, in writing explaining the efforts made to overcome the particular difficulties encountered, may waive the use of a subsurface safety valve under the following circumstances, and may, in his discretion, require in lieu thereof a surface safety valve:

a. where sand is produced to such an extent or in such a manner as to tend to plug the tubing or make inoperative the subsurface safety valve;

b. when the flowing pressure of the well is in excess of 100 psi but is inadequate to activate the subsurface safety valve;

c. where flow rate fluctuations or water production difficulties are so severe that the subsurface safety valve would prevent the well from producing at its allowable rate;

d. where mechanical well conditions do not permit the installation of a subsurface safety valve;

e. in such other cases as the district manager may deem necessary to grant an exception.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislature of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 1, 1961, amended March 15, 1961, amended and promulgated by Department of Natural Resources, Office of Conservation, LR 20:1128 (October 1994), LR 38:

James H. Welsh  
Commissioner

1202#011

**DECLARATION OF EMERGENCY**

**Department of Revenue  
Policy Services Division**

Electronic Funds Transfer  
(LAC 61:I.4910)

Under the authority of R.S. 47:1519 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61.I.4910.

This Emergency Rule is necessary to more accurately account for payments remitted by electronic funds transfer. Beginning with taxable periods on or after January 1, 2012 all employers, including those who have remitted withholding taxes by electronic funds transfer, will be required to submit quarterly withholding tax returns reconciling the amounts of taxes payable to the department to their actual remittances during each calendar quarter. Without this Rule, all employers required to withhold and remit withholdings taxes will not know which returns are required to be filed and their due dates.

This Rule, adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., shall become effective upon adoption, February 10, 2012, and shall remain in effect for the maximum period allowed under the act.

**Title 61**

**REVENUE AND TAXATION**

**Part I. Taxes Collected and Administered**

**By the Secretary of Revenue**

**Chapter 49. Tax Collection**

**§4910. Electronic Funds Transfer**

A. - E.4. ...

5. Tax return must be filed.

a. A tax return or report must be filed separately from the electronic transmission of the remittance.

b. Failure to timely file a tax return or report shall subject the affected taxpayer or obligee to penalty, interest, and loss of applicable discount, as provided by state law.

6. In situations involving extenuating circumstances as set forth in writing by the taxpayer and deemed reasonable by the secretary of the Department of Revenue, the secretary may grant an exception to the requirement to transmit funds electronically

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1519.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Office of the Secretary, LR 19:1032 (August 1993), repromulgated LR 19:1340 (October 1993), amended LR 20:672 (June 1994), LR 23:448 (April 1997), amended by the Department of Revenue, Office of the Secretary, LR 25:2442 (December 1999), amended by the Department of Revenue, Policy Services Division, LR 28:866 (April 2002), LR 29:2854 (December 2003), LR 31:484 (February 2005), LR 38:

Cynthia Bridges  
Secretary

1202#081

**DECLARATION OF EMERGENCY**

**Department of Revenue  
Policy Services Division**

Withholding Tax Statements and Returns  
Electronic Filing Requirements (LAC 61:I.1515)

Under the authority of R.S. 47:1511, R.S. 47:1519, R.S. 47:1520 and R.S. 47:114 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61.I.1515.

This Emergency Rule is necessary to more accurately account for payments remitted by electronic funds transfer. Beginning with taxable periods on or after January 1, 2012,

pursuant to R.S. 47:1519, 1520 and 114 employers that are required to remit electronically are now required to also file a separate return electronically on a quarterly basis. Additionally, to correspond with administrative form changes relative to the use of Form L-3, Form L-3 will no longer be used for the purpose of annually reconciling accounts, but rather will be more effectively used as a transmittal for W-2s.

Without this Rule, all employers required to withhold and remit withholdings taxes will not know that the reconciliation of taxes payable to the department to their actual remittances will be done on a quarterly basis instead of annually. This Rule, adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., shall become effective upon adoption, February 10, 2012, and shall remain in effect for the maximum period allowed under the Act.

**Title 61  
REVENUE AND TAXATION**

**Part I. Taxes Collected and Administered by the  
Secretary of Revenue**

**Chapter 15. Income:Withholding Tax  
§1515. Withholding Tax Statements and  
Returns—Electronic Filing Requirements**

A. Employers that are required to electronically remit withholding tax pursuant to R.S. 47:1519B and LAC 61:1.4910A, shall file a separate L-1 return electronically on a quarterly basis, effective for the periods beginning after December 31, 2011.

B. Employers are required to file a Transmittal of Withholding Tax Statements, Form L-3, with copies of the employee withholding statements, Form W-2s.

1. The L-3 transmittal and employee withholding statements must be filed on or before the first business day following February 27 for the preceding calendar year.

2. If a business terminates during the year, the L-3 transmittal and employee withholding statements must be filed within 30 days after the last month in which the wages were paid.

3. If the due date falls on a weekend or holiday, the report is due the next business day and becomes delinquent the next day.

C. The following employers are required to file the Form L-3, and the employee withholding statements, Form W-2s, electronically:

1. employers that file 250 or more employee withholding statements due on or after January 1, 2008;

2. employers that file 200 or more employee withholding statements due on or after January 1, 2010;

3. employers that file 150 or more employee withholding statements due on or after January 1, 2012;

4. employers that file 100 or more employee withholding statements due on or after January 1, 2014;

5. employers that file 50 or more employee withholding statements due on or after January 1, 2016.

D. Electronic Filing Options. The Form L-3, and the employee withholding statements, Form W-2, may be filed electronically as follows:

1. electronic filing using the LaWage electronic filing application via the LDR website, [www.revenue.louisiana.gov](http://www.revenue.louisiana.gov);

2. submission on CD or DVD:
  - a. records must be submitted using a record layout that is consistent with the Internal Revenue Code requirements;
  - b. CDs and DVDs must be labeled with the following information:
    - i. file name;
    - ii. employer's louisiana account number;
    - iii. employer's name;
    - iv. employer's mailing address;
    - v. tax year; and
    - vi. the CD or DVD number and total number of CDs or DVDs for multi-volume submissions (example: 1 of 3, etc.);
  3. any other electronic method authorized by the secretary;
  4. submissions by magnetic media including tapes and tape cartridges are no longer allowed.

E. Separate submissions must be made for each employer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511, R.S. 47:1519, R.S. 47:1520 and R.S. 47:114.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Revenue, Policy Services Division, LR 38:

Cynthia Bridges  
Secretary

1202#080

**DECLARATION OF EMERGENCY**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

2011 Fall Inshore Shrimp Season Closure

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which allows the Wildlife and Fisheries Commission to delegate to the secretary of the department the powers, duties and authority to set seasons, and in accordance with a Declaration of Emergency adopted by the Wildlife and Fisheries Commission on August 4, 2011 which authorized the secretary of the Department of Wildlife and Fisheries to close the fall shrimp season when biological and technical data indicate the need to do so or if enforcement problems develop, and following notification to the chairman of the Wildlife and Fisheries Commission, the secretary of the Department of Wildlife and Fisheries does hereby declare that the 2011 fall inshore shrimp season will close on February 2, 2012 at official sunset in that portion of Shrimp Management Zone 1 north of the southern shore of the Mississippi River Gulf Outlet (MRGO) including the Gulf Intracoastal Waterway (ICWW) north of the Paris Road Bridge except for the open waters of Breton and Chandeleur Sounds as described by the double-rig line in R.S. 56:495.1(A)2.

This closure should provide remaining over-wintering white shrimp an opportunity to grow to larger, more valuable

sizes while protecting juvenile brown shrimp which begin to recruit into these waters in early spring.

Robert J. Barham  
Secretary

1202#012

## **DECLARATION OF EMERGENCY**

### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

#### **Large Coastal and Small Coastal Shark Commercial Season Opening**

In accordance with the emergency provisions of R.S. 49:953, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:6(25)(a) and R.S. 56:326.3 which provide that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the department by the commission in its rule LAC 76:VII.357.M.2 which allows the secretary to establish seasons, the Secretary of the Department of Wildlife and Fisheries hereby declares:

Effective 12:01 a.m., January 24, 2012, the commercial fishery for non-blacknose small coastal sharks, (bonnethead shark, Atlantic sharpnose shark, blacknose shark, finetooth shark) in Louisiana waters as described in LAC 76:VII.357.B.2 will open and remain open until December 31, 2012, or the federally established quota is harvested or expected to be harvested, unless the federal season for a species or species group in the Gulf of Mexico is closed, and the secretary is requested by NOAA Fisheries to take action to enact consistent seasonal regulations.

Effective 12:01 a.m., February 15, 2012, the commercial fishery for non-sandbar large coastal sharks (great hammerhead, scalloped hammerhead, smooth hammerhead, nurse shark, blacktip shark, bull shark, lemon shark, silky shark, spinner shark and tiger shark) in Louisiana waters as described in LAC 76:VII.357.B.2 will open and remain open until the federally established quota is harvested or expected to be harvested, unless the federal season for a species or species group in the Gulf of Mexico is closed, and the secretary is requested by NOAA Fisheries to take action to enact consistent seasonal regulations.

Louisiana has a fixed closed season for the commercial and recreational harvest of all sharks from April 1 through June 30 of each year for protection of pupping and nursery areas, which we believe appropriate to maintain for conservation purposes.

Effective with these openings, properly licensed and permitted persons may commercially harvest, possess, and sell non-blacknose small coastal sharks and non-sandbar large coastal sharks whether taken from within or without Louisiana waters in compliance with the rules as set forth by the National Marine Fisheries Service for federal waters, and by the Louisiana Wildlife and Fisheries Commission. Only properly licensed and permitted dealers may purchase non-blacknose small coastal sharks and non-sandbar large coastal

sharks during the open season. The fishery for both non-blacknose small coastal sharks and non-sandbar large coastal sharks in Louisiana state waters will be closed from April 1 through June 30.

The secretary has been notified by the National Marine Fisheries Service that the season for commercial harvest of non-blacknose small coastal sharks in the federal waters of the Gulf of Mexico will open on January 24, 2012 and that the commercial fishery for non-sandbar large coastal sharks in the federal waters of the Gulf of Mexico will open on February 15, 2012.

Robert J. Barham  
Secretary

1202#010

## **DECLARATION OF EMERGENCY**

### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

#### **Oyster Season Closure—Primary Public Oyster Seed Grounds East of the Mississippi River**

In accordance with the emergency provisions of Louisiana Revised Statutes (R.S.) 49:953, under the authority of R.S. 56:433, and under the authority of a Declaration of Emergency passed by the Wildlife and Fisheries Commission on September 1, 2011 which authorized the secretary of the Department of Wildlife and Fisheries to take emergency action if oyster resources and/or reefs are being adversely impacted or if enforcement problems are encountered, notice is hereby given that the secretary of Wildlife and Fisheries hereby declares that the primary public oyster seed grounds east of the Mississippi River, including Lake Borgne and Bay Gardene, shall close to all oyster harvest at one-half hour after sunset on Thursday, February 2, 2012.

Low amounts of oyster resource were documented on the public oyster seed grounds east of the Mississippi River by LDWF biologists, and continued commercial harvest pressure may threaten the long-term sustainability of remaining oyster resources in these areas. Protection of the remaining oyster reef resources is in the best interest of the public oyster areas.

All other 2011/2012 oyster season details as outlined by previous actions of the Wildlife and Fisheries Commission and the Louisiana Department of Wildlife and Fisheries, including the season and daily sack limits in Calcasieu Lake, shall remain in effect at this time.

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

1202#013

# Rules

## RULE

### Department of Children and Family Services Division of Programs Economic Stability and Self-Sufficiency

Increasing Resource Limit for Households with Elderly and Disabled Members (LAC 67:III.1983)

The Department of Children and Family Services has exercised provisions of the Administrative Procedure Act, R.S. 49:953(B) amends LAC 67:III.1983.

Pursuant to section 5(g) of the Food, Conservation and Energy Act of 2008 (FECA), adjustments to the Supplemental Nutrition Assistance Program (SNAP) asset limit shall reflect changes for the twelve month period ending the preceding June in the Consumer Price Index (CPI) for all urban consumers and will be rounded down to the nearest \$250 increment. In accordance with the Food and Nutrition Services (FNS) SNAP policy memo dated August 29, 2011, Section 1983 of Subpart 3, Chapter 19, Subchapter I was revised effective October 1, 2011 to increase the resource limit to \$3,250 for households that include at least one elderly or disabled member who is not categorically eligible.

Action is required in this matter in order to avoid sanctions and penalties from the United States [R.S. 49:953(B)]. If the agency does not follow the federal law regarding increasing the resource limit for households that include at least one elderly or disabled member who is not categorically eligible, the department may be subject to sanctions and penalties. This action was made effective by an Emergency Rule dated and effective October 1, 2011.

#### Title 67

#### SOCIAL SERVICES

#### Part III. Economic Stability and Self-Sufficiency

#### Subpart 3. Supplemental Nutrition Assistance Program (SNAP)

#### Chapter 19. Certification and Eligible Households

#### Subchapter I. Income and Deductions

#### §1983. Income Deductions and Resource Limits

A. - 3.a. ...

B. For federal fiscal year 2011 and each subsequent federal fiscal year, the resource limit will be calculated based on changes in the Consumer Price Index for all urban consumers for the 12-month period ending the preceding June and will be rounded down to the nearest \$250 increment. The resource limit for a household is \$2,000, and effective October 1, 2011, the resource limit for a household that includes at least one elderly or disabled member is \$3,250 for households and individuals who are not categorically eligible.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.9 (d)(2) and (d)(6), P.L. 104-193, P.L. 106-387 and P.L. 107-171; Act 58, 2003 Reg. Session, P.L. 110-246, and Section 5(g) of the Food, Conservation and Energy Act of 2008 (FECA).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR

12:285 (May 1986), amended LR 12:423 (July 1986), LR 12:824 (December 1986), LR 13:181 (March 1987), LR 14:684 (October 1988), LR 15:14 (January 1989). Amended by the Department of Social Services, Office of Family Support, LR 19:303 (March 1993), LR 19:905 (July 1993), LR 20:780 (July 1994), LR 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:186 (February 1995), LR 23:82 (January 1997), LR 27:867 (June 2001), LR 27:1934 (November 2001), LR 29:607 (April 2003), LR 30:495 (March 2004), LR 35: (April 2009), amended by the Department of Children and Family Services, LR 36:2530 (November 2010), amended by the Department of Children and Family Services, Division of Programs, Economic Stability and Self-Sufficiency, LR 38:000 (February 2012).

Ruth Johnson  
Secretary

1202#071

## RULE

### Economic Development Office of the Secretary

Research and Development Tax Credit Program  
(LAC 13:I.2901, 2903, 2904, 2905 and 2911)

Under the authority of R.S. 47:6015 and R.S. 36:104, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Economic Development has amended LAC 13:I.2901, et seq. relative to the administration of the research and development tax credit program.

The purpose of this regulation is to adopt legislative changes to the research and development tax credit program under R.S. 47:6015 as enacted by Act 407 of the 2011 Regular Session of the Legislature. The regulation adds clarifying definitions, specifies types of activities that are excluded from the definition of qualified research under federal guidelines, reflects the new calculation methodology as well as eliminates the alternative incremental credit, adds clarifying language explaining what types of documentation the department will require in order to process an application, and adds a time period in which the credit must be claimed for a particular expenditure.

#### Title 13

#### ECONOMIC DEVELOPMENT

#### Part I. Financial Incentive Programs

#### Chapter 29. Research and Development Tax Credit

#### §2901. Purpose and Application

A. The purpose of this Chapter is to implement the Research and Development Tax Credit Program as established by R.S. 47:6015.

B. This Chapter shall be administered to achieve the following purposes:

1. encourage the development, growth, and expansion of the private sector within the state; and
2. encourage new and continuing efforts to conduct research and development activities within this state.

C. This Chapter shall apply to any person claiming a credit under this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6015.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:977 (May 2004), amended by the Office of Business Development, LR 36:1768 (August 2010), amended by Office of the Secretary, LR 38:000 (February 2012).

### §2903. Definitions

A. Terms not otherwise defined in this Chapter shall have the same meaning given to them in R.S. 51:2353 unless the context clearly requires otherwise.

B. In this Chapter, the following terms shall have the meaning provided in this Section, unless the context clearly requires otherwise.

*Affiliate*—a company that shares more than 50 percent common ownership or other means of control with respect to another company.

*Base Amount*—70 percent of the average annual qualified research expenditures within Louisiana during the three preceding taxable years.

*Business Component*—any product, process, computer software, technique, formula, or invention which is to be held for sale, lease, license, or used in a trade or business of the taxpayer.

*Credit Certification*—a certification by DED of the amount of the Research and Development Tax Credit earned by a person for a particular tax year.

*LED*—Louisiana Department of Economic Development.

*Person*—any natural person or legal entity including an individual, corporation, partnership, or limited liability company.

*Qualified Research Expenses in the State*—expenses that are qualified research expenses under 26 U.S.C. §41(b) and meet the following requirements:

a. wages described in 26 U.S.C. §41(b)(2)(A)(i) shall be paid to individuals who are residents of Louisiana and perform their services in Louisiana;

b. supplies described in 26 U.S.C. §41(b)(2)(A)(ii) shall be consumed in Louisiana;

c. expenses for the right to use computers as described in 26 U.S.C. §41(b)(2)(A)(iii) shall be for the use of computers located in Louisiana; and

d. contract research expenses as described in 26 U.S.C. §41(b)(3) shall be for services performed in Louisiana;

e. 26 U.S.C. §41 also excludes expenditures associated with certain activities from the definition of qualified research. These activities include:

i. research conducted after the beginning of commercial production;

ii. activities related to the adaptation of an existing business component to a particular customer's requirements or needs;

iii. activities related to the reproduction, in whole or in part, of an existing business component from a physical examination of the business component, plans, blueprints, detailed specifications or publically available information with respect to such component;

iv. activities related to management functions or techniques, efficiency surveys, market research, testing or

development, routine data collection or routine testing or inspections for quality controls;

v. research conducted using the social sciences including economics and business management, as well as behavioral sciences, arts and humanities; and

vi. research funded by a contract, grant, or otherwise by another person or governmental entity.

*Research and Development Tax Credits*—credits against Louisiana income or corporation franchise taxes that are earned by a person pursuant to the provisions of the Research and Development Tax Credit Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6015.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:977 (May 2004), amended by Office of the Secretary, LR 38:351 (February 2012).

### §2904. Type, Amount and Duration of Credit

A. Type. Any taxpayer meeting the following criteria shall be allowed a refundable tax credit to be applied against income and corporation franchise taxes due:

1. employs more than 50 persons (including affiliates) and claims for the taxable year a federal income tax credit under 26 U.S.C. §41(a) for increasing research activities;

2. employs up to 50 persons (including affiliates), and incurs qualified research expenses for the taxable year, as defined in 26 U.S.C. §41(b); and

3. receives a Small Business Innovation Research Grant, as defined in R.S. 47:6015(D).

B. Amount. The amount of the credit authorized shall be equal to:

1. 8 percent of the difference between the Louisiana qualified research expenses for the taxable year minus the base amount, if the applicant is an entity that employs 100 or more persons (including affiliates); or

2. 20 percent of the difference, between the Louisiana qualified research expenses for the taxable year minus the base amount, if the applicant is an entity that employs 50 to 99 persons (including affiliates); or

3. 40 percent of the state's apportioned share of the taxpayer's qualified research expenses conducted in the state if the applicant is an entity that employs fewer than 50 persons (including affiliates); or

4. 40 percent of the Small Business Innovation Research Grant award received during the tax year.

C. Duration. No credit shall be allowed for research expenditures incurred or Small Business Innovation Research Grant funds received after December 31, 2019.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6015.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 36:1768 (August 2010), amended by Office of the Secretary, LR 38:351 (February 2012).

### §2905. Certification of Amount of Credit

A. Prior to claiming a research and development tax credit on any tax return or selling any research and development tax credit, a person must apply for and obtain a credit certification from LED.

B. The application for a credit certification shall be submitted on a form provided by the LED and shall include, but not be limited to the following information:

1. an application fee of \$250, payable to Louisiana Department of Economic Development;
2. appropriate supporting documentation:
  - a. for taxpayers employing more than 50 residents, a federal income tax return and evidence of the amount of federal research credit for the same taxable year;
  - b. for taxpayers employing up to 50 residents, evidence of the amount of qualified research expenses for the same taxable year;
  - c. for taxpayers claiming credits based upon the federal Small Business Innovation Research Grant, evidence of the amount of such grant;
  - d. the LED may also require documentation, including but not limited to the following, as proof of an expenditure prior to certification:
    - i. wages:
      - (a). copy of W-2 for each employee who participates in qualifying research and development activities;
      - (b). percentage of each employee's salary that is dedicated to qualifying research and development activities; and
      - (c). Louisiana Workforce Commission Quarterly Report of wages paid for the company for the third and fourth quarter of the tax year in question;
    - ii. supplies:
      - (a). invoices with date of purchase included;
    - iii. contracted research:
      - (a). invoices with applicable dates or periods of work; and
      - (b). contracts for the research to be performed;
  - e. in order for any research and development project to qualify, the requesting company must identify:
    - i. the business component that was developed or improved;
    - ii. the uncertainty that existed in the capability, method or design related to such business component;
    - iii. how the research was technological in nature; and
    - iv. the process of experimentation undertaken.
3. the total amount of qualified research expenses and the qualified research expenses in this state;
4. the total number of Louisiana residents employed by the taxpayer and the number of those Louisiana residents directly engaged in research and development;
5. the average wages of the Louisiana resident employees not directly engaged in research and development and the average wages of the Louisiana resident employees directly engaged in research and development;
6. the average value of benefits received by all Louisiana resident employees;
7. the cost of health insurance coverage offered to all Louisiana resident employees;
8. any other information required by LED.

C. LED shall review the application and issue a credit certification in the amount determined to be eligible and provide a copy to the Department of Revenue. The credit certification and the amount of such certification shall be considered preliminary and shall be subject in all respects to audit by the Louisiana Department of Revenue.

D. In order for credits to be awarded, a taxpayer must claim the expenditures within one year after December 31 of the year in which the expenditure was incurred. For example, company A buys a piece of equipment that would qualify for the research and development tax credit on May 15, 2011. In order for company A to receive a credit on that expenditure, the application for credit on that expense must be received by December 31, 2012.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6015.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:977 (May 2004), amended by the Office of Business Development, LR 36:1768 (August 2010), amended by Office of the Secretary, LR 38:351 (February 2012).

### §2911. Recapture of Credits

A. An application for credit certification shall constitute:

1. a consent by the taxpayer that credits granted under this Section, but later disallowed in whole or in part, may be recovered by the secretary of the Department of Revenue from the taxpayer applicant through any collection remedy authorized by the provisions of R.S. 47:6015(G); and

2. a consent by the taxpayer that the Department of Revenue may disclose to LED, any tax information of the taxpayer related to the earning of, or use of research and development tax credits by the taxpayer or any other information required by LED for the effective administration of this program, provided that such tax information, shall remain confidential in the possession of LED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6015.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:978 (May 2004), amended by Office of the Secretary, LR 38:352 (February 2012).

Kristy G. McKearn  
UnderSecretary

1202#033

## RULE

### Board of Elementary and Secondary Education

Bulletin 129—The Recovery School District  
(LAC 28:CXLV.501, 503, and 505)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 129—The Recovery School District*: §501. Transfer to the Recovery School District, §503. Conditional Supervisory Memorandum of Understanding, and §505. Return of Schools to LEA. Chapter 5 outlines the process and procedures relating to the transfer of schools that are academically unacceptable or are determined to be academically in crisis to the recovery school district and the criteria and policy for a school to transfer out of the recovery school district. The recovery school district was created in 2003 by legislative act. The policy aligns the Recovery School District with BESE Bulletin 111, *The Louisiana School District and State Accountability System*.

**Title 28**  
**EDUCATION**

**Part CXLV. Bulletin 129—The Recovery School District**  
**Chapter 5. Failed Schools**

**§501. Transfer to the Recovery School District**

A. A public school may be transferred to the jurisdiction of the RSD if it is determined, as defined by R.S. 17:10.6, to be either academically unacceptable or if it is determined to be academically in crisis. BESE has established a uniform statewide program for school accountability in BESE *Bulletin 111—The Louisiana School District and State Accountability System*.

1. Academically Unacceptable. A public school determined to be academically unacceptable shall be designated as a failed school and may be transferred to the RSD subject to approval by BESE. The state superintendent will make a recommendation to BESE regarding the transfer of an academically unacceptable school to the RSD.

a. BESE may approve the transfer of an academically unacceptable school if the failed school meets one or more of the following criteria:

- i. the LEA fails to submit a reconstitution plan to BESE for approval; or
- ii. BESE finds the LEA's reconstitution plan unacceptable; or
- iii. the LEA fails to comply with the reconstitution plan approved by BESE; or
- iv. the school is labeled an academically unacceptable school for four consecutive years.

b. When the state superintendent makes a recommendation to BESE to transfer an academically unacceptable school to the jurisdiction of the RSD, he will propose performance objectives for the failed school designed to bring the failed school to an acceptable level of performance such that the school earns the ability to transfer out of the RSD according to *Bulletin 111—The Louisiana School District and State Accountability System*. (LAC 28:LXXXIII.2403. Transfer of Schools out of the Recovery School District).

c. The state superintendent, in conjunction with the RSD, shall evaluate any public school deemed to be academically unacceptable to determine the best method to bring the school to an acceptable level of performance as determined by the statewide accountability plan. The state superintendent shall recommend to BESE any of the following methods for operating a school that has been deemed eligible for transferred to the RSD:

- i. the failed school may be operated:
  - (a). as a direct-run RSD school;
  - (b). as a charter school,
  - (c). as a university partnership; or
  - (d). through a management agreement with a management education management organization;
- ii. the RSD may enter into a Supervisory Memorandum of Understanding (MOU) with the LEA under the provisions enumerated in Section 503, "Conditional Transfer Using a Supervisory Memorandum of Understanding," below.

d. BESE shall make the final decision for the transfer of an academically unacceptable public school to the RSD and shall make the final decision on the appropriate

method of operating the school as enumerated in Section A.1.c, above.

2. Academically in Crisis. A local school system in which more than 30 schools are academically unacceptable or more than 50 percent of its students attend schools that are academically unacceptable is academically in crisis. Pursuant to R.S. 17:10.7, a public school participating in a Spring cycle of student testing that had a baseline School Performance Score (SPS) below the state average as defined in BESE *Bulletin 111—The School, District, and State Accountability System*, §301, was within an LEA labeled *academically in crisis* as defined in R.S. 17:10.6; and was within an LEA with at least one school eligible for transfer to the RSD under R.S. 17:10.5, was designated as a failing school and was transferred to the RSD by operation of law.

a. The state superintendent, in conjunction with the RSD, evaluated the schools transferred to the RSD pursuant to R.S. 17:10.7 to determine the best method of operation to bring the school to an acceptable level of performance. The state superintendent shall recommend to BESE a method of operating the schools transferred to the RSD. BESE shall make the final decision on the operation method of any school transferred to the RSD by operation of law.

b. Acceptable methods of operation for the failed schools include operating as:

- i. a direct-run RSD school;
- ii. a charter-operated school;
- iii. a university partnership school; or
- iv. an education management organization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5.A.(1), R.S. 17:10.7.A.(1), R.S. 17:1990.A.(2), R.S. 17:10.5.B, R.S. 17:10.6, and R.S. 17:10.7.B.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:878 (March 2011), amended LR 38:353 (February 2012).

**§503. Conditional Supervisory Memorandum of Understanding**

A. As an alternative to a transfer of a failing school to the RSD under the provisions of R.S. 17:10.5, BESE may authorize a conditional transfer requiring the LEA to enter a legally-binding memorandum of understanding (MOU) between the RSD and the LEA. The MOU will define the performance objectives for the LEA to implement to bring the failing school to acceptable levels of performance and outline any other conditions the LEA must meet or provide to support the school's turnaround.

B. Under the terms of the MOU, the LEA will continue to operate the failed school under the supervision of the RSD. In the event the LEA is unable to comply with the terms of the MOU, and/or the LEA fails to implement procedures and conditions that bring the school to acceptable levels of performance, then the failing school will be transferred to the RSD, pursuant to the terms of the MOU.

C. At the end of the contract period, LEAs shall be released from the MOU if the school achieves a school performance score (SPS) greater than the current academically unacceptable school (AUS) bar or, if the board has adopted an increase to the AUS bar, that higher threshold. However, if desired by the successful LEA and approved by the state superintendent of education, an MOU may be extended in order to continue supports and services to the LEA.

D. At the end of the contract period, LEAs that do not achieve the required SPS score shall be immediately transferred to the RSD, unless the State Superintendent elects to extend the MOU.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5.A.(1), R.S. 17:10.5.B, R.S. 17:10.7.A.(1), and R.S. 17:1990.A.(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:878 (March 2011), amended LR 38:353 (February 2012).

**§505. Return of Schools to LEA**

A. Schools transferred to the jurisdiction of RSD shall remain with the RSD for a period of not less than five years.

B. Transfer of schools from the jurisdiction of the RSD shall occur in accordance with *Bulletin 111—The Louisiana School District and State Accountability System*. (LAC 28:LXXXIII.2403. Transfer of Schools out of the Recovery School District).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A) (10), R.S. 17:10.5.A.(1), R.S. 17:10.7.A.(1), R.S. 17:1990.A.(2), R.S. 17:10.5.C, and R.S. 17:10.7.C.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:878 (March 2011), amended LR 38:354 (February 2012).

Catherine R. Pozniak  
Executive Director

1202#025

**RULE**

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

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

The Louisiana Student Financial Assistance Commission (LASFAC) has amended its Scholarship/Grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, and R.S. 17:3048.1). (SG11133R)

**Title 28  
EDUCATION**

**Part IV. Student Financial Assistance—Higher  
Education Scholarship and Grant Programs**

**Chapter 14. Early Start Program**

**§1401. General Provisions**

A. - D. ...

E. Award Amount

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

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

3. The award amount shall not be paid on behalf of students enrolled in nonpublic high schools or in home school; however, beginning with the 2008-2009 academic year (college), the program allows participating eligible Louisiana postsecondary institutions to enroll eligible

eleventh and twelfth grade Louisiana nonpublic high school and home school students at the same rate as the award amount that funding is provided for public high school students at these institutions.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2609 (December 2007), amended LR 34:240 (February 2008), LR 35:231 (February 2009), LR 38:354 (February 2012).

George Badge Eldredge  
General Counsel

1202#002

**RULE**

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

Scholarship/Grant Programs—Establishing Eligibility  
(LAC 28:IV.703)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended its Scholarship/Grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, R.S. 17:3048.1, R.S. 17:3048.5 and R.S. 17:3048.6). (SG12134R)

**Title 28  
EDUCATION**

**Part IV. Student Financial Assistance—Higher  
Education Scholarship and Grant Programs**

**Chapter 7. Taylor Opportunity Program for Students  
(TOPS) Opportunity, Performance, and  
Honors Awards**

**§703. Establishing Eligibility**

A. - A.5.a.i.(e). ...

\* \* \*

(f). beginning with the graduates of academic year (high school) 2013-14, at the time of high school graduation, an applicant must have successfully completed 19 units of high school course work that constitutes a core curriculum and is documented on the student's official transcript as approved by the Louisiana Department of Education as follows.

Units	Course
1	English I
1	English II
1	English III
1	English IV
1	Algebra I (1 unit) or Applied Algebra 1A and 1B (2 units)
1	Algebra II
2	Geometry, Calculus, Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III, Advanced Math – Pre-Calculus, Advanced Math – Functions and Statistics, Integrated Mathematics III
1	Biology
1	Chemistry
2	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology or Agriscience I and II (both for 1 unit)
1	American History
2	World History, Western Civilization, World Geography or History of Religion
1	Civics and Free Enterprise (1 unit combined) or Civics (1 unit)



Units	Course
1	Fine Arts Survey; (or substitute one unit of a performance course in music, dance, or theater; or substitute one unit of a visual art course; or substitute one unit of a studio art course)
2	Foreign Language, both units in the same language

A.5.a. ii.(a). - J.4.b.ii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 36:312 (February 2010), LR 36:490 (March 2010), LR 36:2269 (October 2010), LR 36:2855 (December 2010), LR 38:354 (February 2012).

George Badge Eldredge  
General Counsel

1202#003

## RULE

### Department of Health and Hospitals Board of Dentistry

Dentistry Requirements  
(LAC 46:XXXIII.124, 306, 403,  
409, 415, 1611, 1709, and 1711)

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 amends LAC 46:XXXIII.124, 306, 403, 409, 415, 1611, 1709, and 1711. No preamble has been prepared.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XXXIII. Dental Health Profession

#### Chapter 1. General Provisions

#### §124. Guidelines for Returning to Active Practice

A. - C. ...

D. When a licensee has been inactive for a period of three months to one year, it is the prerogative of the board to have the licensee evaluated in any specific or all fields of dentistry or dental hygiene as deemed necessary by the board.

E. - J. ...

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 25:511 (March 1999), amended LR 28:1776 (August 2002), LR 28:2512 (December 2002), LR 38:355 (February 2012).

### Chapter 3. Dentists

#### §306. Requirements of Applicants for Licensure by Credentials

A. - A.19. ...

B. The applicant must also:

1. ...
2. sign a release authorizing the peer review chairman to provide such information to the board;
3. show that his professional liability insurance has never been revoked, modified, or nonrenewed; and
4. provide satisfactory documentation that the initial licensing examination passed by the applicant included the use of live patients and that the overall examination was at least equivalent to the licensing examination of the Louisiana State Board of Dentistry.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:739 (July 1992), amended LR 21:571 (June 1995), LR 22:23 (January 1996), LR 23:1528 (November 1997), LR 24:1114 (June 1998), LR 25:513 (March 1999), LR 26:692 (April 2000), LR 26:1612 (August 2000), repromulgated LR 27:1893 (November 2001), amended LR 28:1777 (August 2002), LR 30:2305 (October 2004), LR 31:927 (April 2005), LR 32:243 (February 2006), LR 33:846 (May 2007), LR 33:2652 (December 2007), LR 34:2564 (December 2008), repromulgated LR 35:67 (January 2009), amended LR 37:1405 (May 2011), LR 38:355 (February 2012).

### Chapter 4. Fees and Costs

#### Subchapter A. General Provisions

#### §403. Form of Payment Required

A. With the exception of nonrestricted dental and dental hygiene license and permit renewal fees, payments to the board of fees or costs shall be made in U.S. funds in the form of a check, a certified check, a cashier's check or a money order.

B. Nonrestricted dentists and all dental hygienists shall pay license and permit renewal fees to the board in U.S. funds in the form of a check, a certified check, a cashier's check, a money order, or a credit card.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:791 (November 1988), amended LR 38:355 (February 2012).

#### §409. Term of License; Renewal

A. All nonrestricted licenses shall be renewed biennially and will expire on December 31 of each calendar year of the renewal period. License renewal notifications are to be mailed by the board to licensed dentists and dental hygienists at their last known mailing address as indicated in the board files.

B. All restricted dental licenses shall expire annually on June 30. Restricted license renewal notifications are to be sent to the dentists' employing dental school or facility.

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 14:791 (November 1988), amended LR 23:1529 (November 1997), LR 38:355 (February 2012).

### **Subchapter C. Fees for Dentists**

#### **§415. Licenses, Permits, and Examinations (Dentists)**

A. For processing applications for licensure, permits, and examinations, the following non-refundable fees shall be payable in advance to the board.

1. - 23. ...

24. Application and permitting for mobile or movable dental office \$250

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18:741 (July 1992), LR 23:1526 (November 1997), LR 24:1115 (June 1998), LR 25:1478 (August 1999), LR 26:691 (April 2000), LR 28:1778 (August 2002), LR 32:243 (February 2006), LR 33:846 (May 2007), LR 34:2564 (December 2008), repromulgated LR 35:68 (January 2009), amended LR 37:2150 (July 2011), LR 38:356 (February 2012).

### **Chapter 16. Continuing Education Requirements**

#### **§1611. Continuing Education Requirements for**

##### **Relicensure of Dentists**

A. - K. ...

L. Louisiana licensed dentists shall be eligible for three hours of clinical continuing education for treating a donated dental service patient (pro bono) from a Louisiana State Board of Dentistry approved agency. The maximum number of hours will be no more than six in any two year biennial renewal period, and verification of treatment from the agency is mandatory in order to obtain these continuing education credits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:661 (June 1994), amended LR 21:569 (June 1995), LR 22:24 (January 1996), LR 22:1216 (December 1996), LR 23:1526 (November 1997), LR 24:1117 (June 1998), LR 25:510 (March 1999), LR 26:489 (March 2000), LR 30:2307 (October 2004), LR 32:244 (February 2006), LR 35:1237 (July 2009), LR 36:2038 (September 2010), LR 37:2151 (July 2011), LR 38:356 (February 2012).

### **Chapter 17. Licensure Examinations**

#### **§1709. Examination of Dentists**

A. - C. ...

1. Effective January 1, 2012 the clinical licensing examinations administered by Central Regional Dental Testing Service (CRDTS), Northeast Regional Board (NERB), Southern Regional Testing Agency (SRTA), American Dental Exam (ADEX), and Western Regional Examining Board (WREB), will not be accepted by the Louisiana State Board of Dentistry for initial licensure. However, applicants who have taken those examinations prior to the examination cycle of calendar year 2011 shall have three years from the date of their successful completion of those examinations to apply for a license via examination in the state of Louisiana. After the three year deadline it will necessary for those applicants to apply for licensure by credentials in the state of Louisiana.

D. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998), amended LR 28:2513 (December 2002), LR 33:2654 (December 2007), LR 37:1407 (May 2011), LR 37:2151 (July 2011), LR 38:356 (February 2012).

#### **§1711. Examination of Dental Hygienists**

A. - C.5. ...

6. Effective January 1, 2012 the clinical licensing examinations administered by Central Regional Dental Testing Service (CRDTS), Northeast Regional Board (NERB), Southern Regional Testing Agency (SRTA), American Dental Exam (ADEX), and Western Regional Examining Board (WREB), will not be accepted by the Louisiana State Board of Dentistry for initial licensure. However, applicants who have taken those examinations prior to the examination cycle of calendar year 2011 shall have three years from the date of their successful completion of those examinations to apply for a license via examination in the state of Louisiana. After the three year deadline it will necessary for those applicants to apply for licensure by credentials in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998), amended LR 28:1779 (August 2002), LR 33:2654 (December 2007), LR 37:1407 (May 2011), LR 37:2151 (July 2011), LR 38:356 (February 2012).

C. Barry Ogden  
Executive Director

1202#019

### **RULE**

#### **Department of Health and Hospitals Board of Veterinary Medicine**

Alternative Therapy and Collaborative Treatment, Preceptorship Program, and Certified Animal Euthanasia Technician (LAC 46:LXXXV.712, 1103, 1105, 1200, 1201, 1209, and 1211)

The Louisiana Board of Veterinary Medicine amends and adopts LAC 46:LXXXV.712, 1103, 1105, 1200, 1201, 1209, and 1211 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). The rules are amended and adopted to provide alternative therapy and collaborative treatment on animals by a qualified layperson and the parameters within which services may be provided under the direct supervision of the veterinarian; amend the week in training for preceptorship program to more closely follow actual hours of veterinary medical practice hours, and outline parameters for repeal of week(s) in training for non-compliant weeks(s) in training; repeal the temporary certification for the certified animal euthanasia technician due to the annual certification training program which is now being provided at dedicated, periodic intervals during the year at various sites throughout the state; and clarify pre-euthanasia restraint of animals.

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL**  
**STANDARDS**

**Part LXXXV. Veterinarians**

**Chapter 7. Veterinary Practice**

**§712. Alternative Therapy and Collaborative**

**Treatment**

A. Alternative therapy and/or collaborative treatment may be performed by a layperson (a person not licensed, registered, or certified by the board) only with an order or prescription from a Louisiana licensed, supervising veterinarian who has first established the veterinarian-client-patient relationship, and can be performed only under such supervising veterinarian's direct supervision and with the written informed consent of the owner of the animal (client) or his duly authorized agent. The layperson must possess a license, registration, or certification issued by another Louisiana regulatory authority, or he must possess verification of an educational level acceptable by the board, in the subject matter of the alternative therapy and/or collaborative treatment at issue.

B. Direct supervision as used in this Section means the supervising veterinarian must be on the premises where the alternative therapy and/or collaborative treatment are being performed and is directly responsible for the on-going evaluation and/or diagnosis. A lay person (a person not licensed, registered, or certified by the board) cannot perform surgery, on-going evaluation and/or diagnosis, prognosis, or prescribe treatment, medicines, or appliances as set forth in §702.A.2.

C. The supervising veterinarian will be held accountable for the proper diagnosis and treatment of the animal, including the work delegated to the layperson, as well as compliance with proper documentation in the patient's medical record as set forth in §701, including the written informed consent for the alternative therapy and/or collaborative treatment obtained from the client or his duly authorized agent. The supervising veterinarian will also be held accountable for the maintenance of the confidential relationship with the client and patient.

D. Alternative therapy as used in this Section includes, but is not limited to, ultrasonography, magnetic field therapy, holistic medicine, homeopathy, animal chiropractic treatment, animal acupuncture, animal physical therapy, animal massage therapy, and laser therapy.

E. Collaborative treatment as used in this Section includes, but is not limited to, ophthalmology, cardiology, neurology, radiology, and oncology.

F. Written informed consent as used in this Section means the supervising veterinarian has informed the client or his duly authorized agent, in a manner that would be understood by a reasonable person, of the diagnostic and treatment options, risk assessment, and prognosis, and the client or his duly authorized agent has consented in writing to the recommended alternative therapy and/or collaborative treatment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 23:970 (August 1997), amended LR 38:357 (February 2012).

**Chapter 11. Preceptorship Program**

**§1103. Definitions**

\* \* \*

*Week in Training*—a week in training shall consist of a minimum of 40 hours earned during a maximum of six calendar days. A calendar day shall not exceed twelve hours in duration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:232 (March 1990), amended LR 19:208 (February 1993), LR 23:968 (August 1997), LR 24:1293 (July 1998), LR 27:543 (April 2001), LR 28:1208 (June 2002), LR 38:357 (February 2012).

**§1105. Applicants**

A. - F. ....

G. The failure to comply with the time and duration requirements for any week(s) in training shall result in the preceptee having to successfully repeat the non-compliant week(s) in training at the same approved preceptorship site, or a successive board approved site, conditioned on submitting a revised preceptorship agreement to the board at least two weeks prior to the commencement of the makeup week(s) in training at issue. An applicant for a license to practice veterinary medicine must successfully complete the preceptorship requirement, or be granted a waiver pursuant to §1105.E, prior to being issued a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:232 (March 1990), amended LR 23:1686 (December 1997), LR 24:942 (May 1998), LR 27:543 (April 2001), LR 38:357 (February 2012).

**Chapter 12. Certified Animal Euthanasia Technician**

**§1200. Definitions**

A. ...

\* \* \*

*Temporary Certification*—Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 26:317 (February 2000), LR 38:357 (February 2012).

**§1201. Applications for Certificates of Approval**

A. - B. ...

C. The board shall reject the application of an applicant who has practiced veterinary medicine, veterinary technology, or euthanasia technology with sodium pentobarbital in this state without a certificate of approval during the two year period immediately prior to application

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 23:963 (August 1997), LR 26:317 (February 2000), LR 29:1479 (August 2003), LR 38:357 (February 2012).

**§1209. Pre-Euthanasia Restraint**

A. Euthanasia by intracardiac injection on cats and dogs shall be prohibited unless the animal is unconscious or rendered completely unconscious and insensitive to pain through the injection of an anesthetic. Such prohibition is

applicable to animal control shelters and their animals located on site as well as their animals which may be transported to a veterinary clinic for euthanasia. Temporary transfer of ownership of the animal to the veterinarian by the animal control shelter for euthanasia by cardiac injection is a violation of the law. The performance of euthanasia by intracardiac injection in violation of this section by a CAET and/or veterinarian is sanctionable.

B. A CAET (lead status or otherwise) shall not use any drug for purposes of sedation, or any form of anesthesia, since sedation is beyond the permissible scope of euthanasia practice for this certificate holder. However, Acepromazine, Rompun (xylazine), or Domitor (medetomidine) which are non-controlled drugs, may be legally used by CAETs for pre-euthanasia restraint of feral/fractious animals. If an animal control shelter's animal must be sedated/anesthetized pursuant to Subsection A above, then a LA licensed veterinarian must perform this service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 38:357 (February 2012).

**§1211. Fees**

A. The board hereby adopts and establishes the following fees for the CAET program:

Application Fee	\$25
Course Fee	\$80
Annual Renewal of Certificate	\$50
Examination Fee	\$50
Late Renewal Fee	\$25
Original Fee-Full Certification	\$50

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1425 (November 1993), amended LR 26:318 (February 2000), LR 38:358 (February 2012).

Wendy D. Parrish  
Executive Director

1202#084

**RULE**

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

Adult Behavioral Health Services  
(LAC 50:XXXIII.Chapters 61-67)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:XXXIII.Chapters 61-67 in the Medical Assistance Program, and upon implementation of this comprehensive system of delivery for behavioral health services, the bureau hereby repeals LAC 50:XV.Chapters 1-13 governing mental health rehabilitation services and LAC 50:XI.Chapter 17 governing mental health clinics 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 7. Adult Mental Health Services**

**Chapter 61. General Provisions**

**§6101. Introduction**

A. The Medicaid Program hereby adopts provisions to provide coverage under the Medicaid State Plan for behavioral health services rendered to adults with behavioral health disorders. These services shall be administered under the authority of the Department of Health and Hospitals, Office of Behavioral Health in collaboration with a statewide management organization (SMO) which shall be responsible for the necessary operational and administrative functions to ensure adequate service coordination and delivery.

B. The behavioral health services rendered to adults shall be necessary to reduce the disability resulting from behavioral health 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).

**§6103. Recipient Qualifications**

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

B. Qualifying individuals who meet one of the following criteria shall be eligible to receive adult behavioral health services.

1. Person with Acute Stabilization Needs

a. The person 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-IV-TR) or the International Classification of Diseases, Tenth Revision, Clinical Modification (ICD-10-CM), or subsequent revisions of these documents.

b. The person is experiencing at least "moderate" levels of risk to self or others as evidenced by at least a score of 3 and no more than a score of 4 on the Level-of-Care Utilization System (LOCUS) Risk of Harm subscale and/or serious or severe levels of functional impairment as evidenced by at least a score of 4 on the LOCUS Functional Status subscale. This rating is made based on current manifestation and not past history.

2. Person with Major Mental Disorder (MMD)

a. The person has at least one diagnosable mental disorder which is commonly associated with higher levels of impairment. These diagnoses may include:

- i. psychotic disorders;
- ii. bipolar disorders; or
- iii. depression.

b. The person experiences at least moderate levels of need as indicated by at least a composite LOCUS total score of 14 to 16, indicative of a low intensity community-based services level-of-care.

c. A person with a primary diagnosis of a substance abuse disorder without an additional co-occurring Axis I

disorder shall not meet the criteria for a major mental disorder diagnosis.

3. Persons with Serious Mental Illness (SMI)

a. The person currently has, or at any time during the past year, had a diagnosable Axis I mental disorder of sufficient duration to meet the diagnostic criteria specified within the DSM-IV-TR or the ICD-10-CM, or subsequent revisions of these documents.

b. The person is experiencing moderate levels of need as indicated by at least a composite LOCUS total score of 17 to 19, indicative of at least a high intensity community-based services level-of-care.

c. A person with a primary diagnosis of a substance abuse disorder without an additional co-occurring Axis I disorder shall not meet the criteria for a SMI diagnosis.

4. An adult who has previously met the criteria stated in §6103.B.1-3 and needs subsequent medically necessary services for stabilization and maintenance.

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).

**Chapter 63. Services**

**§6301. General Provisions**

A. All behavioral health services must be medically necessary. 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. All services shall be prior authorized. Services which exceed the initial authorization must be approved for re-authorization prior to service delivery.

C. There shall be recipient involvement throughout the planning and delivery of services. Services shall be appropriate for:

1. age;
2. development;
3. education; and
4. culture.

D. Anyone providing behavioral health services must be certified by the department in addition to operating within their scope of practice license.

E. Evidence-based practices require prior approval and fidelity reviews on an ongoing basis as determined necessary by department.

F. Services may be provided at a site-based facility, in the community, or in the individual's place of residence as outlined in the plan of care.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:359 (February 2012).

**§6303. Assessments**

A. Each recipient shall undergo an independent assessment prior to receiving behavioral health services. The individual performing the assessment, eligibility, and plan of care shall not be a provider of services in the plan of care.

B. All assessments shall be based upon department designated assessment criteria and in accordance with the provisions of this Rule, the provider manual and other notices or directives issued by the department.

C. The assessments shall be conducted by a case manager who is a physician or licensed mental health practitioner (LMHP) (in consultation with a psychiatrist who must complete portions of the assessment) who is trained to administer the evaluation and operating within their scope of license, and who is annually recertified.

D. The evaluation and re-evaluation must be finalized through the SMO using the universal needs assessment criteria and qualified SMO personnel.

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).

**§6305. Plan of Care**

A. Each individual who receives adult behavioral health services shall have a plan of care (POC) developed based upon the independent assessment.

B. The individualized plan of care 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 12 months 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. The case manager shall be a physician or an LMHP.

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).

**§6307. Covered Services**

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

1. therapeutic services, including diagnosis and treatment;
2. rehabilitation services, including community psychiatric support and treatment (CPST) and psychosocial rehabilitation; and
3. crisis intervention services.

B. Service Limitations

1. Psychosocial rehabilitation is limited to 750 hours of group services per calendar year. Hours in excess of 750 may be authorized when deemed medically necessary.

2. Emergent crisis intervention services are limited to six hours per episode. Ongoing crisis intervention services are limited to 66 hours per episode.

C. Service Exclusions. The following services 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;
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 substance abuse services; and

4. services rendered in an institute for mental disease.  
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 38:3590 (February 2012).

#### **Chapter 65. Provider Participation**

##### **§6501. Provider Responsibilities**

A. Each provider of behavioral health services shall enter into a contract with the statewide management organization 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.

C. 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.

D. Anyone providing behavioral health services must be certified by the department in addition to operating within their scope of practice license. To be certified or recertified, providers shall meet the provisions of this Rule, the provider manual and the appropriate statutes. The provider shall create and maintain documents to substantiate that all requirements are met.

E. 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.

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).

#### **Chapter 67. Reimbursement**

##### **§6701. Reimbursement Methodology**

A. The department, or its fiscal intermediary, shall make monthly capitation payments to the SMO. Payments shall be developed and based upon the fee-for-service reimbursement methodology currently established for the covered services.

B. The capitation rates paid to the SMO shall be actuarially sound rates and the SMO will determine the rates paid to its contracted providers.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:360 (February 2012).

Bruce D. Greenstein  
Secretary

1202#059

## **RULE**

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

Behavioral Health Services  
Statewide Management Organization  
(LAC 50:XXXIII.Chapters 1-9)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:XXXIII.Chapters 1-9 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 1. Statewide Management Organization**

#### **Chapter 1. General Provisions**

##### **§101. Introduction**

A. The Medicaid Program hereby adopts provisions to establish a comprehensive system of delivery for behavioral health services as part of the Louisiana Behavioral Health Partnership initiative. These services shall be administered under the authority of the Department of Health and Hospitals, Office of Behavioral Health, in collaboration with a Statewide Management Organization (SMO) which shall be responsible for the necessary operational and administrative functions to ensure adequate service coordination and delivery.

B. The provisions of this Rule shall apply only to the behavioral health services provided to Medicaid recipients/enrollees by or through the SMO.

C. A statewide management organization shall operate as a prepaid inpatient healthcare plan (PIHP/SMO) procured through a competitive request for proposal (RFP) process. The PIHP/SMO shall assist with the state's system reform goals to support individuals with behavioral health needs in families, homes, communities, schools, and jobs.

D. Through the utilization of a SMO, it is the department's goal to:

1. increase access to a broad array of evidence-based home and community-based services that promote hope, recovery and resilience;
2. improve quality by establishing and measuring outcomes;
3. manage costs through effective utilization of State, federal, and local resources; and
4. foster reliance on natural supports that sustain individuals and families in homes and communities.

E. The PIHP/SMO shall be paid on a non-risk basis for children's services, for individuals with retroactive eligibility, and for individuals in the Spend-Down Medically Needy Program. The PIHP/SMO shall be paid on a risk basis for adult 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 38:360 (February 2012).

### **§103. Recipient Participation**

A. The following Medicaid recipients shall be mandatory participants in the coordinated behavioral health system of care:

1. Section 1931 Children and Related Populations. These are children eligible under §1931 of the Social Security Act, poverty-level related groups and optional groups of older children;

2. Section 1931 Adults and Related Populations. These are adults eligible under §1931 of the Social Security Act, poverty-level pregnant women and optional groups of caretaker relatives;

3. adults who are blind or have a disability and related populations, age 18 and over;

4. children who are blind or have a disability and related populations, under age 18;

5. aged and related populations, age 65 and older who are not blind, do not have a disability, and are not members of the §1931 Adult Population;

6. children who receive foster care or adoption assistance (Title IV-E), or who are in foster care or who are otherwise in an out-of-home placement; and

7. Title XXI SCHIP (LaCHIP, LaCHIP Phase 2 and LaCHIP Phase 3) populations.

B. Mandatory participants shall be automatically enrolled and disenrollment from the PIHP/SMO is not permitted.

C. Notwithstanding the provisions of Subsection A of this Section, the following Medicaid recipients are excluded from enrollment in the PIHP/SMO:

1. recipients who receive both Medicare and Medicaid benefits;

2. recipients enrolled in the Medicare Beneficiary Programs (QMB, SLMB, QDWI and QI-1);

3. adults who reside in an intermediate care facility for persons with developmental disabilities (ICF/DD);

4. recipients of Refugee Cash Assistance;

5. recipients enrolled in the Regular Medically Needy Program;

6 recipients enrolled in the Tuberculosis Infected Individual Program;

7. recipients who receive emergency services only coverage;

8. recipients eligible through the LaCHIP Affordable Care Plan Program (Phase 5);

9. recipients who receive services through the Program of All-Inclusive Care for the Elderly (PACE);

10. recipients enrolled in the Low Income Subsidy Program;

11. participants in the TAKE CHARGE Family Planning Waiver; and

12. recipients enrolled in the LaMOMS Program.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:361 (February 2012).

### **§105. Enrollment Process**

A. The PIHP/SMO shall abide by all enrollment and disenrollment policies and procedures as outlined in the contract entered into by department and the SMO.

B. The PIHP/SMO shall ensure that mechanisms are implemented to assess each Medicaid enrollee identified as having special health care needs in order to identify any ongoing conditions that require a course of treatment or regular care monitoring. The assessment mechanism shall incorporate appropriate health care professionals.

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 38:361(February 2012).

### **§107. Enrollee Rights and Responsibilities**

A. The PIHP/SMO enrollee's rights shall include, but are not limited to the right to:

1. participate in treatment decisions, including the right to:

a. refuse treatment;

b. seek second opinions; and

d. receive assistance with care coordination from the primary care providers (PCP's) office;

2. express a concern about their provider or the care rendered via a grievance process;

3. appeal a PIHP/SMO decision through the PIHP/SMO's internal process and/or the state fair hearing process;

4. receive a response about a grievance or appeal decision within a reasonable period of time;

5. receive a copy of his/her medical records;

6. be furnished health care services in accordance with federal regulations, including those governing access standards;

7. choose a participating network health care professional in accordance with federal and state regulations; and

8. be allowed to receive a specialized service outside of the network if a qualified provider is not available through the network.

B. The Medicaid recipient/enrollee's responsibilities shall include, but are not limited to:

1. informing the PIHP/SMO of the loss or theft of their Medicaid identification card;

2. presenting their identification card when accessing behavioral health services;

3. being familiar with the PIHP/SMO procedures to the best of his/her abilities;

4. contacting the PIHP/SMO, by telephone or in writing (formal letter or electronically, including email), to obtain information and have questions clarified;

5. providing participating network providers, or any other authorized provider, with accurate and complete medical information;

6. following the prescribed treatment of care recommended by the provider or letting the provider know the reasons the treatment cannot be followed, as soon as possible;

7. making every effort to keep any agreed upon appointments and follow-up appointments and contacting the provider in advance if unable to do so; and

8. accessing services only from specified providers contracted with the PIHP/SMO.

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 38:361 (February 2012).

### **Chapter 3. Statewide Management Organization Participation**

#### **§301. Participation Requirements and Responsibilities**

A. In order to participate in the Medicaid Program, a statewide management organization shall execute a contract with the department, and shall comply with all of the terms and conditions set forth in the contract.

B. A PIHP/SMO shall:

1. manage behavioral health services for adults with substance abuse disorders as well as adults with functional behavioral health needs;

2. manage mental health and substance abuse care for all eligible children and youth in need of behavioral health care on a non-risk basis;

3. on a non-risk basis, implement a coordinated system of care for a subset of children and youth who are in, or at risk of, out-of-home placement;

a. This system will be phased in over the term of the contract;

4. establish credentialing and re-credentialing policies consistent with federal and state regulations;

5. ensure that provider selection policies and procedures do not discriminate against particular providers that serve high-risk populations or specialize in conditions that require costly treatment;

6. maintain a written contract with subcontractors that specifies the activities and reporting responsibilities delegated to the subcontractor and such contract shall also provide for the PIHP/SMO's right to revoke said delegation, terminate the contract, or impose other sanctions if the subcontractor's performance is inadequate;

7. contract only with providers of behavioral health services who are licensed and/or certified and meet the state of Louisiana credentialing criteria;

8. ensure that contracted rehabilitation providers are employed by a rehabilitation agency, school or clinic licensed and/or certified, and authorized under state law to provide these services;

9. sub-contract with a sufficient number of providers to render necessary services to Medicaid recipients/enrollees;

10. require each provider to implement mechanisms to assess each Medicaid enrollee identified as having special health care needs in order to identify special conditions of the enrollee that require a course of treatment or regular care monitoring;

11. ensure that treatment plans meet the following requirements:

a. are developed by the enrollee's primary care provider (PCP) with the enrollee's participation and in consultation with any specialists' providing care to the

enrollee with the exception of treatment plans developed for recipients in the Home and Community Based Services (HCBS) Waiver. The wraparound agency shall develop treatment plans for recipients who receive behavioral health services through the HCBS Waiver;

b. are approved by the PIHP/SMO in a timely manner, if required;

c. are in accordance with any applicable state quality assurance and utilization review standards; and

d. allow for direct access to any specialist for the enrollee's condition and identified needs, in accordance with the contract; and

12. ensure that Medicaid recipients/enrollees receive information:

a. in accordance with federal regulations and as described in the contract and departmental guidelines;

b. on available treatment options and alternatives in a manner appropriate to the enrollee's condition and ability to understand;

c. about available experimental treatments and clinical trials along with information on how such research can be accessed even though the Medicaid Program will not pay for the experimental treatment.

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 38:362 (February 2012).

#### **§303. Benefits and Services**

A. The PIHP/SMO shall ensure that behavioral health benefits and services be furnished to Medicaid recipients/enrollees in an amount, duration and scope that are at least equivalent to those furnished to enrollees under the Louisiana Medicaid State Plan. The benefits and services shall be provided to Medicaid recipients/enrollees as provided under the terms of the contract and department-issued guidelines.

B. The PIHP/SMO:

1. shall ensure that medically necessary behavioral health services are sufficient in amount, duration, or scope to reasonably be expected to achieve the purpose for which the services are being furnished;

2. may not arbitrarily deny or reduce the amount, duration, or scope of a required service because of diagnosis, type of illness, or condition of the member;

3. may place appropriate limits on a service:

a. on the basis of medical necessity; and

b. for the purpose of utilization control, provided the services furnished can reasonably be expected to achieve their purpose;

4. shall provide benefits and services as outlined and defined in the contract and shall provide medically necessary and appropriate care to Medicaid PIHP/SMO enrollees; and

C. The benefits and services provided to enrollees shall include, but are not limited to, those services specified in the contract between the PIHP/SMO and the department.

1. Policy transmittals, State Plan amendments, Rules and regulations, provider bulletins, provider manuals and fee schedules issued by the department are the final authority regarding 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 38:362 (February 2012).

**§305. Service Delivery**

A. The PIHP/SMO shall ensure that behavioral health services rendered to enrollees are medically necessary, are authorized or coordinated by the PIHP/SMO, and are provided by mental health professionals according to their scope of practice and licensing in the state of Louisiana.

B. Access to emergency services and family-oriented services shall be assured within the network.

C. The PIHP/SMO shall be required to contract with at least one federally qualified health center (FQHC) in each medical practice region of the state (according to the practice patterns within the state) if there is an FQHC which can provide substance abuse or specialty mental health services under state law and to the extent that the FQHC meets the required provider qualifications.

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 38:363 (February 2012).

**Chapter 5. Reimbursement**

**§501. Reimbursement Methodology**

A. The department, or its fiscal intermediary, shall make actuarially sound monthly capitation payments to the PIHP/SMO on the basis of prepaid capitation payments or other payment arrangements that do not use fee-for-service payment rates.

B. The PIHP/SMO is paid on a risk basis for adult behavioral health services and is paid on a non-risk basis for all children’s behavioral health services and any services to individuals with retroactive eligibility in the month the enrollee meets Medically Needy Spend-Down requirements.

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 38:363 (February 2012).

**Chapter 7. Grievance and Appeals Process**

**§701. General Provisions**

A. The PIHP/SMO shall be required to have an internal grievance system and internal appeal process which allows a Medicaid recipient/enrollee to challenge a decision made, a denial of coverage, or a denial of payment for services.

B. An enrollee, or a provider on behalf of an enrollee, must file an appeal within 30 calendar days from the date on the notice of action.

C. An enrollee must file a grievance within 180 calendar days of the occurrence or incident which is the basis for the grievance.

D. An enrollee must exhaust the PIHP/SMO grievance and appeal process before requesting a state fair hearing.

E. The PIHP/SMO shall provide Medicaid enrollees with information about the state fair hearing process within the timeframes established by the department and in accordance with the state fair hearing policies.

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 38:363 (February 2012).

**Chapter 9. Monitoring Activities**

**§901. General Provisions**

A. The contracted PIHP/SMO shall be accredited by the National Committee for Quality Assurance (NCQA) or the Utilization Review Accreditation Commission (URAC) or agrees to submit application for accreditation at the earliest possible date as allowed by NCQA or URAC. Once accreditation is achieved, it shall be maintained through the life of this agreement.

B. The PIHP/SMO shall be required to track grievances and appeals. Grievance and appeal data shall be included in quarterly QI reporting and are reviewed at least annually by the department or its designee.

C. The PIHP/SMO shall report demographic data, outcomes measures, utilization and special needs population (target population) data to the department through the required OBH database.

D. The PIHP/SMO shall submit documentation to the department to substantiate that it offers an appropriate range of services that is adequate for the anticipated number of enrollees and maintains a network of providers that is sufficient in number, mix and geographic distribution to meet the needs of enrollees.

E. The PIHP/SMO shall conduct Performance Improvement Projects (PIPs) that are designed to achieve, through on-going measurements and intervention, significant improvement, sustained over time, in clinical care and non-clinical care areas that are expected to have a favorable effect on health outcomes and enrollee satisfaction.

F. The PIHP/SMO shall annually report the number and types of Title XIX practitioners (by service type not facility or license type) relative to the number and types of Medicaid providers at the start date of the contract.

G. The PIHP/SMO shall be required to conduct statistically valid sample reviews.

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 38:363 (February 2012).

Bruce D. Greenstein  
Secretary

1202#060

**RULE**

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

Children’s Behavioral Health Services  
(LAC 50:XXXIII.Chapters 21-27)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted adopted LAC 50:XXXIII.Chapters 21-27 in the Medical Assistance Program, and upon implementation of this comprehensive system of delivery for behavioral health services, the bureau hereby repeals LAC 50:XV.Chapters 251-259 governing multi-systemic therapy services 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 3. Children's Mental Health Services

#### Chapter 21. General Provisions

##### §2101. Introduction

A. The Medicaid Program hereby adopts provisions to provide coverage under the Medicaid State Plan for mental 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, Office of Behavioral Health in collaboration with a statewide management organization (SMO) which shall be responsible for the necessary operational and administrative functions to ensure adequate service coordination and delivery.

B. The behavioral health services rendered to children with emotional or behavioral disorders are those services necessary to reduce the disability resulting from the 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 38:364 (February 2012).

##### §2103. Recipient Qualifications

A. Individuals under the age of 21 with an identified mental health diagnosis, who meet Medicaid eligibility and clinical criteria, shall qualify to receive home and community-based behavioral health 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 38:364 (February 2012).

#### Chapter 23. Services

##### §2301. General Provisions

A. All behavioral health services must be medically necessary. The medical necessity for services shall be determined by a licensed mental health practitioner (LMHP) or physician who is acting within the scope of his/her professional license and applicable state law.

B. All services shall be prior authorized. Services which exceed the initial authorization must be approved for re-authorization prior to service delivery.

C. Services provided to children and youth must include communication and coordination with the family and/or legal guardian and custodial agency for children in state custody. Coordination with other child-serving systems should occur as needed to achieve the treatment goals. All coordination must be documented in the child's medical record.

1. The agency or individual who has the decision making authority for a child or adolescent in state custody must request and approve the provision of services to the recipient.

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. Services shall be appropriate for:

1. age;
2. development;

3. education; and
4. culture.

E. Evidence-based practices require prior approval and fidelity reviews on an ongoing basis as determined necessary by the department.

F. Services may be provided at a site-based facility, in the community or in the individual's place of residence as outlined in the plan of care.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:364 (February 2012).

##### §2303. Covered Services

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

1. therapeutic services, including diagnosis and treatment;
2. rehabilitation services, including community psychiatric support and treatment (CPST) and psychosocial rehabilitation; and
3. crisis intervention services.

##### B. Service Limitations

1. Psychosocial rehabilitation is limited to 750 hours of group services per calendar year. Hours in excess of 750 may be authorized when deemed medically necessary.

2. Emergent crisis intervention services are limited to six hours per episode. Ongoing crisis intervention services are limited to 66 hours per episode.

C. Service Exclusions. The following services 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;
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 substance abuse services; and
4. services rendered in an institute for mental disease.

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 38:364 (February 2012).

#### Chapter 25. Provider Participation

##### §2501. Provider Responsibilities

A. Each provider of behavioral health services shall enter into a contract with the statewide management organization 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.

C. 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.

D. Anyone providing behavioral health services must be certified by the department in addition to operating within their scope of practice license. To be certified or recertified, providers shall meet the provisions of this Rule, the provider manual and the appropriate statutes. The provider shall create and maintain documents to substantiate that all requirements are met.

E. 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.

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 38:364 (February 2012).

## **Chapter 27. Reimbursement**

### **§2701. Reimbursement Methodology**

A. Reimbursement for services shall be based upon the established Medicaid fee schedule for behavioral health 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 38:365 (February 2012).

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

Bruce D. Greenstein  
Secretary

1202#061

## **RULE**

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

Early and Periodic Screening, Diagnosis and Treatment  
Psychological and Behavioral Services and  
School Based Mental Health Services  
(LAC 50:XV.Chapter 77, 9101, 9113, 9121, and 9133)

Upon the implementation of the comprehensive system of delivery for behavioral health services, the Department of Health and Hospitals, Bureau of Health Services Financing has repealed LAC 50:XV.Chapter 77 and has amended LAC 50:XV.9101, 9113, §9121, and §9133 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 XV. Services for Special Populations**

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

#### **Chapter 77. Psychological and Behavioral Services**

#### **§7701. Recipient Criteria**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:40 (January 2003), repromulgated LR 29:180 (February 2003), amended LR 33:651 (April 2007), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:365 (February 2012).

#### **§7703. Covered Services**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:40 (January 2003), repromulgated LR 29:180 (February 2003), amended LR 33:651 (April 2007), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:365 (February 2012).

#### **§7705. Provider Qualifications**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:40 (January 2003), repromulgated LR 29:180 (February 2003), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:365 (February 2012).

#### **§7707. 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, Office of the Secretary, Bureau of Health Services Financing, LR 29:40 (January 2003), repromulgated LR 29:180 (February 2003), amended LR 33:652 (April 2007), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:365 (February 2012).

#### **Chapter 91. School Based Health Centers**

#### **Subchapter A. General Provisions**

#### **§9101. Purpose**

A. ...

B. School Based Health Centers (SBHCs) provide convenient access to preventive and primary health care services for students who might otherwise have limited or no access to health care, and meet the physical health needs of adolescents at their school sites.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:31.3 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 34:1419 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:365 (February 2012).

## Subchapter B. Provider Participation

### §9113. Standards for Participation

A. - A.3. ...

B. The SBHC shall provide comprehensive primary medical and social services, as well as health education, promotion and prevention services to meet the physical health needs of students enrolled in the SBHC in the context of their family, culture and environment.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:31.3 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 34:1419 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:366 (February 2012).

## Subchapter C. Services

### §9121. Scope of Services

A. The Medicaid Program provides reimbursement for medically necessary preventive health care services provided by school based health centers.

1. - 2. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:31.3 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 34:1420 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:366 (February 2012).

## Subchapter D. Staffing Requirements

### §9133. Staffing Qualifications for Mental Health Services

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 34:1420 (July 2008), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:366 (February 2012).

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

Bruce D. Greenstein  
Secretary

1202#062

## RULE

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

Home and Community-Based Behavioral  
Health Services Waiver

(LAC 50:XI.Chapter 17; XV.Chapters 1-13;  
XXXIII.8101, 8103, 8301, 8303, 8305, 8501, and 8701)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:XXXIII.Chapters 81-87 in the Medical Assistance Program, and upon implementation of this comprehensive system of delivery for behavioral health services, the bureau

hereby repeals LAC 50:XV.Chapters 1-13 governing mental health rehabilitation services and LAC 50:XI.Chapter 17 governing mental health clinics 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 9. Home and Community-Based Services Waiver

### Chapter 81. General Provisions

#### §8101. Introduction

A. The Medicaid Program hereby adopts provisions to provide coverage under the Medicaid State Plan for behavioral health services rendered to children with mental illness and severe emotional disturbances (SED) by establishing a home and community-based services (HCBS) waiver. This HCBS waiver shall be administered under the authority of the Department of Health and Hospitals, Office of Behavioral Health in collaboration with a statewide management organization (SMO) which shall be responsible for the necessary operational and administrative functions to ensure adequate service coordination and delivery.

B. The behavioral health services provided to children in the HCBS waiver are those services necessary to reduce the disability resulting from the illness and to restore the individual to his/her best possible functioning level in the community.

C. The HCBS waiver is designed as a nursing facility and hospitalization diversion program. The goal of this waiver is to divert nursing facility and psychiatric hospitalization placement through the provision of intensive home and community-based supportive services.

D. Local wraparound agencies will be the locus of treatment planning for the provision of all services. Wraparound agencies are the care management agencies for the day-to-day operations of the waiver in the parishes they serve. The wraparound agencies shall enter into a contract with the PIHP/SMO and are responsible for the treatment planning for the HCBS waiver in their areas, in accordance with 42 CFR 438.208(c).

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 38:366 (February 2012).

#### §8103. Recipient Qualifications

A. The target population for the Home and Community-Based Behavioral Health Services Waiver Program shall be Medicaid recipients who:

1. are from 0 through the age of 21 years old;
2. have an Axis I mental health diagnosis;
3. are identified as seriously emotionally disturbed (SED);
4. require hospital or nursing facility level of care, as determined by the department's designated assessment tools and criteria; and
5. meet financial eligibility criteria.

B. The need for waiver services is re-evaluated at a minimum of every 180 days, and at any time the family feels that it is appropriate, as needs change, and/or as goals are completed. The re-evaluation determines if the recipient

continues to be in need of psychiatric hospitalization or nursing facility level of care.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:366 (February).

## **Chapter 83. Services**

### **§8301. General Provisions**

A. All behavioral health services must be medically necessary. The medical necessity for services shall be determined by a licensed mental health practitioner (LMHP) or physician who is acting within the scope of his/her professional license and applicable state law.

B. All services shall be prior authorized. Services which exceed the initial authorization must be approved for re-authorization prior to service delivery.

C. Services provided to children and youth must include communication and coordination with the family and/or legal guardian and custodial agency for children in state custody. Coordination with other child-serving systems should occur as needed to achieve the treatment goals. All coordination must be documented in the child's medical record.

1. The agency or individual who has the decision making authority for a child or adolescent in state custody must request and approve the provision of services to the recipient.

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. Services shall be appropriate for:

1. age;
2. development;
3. education; and
4. culture.

E. Evidence-based practices require prior approval and fidelity reviews on an ongoing basis as determined necessary by the department.

F. Services may be provided at a site-based facility, in the community or in the individual's place of residence as outlined in the plan of care.

G. Services may be provided by a member of the participant's family, provided that the participant does not live in the family member's residence and the family member is not the legally responsible relative.

1. The following family members may provide the services:

- a. the parents of an adult recipient;
- b. siblings;
- c. grandparents;
- d. aunts;
- e. uncles; and
- f. cousins.

2. The family member must become an employee of the provider agency or contract with the PIHP/SMO and must meet the same standards as direct support staff that are not related to 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, Bureau of Health Services Financing, LR 38:367 (February 2012).

### **§8303. Service Plan Development**

A. Each individual that receives home and community-based behavioral health services shall have a plan of care (POC) developed within 30 days of intake.

B. If new to the PIHP/SMO provider system, the recipient will be receiving services based upon the POC while the wraparound process is being completed.

C. The POC is reviewed every 90 days with the recipient and parents or caregivers of the recipient. The wraparound facilitator works directly with the recipient, the family (or the recipient's authorized health care decision maker) and others to develop the POC. A crisis plan must be included in each recipient's POC.

D. The wraparound agency will facilitate development and implementation of a transition for each recipient beginning at the age of 15 years old, as he/she approaches adulthood.

E. Entities and/or individuals that have responsibility for service plan development may not provide other direct waiver services 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, Bureau of Health Services Financing, LR 38:367 (February 2012).

### **§8305. Covered Services**

A. The following behavioral health services shall be provided in the HCBS waiver program:

1. case management;
2. medical, psychiatric and psychosocial evaluations and assessments;
3. short-term respite care;
4. independent living/skills building;
5. youth support and training;
6. parent support and training; and
7. crisis stabilization.

#### **B. Service Limitations**

1. Short term respite care shall be pre-approved for the duration of 72 hours per episode with a maximum of 300 hours allowed per calendar year. Hours in excess of 300 may be authorized when deemed medically necessary.

2. Youth support and training services may not be provided by local education agencies and are limited to 750 hours per calendar year. Hours in excess of 750 may be authorized when deemed medically necessary.

3. Crisis stabilization services shall be pre-approved for the duration of seven days per episode for up to 30 days per calendar year. This limit may be exceeded when deemed medically necessary.

C. Service Exclusions. The following services 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;

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 substance abuse services;

4. the cost of room and board associated with short-term respite care services; and

5. services rendered in an institution for mental disease.

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 38:367 (February 2012).

#### **Chapter 85. Provider Participation**

##### **§8501. Provider Responsibilities**

A. Each provider of home and community-based behavioral health waiver services shall enter into a contract with the statewide management organization 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.

C. Providers of waiver 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 behavioral health services must be certified by the department in addition to operating within their scope of practice license. To be certified or recertified, providers shall meet the provisions of this Rule, the provider manual and the appropriate statutes. The provider shall create and maintain documents to substantiate that all requirements are met.

E. 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.

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 38:368 (February 2012).

#### **Chapter 87. Reimbursement**

##### **§8701. Reimbursement Methodology**

A. Reimbursement for home and community-based behavioral health waiver services shall be based upon the established Medicaid fee schedule for the services rendered.

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 38:368 (February 2012).

Bruce D. Greenstein  
Secretary

1202#063

## **RULE**

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

#### **Pharmacy Benefits Management Program Prescription Time Limits (LAC 50:XXIX.117)**

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XXIX.117 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 XXIX. Pharmacy**

##### **Chapter 1. General Provisions**

##### **§117. Time Limits**

A. Filling Prescriptions. Prescriptions for drugs other than a controlled substance shall expire one year after the date prescribed by a physician or other service practitioner covered under the Medicaid Program and shall be refilled not more than 11 times in one year. A prescription for a controlled dangerous substance listed in Schedule II, III, IV, or V shall expire six months after the date written and shall be refilled not more than five times in six months. Expired prescriptions shall not be refillable or renewable. Payment shall be made for prescriptions refilled for controlled substances in Schedule III, IV and V not more than five times or more than six months after issue date and only to the extent indicated by the prescriber on the original prescription, and is restricted by state and federal statutes.

B. Transferring Prescriptions. Transfer of a prescription from one pharmacy to another is allowed if less than one year has passed since the date prescribed and in accordance with the Louisiana Board of Pharmacy requirements. Transfer of a prescription for a controlled substance in schedule III, IV and V from one pharmacy to another is allowed if less than six months has passed since the date prescribed, and transfer of a prescription for a controlled substance in Schedule II is not allowed. Transfers of prescriptions shall be allowed in accordance with the Louisiana Board of Pharmacy regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1056 (June 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:368 (February 2012).

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

Bruce D. Greenstein  
Secretary

1202#064

## RULE

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

Psychiatric Residential Treatment Facilities  
(LAC 50:XXXIII.Chapters 101-107)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:XXXIII.Chapters 101-107 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 11. Psychiatric Residential Treatment Facility Services

#### Chapter 101. General Provisions

##### §10101. Introduction

A. The Medicaid Program hereby adopts provisions to provide coverage under the Medicaid State Plan for behavioral health services rendered to children and youth in an inpatient psychiatric residential treatment facility (PRTF). These services shall be administered under the authority of the Department of Health and Hospitals, Office of Behavioral Health in collaboration with a statewide management organization (SMO) which shall be responsible for the necessary operational and administrative functions to ensure adequate service coordination and delivery.

B. The behavioral health services rendered to children with emotional or behavioral disorders are those services necessary to reduce the disability resulting from the 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 38:369 (February 2012).

##### §10103. Recipient Qualifications

A. Individuals under the age of 21 with an identified mental health or substance abuse diagnosis, who meet Medicaid eligibility and clinical criteria, shall qualify to receive inpatient psychiatric residential treatment facility 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 38:369 (February 2012).

#### Chapter 103. Services

##### §10301. General Provisions

A. All behavioral health services must be medically necessary. The medical necessity for services shall be determined by a licensed mental health practitioner (LMHP) or physician who is acting within the scope of his/her professional license and applicable state law.

B. All services shall be prior authorized. Services which exceed the initial authorization must be approved for re-authorization prior to service delivery.

C. Services provided to children and youth must include communication and coordination with the family and/or legal guardian and custodial agency for children in state custody. Coordination with other child-serving systems should occur as needed to achieve the treatment goals. All coordination must be documented in the child's medical record.

1. The agency or individual who has the decision making authority for a child or adolescent in state custody must request and approve the provision of services to the recipient.

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. Services shall be appropriate for:

1. age;
2. development;
3. education; and
4. culture.

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 38:369 (February 2012).

##### §10303. Covered Services

A. The Medicaid Program may reimburse a psychiatric residential treatment facility for the following services:

1. physician (psychiatric) services;
2. pharmacy services;
3. diagnostic and radiology services;
4. laboratory services;
5. dental services;
6. vision services;
7. occupational therapy;
8. physical therapy;
9. speech-language therapy; and
10. transportation services.

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

1. services on the inpatient psychiatric active treatment plan that are not related to the provision of inpatient psychiatric care;
2. group education, including elementary and secondary education;
3. medical services provided outside of the PRTF; and
4. activities not on the inpatient psychiatric active 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 38:369 (February 2012).

#### Chapter 105. Provider Participation

##### §10501. Provider Responsibilities

A. Each provider of PRTF services shall enter into a contract with the statewide management organization in order to receive reimbursement for Medicaid covered services.

B. All services shall be delivered in accordance with federal and state laws and regulations, licensing regulations, the provisions of this Rule, the provider manual, and other notices or directives issued by the department.

C. Providers of PRTF 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 PRTF services must be certified by the department in addition to operating within their scope of practice license. To be certified or recertified, providers shall meet the provisions of this Rule, the provider manual and the appropriate statutes. The provider shall create and maintain documents to substantiate that all requirements are met.

E. PRTF facilities shall be accredited by an approved accrediting body and maintain such accreditation. Denial, loss of or any negative change in accreditation status must be reported to the SMO in writing within the time limit established 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 38:369 (February 2012).

## **Chapter 107. Reimbursement**

### **§10701. Reimbursement Methodology**

A. Covered inpatient, physician-directed PRTF services rendered to children and youth shall be reimbursed according to the following criteria.

1. Free-Standing PRTF Facilities. A free-standing PRTF facility shall be reimbursed using an interim Medicaid per diem rate for covered services. The per diem rate shall include reimbursement for the following services when provided by, and in, the facility when included on the active treatment plan:

- a. occupational therapy;
- b. physical therapy;
- c. speech therapy;
- d. laboratory services; and
- e. transportation services.

2. A free-standing PRTF shall arrange through contract(s) with outside (non-facility) providers to furnish dental, vision, and diagnostic/radiology treatment activities as listed on the treatment plan. If the activity is provided in the facility, the treating provider will be directly reimbursed. Reimbursement shall be based on the established Medicaid fee schedule for the covered service, excluded from the interim per diem rates for the facility.

3. Hospital-Based PRTF Facilities. A hospital-based PRTF facility shall be reimbursed a per diem rate for covered services. The per diem rate shall also include reimbursement for the following services when provided by, and in, the facility when included on the active treatment plan:

- a. dental services;
- b. vision services;
- c. diagnostic testing; and
- d. radiology services.

4. Pharmacy and physician services shall be reimbursed when provided by, and in, the PRTF and these services are included on the recipient's active treatment plan of care and are components of the Medicaid covered PRTF services. Payment shall be based on the established Medicaid pharmacy and physician fee schedule rates and made directly to the treating pharmacy or physician. These payments shall be excluded from the PRTF interim per diem rates for the facility.

B. All in-state Medicaid participating PRTF providers are required to file an annual Medicaid cost report according

to the department's specifications and departmental guides and manuals. The cost report fiscal year must correspond to the state fiscal year.

C. Services provided outside of the facility and/or not on the active plan of care shall not be reimbursed.

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 38:370 (February 2012).

### **§10703. In-State Publicly Owned and Operated Psychiatric Residential Treatment Facilities**

A. In-state publicly owned and operated PRTFs shall be reimbursed for all reasonable and necessary costs of operation. These facilities shall receive the interim Medicaid per diem payment for services provided in, and by, the facility on the active treatment plan.

B. The interim payment to in-state publicly owned and operated PRTFs will be subject to retroactive cost settlement in accordance with Medicare allowable cost principles contained in the Centers for Medicare and Medicaid Service's Provider Reimbursement Manual Publication 15-1.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:370 (February 2012).

### **§10705. In-State Privately Owned and Operated Psychiatric Residential Treatment Facilities**

A. In-state privately owned and operated PRTFs shall be reimbursed for covered PRTF services using a per diem rate consistent with the provisions of §10703 above. The fee schedule rate paid to the provider will be determined by the following ownership and service criteria:

1. free-standing private owned and operated PRTFs specializing in sexually-based treatment programs;
2. free-standing privately owned and operated PRTF specializing in substance abuse treatment programs;
3. hospital-based privately owned or operated PRTF specializing in sexually-based treatment programs; and
4. hospital-based privately owned or operated PRTF specializing in substance use treatment programs.

B. Except as otherwise noted in these provisions, the Medicaid fee schedule is the same for governmental and private individual practitioners.

C. Risk Sharing. In-state privately owned and operated PRTF covered services provided during the time period from January 1, 2012 through June 30, 2013 shall also receive risk-sharing payments. These payments shall be made as part of a transitional plan to include these services within the Medicaid Program.

D. Beginning July 1, 2013, no risk-sharing payments will be paid and all covered PRTF services rendered by private facilities will be reimbursed using the established Medicaid fee schedule rates.

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 38:370 (February 2012).

### **§10707. Out-of-State Psychiatric Residential Treatment Facilities**

A. Out-of-state PRTFs shall be reimbursed in accordance with the Medicaid fee schedule rates by applicable provider



type. Any publically owned and operated PRTFs outside of Louisiana will not receive cost settlements, nor will they receive risk-sharing payments.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:370 (February 2012).

Bruce D. Greenstein  
Secretary

1202#065

## RULE

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

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

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 48:I.Chapter 90 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2009. 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

#### Chapter 90. Psychiatric Residential Treatment Facilities (under 21)

#### Subchapter A. General Provisions

#### §9001. Purpose

A. The purpose of this Chapter 90 is to provide for the development, establishment and enforcement of statewide standards for the care of residents in psychiatric residential treatment facilities (PRTFs) participating in the Medicaid Program, to ensure maintenance of these standards, and to regulate conditions in these facilities through a program of licensure which shall promote safe and adequate treatment of residents of PRTFs participating in the Medicaid Program.

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, 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).

#### §9003. Definitions

A. The following defines selected terminology used in connection with this Chapter 90.

\*\*\*

*Accreditation*—official notification given the provider of compliance to standards established by either:

a. the Joint Commission (TJC), formerly known as the Joint Commission on Accreditation of Healthcare Organizations (JCAHO);

b. the Commission on Accreditation of Rehabilitation Facilities (CARF); or

c. the Council on Accreditation for Children and Family Services (COA).

*Active Treatment*—implementation of a professionally developed and supervised individual plan of care that is developed no later than 14 days after admission and designed to achieve the recipient's discharge from inpatient status at the earliest possible time.

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

\*\*\*

*Chief Executive Officer (CEO) or Administrator*—  
Repealed.

\*\*\*

*DCFS*—the Department of Children and Family Services.

\*\*\*

*License*—the legal authority to operate as a PRTF in the state of Louisiana.

*Licensed Mental Health Professional (LMHP)*—an individual who meets one of the following education and experience requirements:

a. - b. ...

c. a medical psychologist licensed under the provisions of R.S. 28:2351-2370; or

d. a social worker who holds a master's degree in social work from an accredited school of social work and is a licensed clinical social worker under the provisions of R.S. 37:2701-2718, as amended; or

e. an advanced practice registered nurse licensed as a registered nurse in the state of Louisiana by the Board of Nursing who may practice to the extent that services are within the nurse's scope of practice; and

i. who is a nurse practitioner specialist in adult psychiatric and mental health and family psychiatric and mental health; or

ii. who is a certified nurse specialist in psychosocial, gerontological psychiatric mental health, adult psychiatric and mental health and child-adolescent mental health;

f. a licensed professional counselor who is licensed as such under the provision of R.S. 37:1101-1115 and has at least two years post master's supervised experience delivering services in the mental health-related field; or

g. a licensed marriage and family therapist who is licensed as such under the provisions of R.S. 37:1116-1121; or

h. a licensed addiction counselor who is licensed as such under the provisions of R.S. 37:3387.

\*\*\*

*LSUCCC*—the Department of Public Safety and Corrections, Louisiana State Uniform Construction Code Council.

\*\*\*

*Mental Health-Related Field*—academic training programs based on the principles, teachings, research and body of scientific knowledge of the *core mental health disciplines*. Programs which qualify include, but are not limited to sociology, criminal justice, nursing, marriage and family counseling, rehabilitation counseling, psychological

counseling and other professional counseling. For any other program to qualify as a related field, there must be substantial evidence that the academic program has a curriculum content in which at least 70 percent of the required courses for graduation are based on the knowledge base of the *core mental health disciplines*.

\* \* \*

*Mental Health Specialist (MHS)*—a person who delivers direct care services under the direct supervision of a LMHP or MHP and who meets one or more of the following four criteria as documented by the provider:

- a. is actively pursuing a Bachelor of Arts degree in a *mental health-related field*; or
- b. is actively pursuing a Bachelor of Science degree in a *mental health-related field*; or
- c. has a Bachelor's degree and is a student pursuing a graduate degree in a *mental health-related field* and has completed at least two courses in that identified field; or
- d. has a high school degree or a GED and has two years experience providing direct services in a mental health, physical health, social services, educational or correctional setting.

\* \* \*

*Neglect*—the unreasonable refusal or failure of a facility to supply a resident with necessary food, clothing, shelter, care, treatment, or counseling for injury, illness, or condition of the resident, as a result of which the resident's physical, mental or emotional health and safety is substantially threatened or impaired.

\* \* \*

*OCS*—the Department of Child and Family Services, Office of Community Services.

*OPH*—the Department of Health and Hospitals, Office of Public Health.

*OSFM*—the Department of Public Safety and Corrections, Office of State Fire Marshal.

\* \* \*

*Psychiatric Residential Treatment Facility (PRTF)*—a facility other than a hospital, that provides inpatient psychiatric services, as described in 42 CFR part 441 subpart D, to individuals under age 21, in a residential setting.

*Restraint*—a personal *restraint*, mechanical *restraint*, or drug used as a *restraint*.

\* \* \*

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).

## **Subchapter B. Licensing**

### **§9007. General Provisions**

A. All psychiatric residential treatment facilities shall be licensed by the department. A PRTF shall not be established, opened, operated, managed, maintained, or conducted in this state without a current valid license issued by the department. The department is the only licensing authority for PRTFs in the state of Louisiana. It shall be unlawful to operate a PRTF without possessing a current, valid license issued by the department. Each PRTF shall be separately licensed.

B. A PRTF license shall:

1. be issued only to the person or entity named in the license application;
  2. be valid only for the facility to which it is issued and only for the specific geographic address of that facility;
  3. be valid for up to one year from the date of issuance, unless revoked, suspended, modified, or terminated prior to that date, or unless a provisional license is issued;
  4. expire on the expiration date listed on the license, unless timely renewed by the PRTF facility;
  5. not be subject to sale, assignment, donation, or other transfer, whether voluntary or involuntary; and
  6. be posted in a conspicuous place on the licensed premises at all times.
- C. In order for the PRTF to be considered operational and retain licensed status, the facility shall meet the following conditions.

1. The PRTF shall always have at least two employees, one of whom is a licensed nurse, on duty at the facility location at all times.
2. There shall be staff employed and available to be assigned to provide care and services to each resident. Services rendered shall be consistent with the medical needs of each resident.

D. The licensed PRTF shall abide by and adhere to any state law, rules, policy, procedure, manual, or memoranda pertaining to such facilities.

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

F. No branches, satellite locations or offsite campuses shall be authorized for a PRTF.

G. No new PRTF, except one that has a Child Residential License by DCFS, shall accept residents until the PRTF has written approval and/or a license issued by HSS.

H. Plan Review. Construction documents (plans and specifications) are required to be submitted and approved by both the OSFM and the Department of Health and Hospitals as part of the licensing procedure and prior to obtaining a license.

#### 1. Submission Plans

##### a. Submittal Requirements

i. One set of the final construction documents shall be submitted to the OSFM for approval. The Fire Marshal's approval letter and final inspection shall be sent to the DHH.

ii. One set of the final construction documents shall be submitted to DHH along with the appropriate review fee and a "plan review application form" for approval.

b. Applicable Projects. Construction documents require approval for new construction and major alterations.

c. Design Criteria. The project shall be designed in accordance with the following criteria:

i. the latest OSFM adopted edition of the National Fire Protection Agency (NFPA) 101-Life Safety Code;

ii. the latest LSUCCC adopted edition of the *International Building Code*;

iii. the current licensing standards for psychiatric residential treatment facilities; and

iv. the latest OPH adopted edition of the *Louisiana State Plumbing Code*.

d. Construction Document Preparation.

Construction documents submitted to DHH shall be prepared only by a Louisiana licensed architect or licensed engineer as governed by the licensing laws of the state for the type of work to be performed. These documents shall be of an architectural or engineering nature and thoroughly illustrate the project that is accurately drawn, dimensioned, and contain noted plans, details, schedules and specifications. At a minimum the following shall be submitted:

- i. site plans;
- ii. floor plans. These shall include architectural, mechanical, plumbing, electrical, fire protection, and if required by code, sprinkler and fire alarm plans;
- iii. building elevations;
- iv. room finish, door and window schedules;
- v. details pertaining to the Americans with Disabilities Act (ADA) requirements; and
- vi. specifications for materials.

2. Waivers. The secretary of DHH may, within his/her sole discretion, grant waivers to building and construction guidelines which are not part of, or otherwise required under, the provisions of the state Sanitary Code. The facility must submit a waiver request in writing to HSS. The facility must demonstrate how patient safety and quality of care offered is not compromised by the waiver, and must demonstrate the undue hardship imposed on the facility if the waiver is not granted. The facility must demonstrate their ability to completely fulfill all other requirements of service. The department will make a written determination of the requests.

a. Waivers are not transferable in an ownership change and are subject to review or revocation upon any change in circumstances related the waiver.

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 38:372 (February 2012).

**§9009. Initial Licensing Application Process**

A. An initial application for licensing as a PRTF shall be obtained from the department. A completed initial license application packet for a PRTF shall be submitted to and approved by the department prior to an applicant providing PRTF services.

B. Currently licensed DCFS child residential facilities that are converting to PRTFs must comply with all of the initial licensure requirements, except plan review, and may be eligible for the exception to the bedroom space requirement of this Chapter.

C. An applicant must submit a completed initial licensing application packet to the department, which shall include:

1. a completed PRTF licensure application and the non-refundable licensing fee as established by statute;
2. a copy of the approval letter of the architectural facility plans for the PRTF from the department and from the OSFM, and any other office/entity designated by the department to review and approve the facility's architectural plans, if the facility must go through plan review;

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

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

5. a copy of statewide criminal background checks on all individual owners with a 5 percent or more ownership interest in the PRTF entity, and on all members of the PRTF's board of directors, if applicable, and administrators;

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

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

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

c. worker's compensation insurance;

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

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

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

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

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

F. Applicants must be in compliance with all appropriate federal, state, departmental or local statutes, laws, ordinances, rules, regulations and fees before the PRTF will be issued an initial license to operate.

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 38:373 (February 2012).

**§9011. Types of Licenses**

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

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

laws, ordinances, rules, regulations, and fees. The license for a PRTF shall be valid until the expiration date shown on the license, unless the license is revoked, suspended, modified, or terminated prior to that time. The initial license shall specify the capacity of the facility.

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

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

b. The facility must submit a plan of correction to the department for approval and the provider shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional initial license.

c. A follow-up survey shall be conducted prior to the expiration of the provisional initial license.

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

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

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

4. **Provisional Renewal License.** The department, in its sole discretion, may issue a provisional license to an existing licensed PRTF for a period not to exceed six months.

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

b. A provisional renewal license may be issued for the following reasons:

i. the existing PRTF has more than five deficient practices or deficiencies cited during any one survey;

ii. the existing licensed PRTF has more than three validated complaints in a one year period;

iii. the existing PRTF has been issued a deficiency that involved placing a resident or participant at risk for serious harm or death;

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

v. the existing PRTF is not in substantial compliance with all applicable federal, state, departmental,

and local statutes, laws, ordinances, Rules regulations and fees at the time of renewal of the license.

c. When the department issues a provisional renewal license to an existing licensed PRTF, the provider shall submit a plan of correction to the department for approval, and the provider shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license. The department shall conduct an on-site follow-up survey at the PRTF prior to the expiration of the provisional license.

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

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

**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 38:373 (February 2012).

### **§9013. Deemed Status**

A. A licensed PRTF may request deemed status from the department. The department may accept accreditation in lieu of a routine on-site licensing survey provided that:

1. the accreditation is obtained through an organization approved by the department;

2. all services provided under the PRTF license must be accredited; and

a. - b. Repealed.

3. the provider forwards the accrediting body's findings to the Health Standards Section within 30 days of its accreditation.

4. - 5. Repealed.

B. If approved, accreditation will be accepted as evidence of satisfactory compliance with all of the provisions of these requirements.

1. - 2. Repealed.

C. Occurrence of any of the following may be grounds for the department to perform a survey on an accredited PRTF provider with deemed status:

1. any valid complaint in the preceding 12-month period;

2. addition of services;

3. a change of ownership in the preceding 12-month period;

4. issuance of a provisional license in the preceding 12-month period;

5. serious violations of licensing standards or professional standards of practice that were identified in the preceding 12-month period that placed residents at risk for harm;

6. a report of inappropriate treatment or service resulting in death or serious injury; or

7. a change in geographic location.

D. A PRTF with deemed status is responsible for complying with all of the provisions of this Rule and is subject to all of the provisions of this Rule.

E. - N.2. 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 30:56 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:374 (February 2012).

#### **§9015. Licensing Surveys**

A. Prior to the initial license being issued to the PRTF, an initial licensing survey shall be conducted on-site at the facility to assure compliance with licensing standards. Except for facilities that have a Child Residential License issued by DCFS, every PRTF shall not provide services to any resident until the initial licensing survey has been performed and the facility found in compliance with the licensing standards. The initial licensing survey shall be an announced survey.

1. - 3. Repealed.

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

C. A follow-up survey may be conducted for any survey where deficiencies have been cited to ensure correction of the deficient practices. The department shall issue written notice to the provider of the results of the follow-up survey.

D. An acceptable plan of correction may be required for any survey where deficiencies have been cited.

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; and
3. license revocations.

F. Surveyors and staff on behalf of the department shall be:

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

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 30:56 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:375 (Friday 2012).

#### **§9017. Changes in Licensee Information or Personnel**

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

B. Any change regarding the PRTF's name, "doing business as" name, mailing address, phone number, or any combination thereof, shall be reported in writing to the department within five days of the change. Any change

regarding the PRTF name or "doing business as" name requires a change to the facility license and shall require a \$25 fee for the issuance of an amended license.

1. - 15. Repealed.

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

1. Key administrative personnel shall include the:

- a. administrator;
- b. clinical director; and
- c. program manager.

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

- a. name;
- b. hire date; and
- c. qualifications.

D. A change of ownership (CHOW) of the PRTF shall be reported in writing to the department at least five days prior to the change of ownership.

1. The license of a PRTF is not transferable or assignable. The license cannot be sold.

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

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

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

1. Repealed.

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

1. Written notice of intent to relocate must be submitted to HSS when the plan review request is submitted to the department for approval.

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

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 30:56 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:375 (February 2012).

#### **§9019. Cessation of Business**

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

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 resident;

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

3. provide for an orderly discharge and transition of all of the residents in the facility.

B. 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.

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).

### **§9021. Renewal of License**

A. To renew a license, a PRTF must submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the existing current license. The license renewal application packet shall include:

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

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

C. Failure to submit a completed license renewal application packet prior to the expiration of the current license shall result in the voluntary non-renewal of the PRTF license.

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

E. If an existing licensed PRTF has been issued a notice of license revocation, suspension, or termination, and the facility's license is due for annual renewal, the department shall deny the license renewal application and shall not issue a renewal 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 38:376 (February 2012).

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

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

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

B. Denial of an Initial License

1. The department shall deny an initial license when the initial licensing survey finds that the PRTF is noncompliant with any licensing laws or regulations or with any other required statutes, laws, ordinances, Rules or regulations and such noncompliance presents a potential

threat to the health, safety, or welfare of the residents who will be served by the facility.

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

C. Voluntary Non-Renewal of a License

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

2. If a provider fails to timely renew its license, the facility shall immediately cease providing services, unless the provider is actively treating residents, in which case the provider shall:

- a. immediately provide written notice to the department of the number of residents that are receiving treatment at the PRTF;
- b. immediately provide written notice to the prescribing physician and to every resident, parent, legal guardian, or legal representative of the following:
  - i. voluntary non-renewal of the facility's license;
  - ii. date of closure of the facility; and
  - iii. plans for orderly transition of the resident;
- c. discharge and transition of each resident within 15 days of voluntary non-renewal; and
- d. notify the department of the location where records will be stored and the contact person for the records.

3. If 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.

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. failure to be in substantial compliance with the PRTF licensing laws, rules and regulations, or with other required statutes, laws, ordinances, rules, or regulations;
2. failure to comply with the terms and provisions of a settlement agreement or education letter with or from the department, the Attorney General's Office, any regulatory agency, or any law enforcement agency;
3. failure to uphold a resident's rights whereby deficient practices result in harm, injury, or death of a resident;
4. negligence or failure to protect a resident from a harmful act of an employee or other resident including, but not limited to:
  - a. mental or physical abuse, neglect, exploitation, or extortion;
  - b. any action posing a threat to a resident's health and safety;
  - c. coercion;
  - d. threat or intimidation;
  - e. harassment; or
  - f. criminal activity;
5. failure to notify the proper authorities, as required by federal or state law, rules, or regulations, of all suspected cases of the acts outlined in §9023.D.4;
6. knowingly making a false statement in any of the following documentation, including but not limited to:

- a. application for initial license or renewal of license;
- b. data forms;
- c. records, including:
  - i. clinical;
  - ii. resident; or
  - iii. facility;
- d. matters under investigation by the department or the Office of Attorney General; or
- e. information submitted for reimbursement from any payment source;

7. knowingly making a false statement or providing false, forged, or altered information or documentation to department employees or to law enforcement agencies;

8. the use of false, fraudulent or misleading advertising;

9. fraudulent operation of a PRTF by the owner, administrator, manager, member, officer, or director;

10. an owner, officer, member, manager, administrator, director, or person designated to manage or supervise resident care has pled guilty or nolo contendere to a felony, or has been convicted of a felony, as documented by a certified copy of the record of the court:

a. For purposes of these provisions, conviction of a felony means a felony relating to any of the following:

- i. violence, abuse, or neglect of another person;
- ii. misappropriation of property belonging to another person;
- iii. cruelty, exploitation, or sexual battery of a juvenile or the infirmed;
- iv. a drug offense;
- v. crimes of a sexual nature;
- vi. possession or use of a firearm or deadly weapon; or
- vii. fraud or misappropriation of federal or state funds, including Medicare or Medicaid funds;

11. failure to comply with all of the reporting requirements in a timely manner as required by the department;

12. failure to allow or refusal to allow the department to conduct an investigation or survey, or to interview provider staff or the residents;

13. failure to allow or refusal to allow access to facility or resident records by authorized departmental personnel;

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;

15. cessation of business or non-operational status; or

16. failure to maintain accreditation or failure to obtain accreditation.

E. If a PRTF license is revoked or renewal is denied, (other than for cessation of business or non-operational status) 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. The denial of the license renewal application shall not affect in any manner the license revocation, suspension, or termination.

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).

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

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

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

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

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

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

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

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

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

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

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

1. The PRTF shall request the administrative appeal within 30 calendar days of the receipt of the notice of the results of the informal reconsideration of the license denial, license revocation, or license non-renewal.

a. The facility may forego its rights to an informal reconsideration, and if so, the facility shall request the administrative appeal within 30 calendar days of the receipt of the notice of the license denial, license revocation, or license non-renewal.

2. The request for administrative appeal must be in writing and shall be submitted to the DAL or its successor. The request shall include any documentation that demonstrates that the determination was made in error and must include the basis and specific reasons for the appeal.

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

a. If the secretary of the department determines that the violations of the facility pose an imminent or immediate threat to the health, welfare, or safety of a resident, the imposition of the license revocation or license non-renewal may be immediate and may be enforced during the pendency of the administrative appeal. The facility shall be notified of this determination in writing.

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

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

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 within 90 days of the docketing of the administrative appeal. One extension, not to exceed 90 days, may be granted by the division if good cause is shown.

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

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

F. There is no right to an informal reconsideration or an administrative appeal of the issuance of a provisional initial license to a new PRTF or a provisional license to an existing PRTF. The issuance of a provisional license is not considered to be a denial of license, a denial of license renewal, or a license revocation.

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

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

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

3. The facility shall submit a written request for informal reconsideration within five calendar days of receipt of the department's notice of the results of the follow-up survey.

a. The facility may forego its right to an informal reconsideration.

4. The facility shall submit a written request to the Division of Administrative Law for an administrative appeal

within 15 calendar days of receipt of the department's notice of the results of the informal reconsideration.

a. If the facility has opted to forego the informal reconsideration process, a written request for an administrative appeal shall be made within 15 calendar days of receipt of the department's notice of the results of the follow-up survey.

H. A facility with a provisional initial license or an existing provider with a provisional license that expires under the provisions of this Chapter shall cease providing services and discharge the residents unless the Division of Administrative Law issues a stay of the expiration.

1. A stay may be granted upon application by the provider at the time the administrative appeal is filed and only after a contradictory hearing and upon a showing that there is no potential harm to the residents being served by the facility.

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 within 90 days of the docketing of the administrative appeal. One extension, not to exceed 90 days, may be granted by the Division of Administrative Law if good cause is shown.

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

2. If the final DAL decision is to uphold the deficiencies and affirm the expiration of the provisional license, the facility shall discharge all residents receiving services. Within 10 calendar days of the final agency decision, the facility shall provide written notification to HSS of the secure and confidential location of where the resident's records will be stored.

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).

### **§9027. Complaint Surveys**

A. The department shall conduct complaint surveys in accordance with R.S. 40:2009.13, et seq. on any PRTF, including those with deemed status.

1. - 7. Repealed.

B. Complaint surveys shall be unannounced surveys.

C. An acceptable plan of correction may be required by the department for any complaint survey where deficiencies have been cited. If the department determines other action, such as license revocation is appropriate, a plan of correction may not be required and the facility will be notified of such action.

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

E. The department may issue appropriate sanctions, including but not limited to, civil fines, directed plans of



correction, and license revocations, for deficiencies and non-compliance with any complaint survey.

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

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

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

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

J. Except for the right to an administrative appeal provided in R.S. 40:2009.16(A), the informal reconsideration shall constitute final action by the department regarding the complaint survey or investigation, and there shall be no right to an administrative appeal.

1. To request an administrative appeal pursuant to R.S. 40:2009.16, the written request for the appeal shall be submitted to the Division of Administrative Law (DAL) and must be received within 30 calendar days of the receipt of the results of the informal reconsideration.

2. The administrative law judge shall not have the authority to overturn or delete deficiencies or violations and shall not have the authority to add deficiencies or violations.

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 30:59 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:378 (February 2012).

#### **§9029. Statement of Deficiencies**

A. The following statements of deficiencies issued by the Department to the PRTF shall be posted in a conspicuous place on the licensed premises:

1. the most recent annual survey statement of deficiencies; and
2. any complaint survey statement of deficiencies issued after the most recent annual survey.

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

1. - 6. Repealed.

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

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

2. The 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 days of the provider's receipt of the statement of deficiencies.

3. If a timely request for an informal reconsideration is received, the department shall schedule and conduct the informal reconsideration.

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

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

D. - E. 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 30:59 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:379 (February 2012).

#### **Subchapter C. Organization and Administration** **§9031. General Provisions [Formerly §9027]**

A. Purpose and Organizational Structure. The purpose of the PRTF shall be clearly defined in a statement filed with the Department. The statement includes the:

1. program philosophy;
2. program goals and objectives;
3. ages, sex and characteristics of residents accepted for care;
4. geographical area served;
5. types of services provided;
6. description of admission policies; and
7. needs, problems, situations or patterns best addressed by the provider's program.

B. House Rules. The provider shall have a clearly written list of rules governing conduct for residents in care and shall document that these rules are made available to each staff member, resident, and where appropriate, the resident's parent(s) or legal guardian(s).

C. - M.3.d.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 30:60 (January 2004), amended by the

**§9033. Governing Body [Formerly §9029]**

A. The PRTF must have either an effective governing body or individual(s) legally responsible for the conduct of the PRTF operations. No contracts/arrangements or other agreements may limit or diminish the responsibility of the governing body.

1. - 2. Repealed.

B. The governing body shall:

1. establish PRTF-wide policy;
2. adopt bylaws;
3. appoint an administrator;
4. designate qualified clinical director to assume responsibility for the psychiatric aspects of the program and to provide full-time coverage on an on-site or on-call basis;
5. maintain quality of care;
6. ensure the provider's continual compliance and conformity with all relevant federal, state, local and municipal laws and regulations;
7. meet with designated representatives of the department whenever required to do so;
8. inform the department or its designee prior to initiating any substantial changes in the services provided by the facility; and
9. provide an overall institutional plan and budget, and ensure the facility is adequately funded and fiscally sound.

C. The governing body and/or their designee(s) shall develop and approve policies and procedures which define and describe the scope of services offered. They shall be revised as necessary and reviewed at least annually.

D. There shall be an organizational chart that delineates lines of authority and responsibility for all PRTF personnel.

E. The PRTF shall, when required by law, have a representative present at all judicial, educational, or administrative hearings that address the status of a resident in the care of the provider.

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 30:63 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:380 (February 2012).

**§9035. Administrative Policies and Records [Formerly §9031]**

A. Every PRTF shall have policies that are clearly written and current. All policies shall be available for review by all staff and DHH personnel. All policies shall be available for review upon request by a resident or a resident's parent or legal guardian.

B. All policies shall be reviewed annually by the governing body.

C. The PRTF shall have policies governing:

1. admission and discharge;
2. personnel;
3. volunteers;
4. grievance procedures;
5. behavior management;
6. use of restraint and seclusion;
7. mandatory reporting of abuse;
8. administering medication;

9. confidentiality of records;
10. participation of residents in activities related to fundraising and publicity;
11. participation of residents in research projects;
12. the photographing and audio or audio-visual recording of residents; and
13. emergency procedures;
14. sentinel events and critical incidents; and
15. factors that determine room assignments, including, but not limited to, age and diagnoses.

D. Admission Policy

1. A PRTF shall have written admission policies and criteria which shall include the following:

- a. intake policy and procedures;
- b. admission criteria and procedures;
- c. policy regarding the determination of legal status, according to appropriate state laws, before admission;
- d. the age of the populations served;
- e. the services provided by the PRTF;
- f. criteria for discharge;
- g. only accepting residents for placement from the parent(s), legal guardian(s) custodial agency or a court of competent jurisdiction;
- h. not admitting more residents into care than the number specified on the provider's license; and
- i. ensuring that the resident, the resident's parent(s) or legal guardian(s) and others, as appropriate, are provided reasonable opportunity to participate in the admission process and decisions. Proper consents shall be obtained before admission.

2. Notification of Facility Policy Regarding the Use of Restraint and Seclusion. At admission, the facility must:

- a. inform both the incoming resident and, in the case of a minor, the resident's parent(s) or legal guardian(s) of the facility's policy regarding the use of restraint or seclusion during an emergency safety situation that may occur while the resident is in the program;
- b. communicate its restraint and seclusion policy in a language that the resident, or his or her parent(s) or legal guardian(s) understands (including American Sign Language, if appropriate) and when necessary, the facility must provide interpreters or translators;
- c. obtain an acknowledgment, in writing, from the resident, or in the case of a minor, from the parent(s) or legal guardian(s) that he or she has been informed of the facility's policy on the use of restraint or seclusion during an emergency safety situation. Staff must file this acknowledgment in the resident's record; and
- d. provide a copy of the facility policy to the resident and in the case of a minor, to the resident's parent(s) or legal guardian(s).

i. The facility's policy must provide contact information, including the phone number and mailing address, for the appropriate state protection and advocacy organization.

E. Behavior Management

1. The PRTF shall develop and maintain a written behavior management policy which includes:

- a. the goals and purposes of the behavior management program;
- b. the methods of behavior management;

- c. a list of staff authorized to administer the behavior management policy;
  - d. the methods of monitoring and documenting the use of the behavior management policy; and
  - e. minimizing the use of restraint and seclusion and using less restrictive alternatives whenever possible.
2. The facility policy shall prohibit:
- a. shaking, striking, spanking or other cruel treatment;
  - b. harsh, humiliating, cruel, abusive or degrading language;
  - c. denial of food or sleep;
  - d. work tasks that are degrading or unnecessary and inappropriate to the resident's age and ability;
  - e. denial of private familial and significant other contact, including visits, phone calls, and mail, as a means of punishment;
  - f. use of chemical agents, including tear gas, mace, or similar agents;
  - g. extreme physical exercise;
  - h. one resident punishing another resident;
  - i. group punishment;
  - j. violating a resident's rights; and
  - k. use of restraints or seclusion in non-emergency situations.
3. The PRTF must satisfy all of the requirements contained in federal and state laws and regulations regarding the use of restraint or seclusion, including application of time out.

#### F. Resident Abuse

1. The provider shall have comprehensive written procedures concerning resident abuse including:
- a. a description of ongoing communication strategies used by the provider to maintain staff awareness of abuse prevention, current definitions of abuse and neglect, and mandated reporting requirements to HSS and the DCFS, Child Welfare Division;
  - b. a procedure for disciplining staff members who abuse or neglect a resident;
  - c. procedures for insuring that the staff member involved in suspected resident abuse or neglect does not work directly with the resident involved or any other resident in the program until the investigation is complete.
2. Any case of suspected resident abuse or neglect shall be reported immediately to the HSS and, unless prohibited by state law, the DCFS, Child Welfare Division.
3. Staff must report any case of suspected resident abuse or neglect to both HSS and the DCFS, Child Welfare Division by no later than close of business the next business day after a case of suspected resident abuse or neglect. The report must include:
- a. the name of the resident involved in the suspected resident abuse or neglect;
  - b. a description of the suspected resident abuse or neglect;
  - c. the date and time the suspected abuse or neglect occurred;
  - d. the steps taken to investigate the abuse and/or neglect; and
  - e. the action taken as a result of the incident.
4. In the case of a minor, the facility must notify the resident's parent(s) or legal guardian(s) as soon as possible,

and in no case later than 24 hours after the suspected resident abuse or neglect.

5. Staff must document in the resident's record that the suspected resident abuse or neglect was reported to both HSS and the DCFS, Child Welfare Division, including the name of the person to whom the incident was reported. A copy of the report must be maintained in the resident's record.

G. The facility must report each serious occurrence to both HSS and, unless prohibited by state law, the DCFS, Child Welfare Division. Serious occurrences that must be reported include a resident's death, or a serious injury to a resident or a suicide attempt by a resident.

1. Staff must report any serious occurrence involving a resident to both HSS and the DCFS, Child Welfare Division by no later than close of business the next business day after a serious occurrence. The report must include the name of the resident involved in the serious occurrence, a description of the occurrence, and the name, street address, and telephone number of the facility. The facility must conduct an investigation of the serious occurrence to include interviews of all staff involved, findings of the investigation, and actions taken as a result of the investigation.

2. In the case of a minor, the facility must notify the resident's parent(s) or legal guardian(s) as soon as possible, and in no case later than 24 hours after the serious occurrence.

3. Staff must document in the resident's record that the serious occurrence was reported to both HSS and the DCFS, Child Welfare Division, including the name of the person to whom the incident was reported. A copy of the report must be maintained in the resident's record, as well as in the incident and accident report logs kept by the facility.

H. The PRTF shall have a written policy regarding participation of residents in activities related to fundraising and publicity. Consent of the resident and, where appropriate, the resident's parent(s) or legal guardian(s) shall be obtained prior to participation in such activities.

I. The PRTF shall have written policies and procedures regarding the photographing and audio or audio-visual recordings of residents.

1. The written consent of the resident and, where appropriate, the resident's parent(s) or legal guardian(s) shall be obtained before the resident is photographed or recorded for research or program publicity purposes.

2. All photographs and recordings shall be used in a manner that respects the dignity and confidentiality of the resident.

J. The PRTF shall have written policies regarding the participation of residents in research projects. No resident shall participate in any research project without the express written consent of the resident and the resident's parent(s) or legal guardian(s).

#### K. Administrative Records

1. The records and reports to be maintained at the facility and available for survey staff to review are:

- a. residents' clinical records;
- b. personnel records;
- c. criminal history investigation records;
- d. orientation and training hour records;
- e. menus of food served to residents;

f. fire drill reports acceptable to the OFSM as defined by the most current adopted edition of the *NFPA 101, Life Safety Code*;

g. schedules of planned recreational, leisure or physical exercise activities;

h. all leases, contracts and purchase-of-service agreements to which the provider is a party;

i. all written agreements with appropriately qualified professionals, or state agencies, for required professional services or resources not available from employees of the provider;

j. written policies and procedures governing all aspects of the provider's activities to include:

i. behavior management;

ii. emergency evacuation; and

iii. smoking policy.

L. Information obtained by the department from any applicant or licensee regarding residents, their parents, or other relatives is deemed confidential and privileged communication. The names of any complainants and information regarding a resident abuse report or investigation is kept confidential.

1. The PRTF shall ensure the confidentiality and security of resident records, including information in a computerized medical record system, in accordance with the HIPAA Privacy Regulations and any Louisiana state laws and regulations which provide a more stringent standard of confidentiality than the HIPAA Privacy Regulations. Information from, or copies of records may be released only to authorized individuals, and the PRTF must ensure that unauthorized individuals cannot gain access to or alter resident records. Original medical records shall not be released outside the PRTF unless under court order or subpoena or in order to safeguard the record in the event of a physical plant emergency or natural disaster.

a. The provider shall have written procedures for the maintenance and security of clinical records specifying who shall supervise the maintenance of records, who shall have custody of records, and to whom records may be released. Records shall be the property of the provider, and the provider as custodian shall secure records against loss, tampering or unauthorized use.

b. Employees of the PRTF shall not disclose or knowingly permit the disclosure of any information concerning the resident or his/her family, directly or indirectly, to any unauthorized person.

c. When the resident is of majority age and noninterdicted, the provider shall obtain the resident's written, informed permission prior to releasing any information from which the resident or his/her family might be identified, except for accreditation teams and authorized state and federal agencies.

d. When the resident is a minor or is interdicted, the provider shall obtain written, informed consent from the parent(s) or legal guardian(s) prior to releasing any information from which the resident or his/her family might be identified, except for accreditation teams, authorized state and federal agencies.

e. The provider shall, upon written authorization from the resident or his/her parent(s) or legal guardian(s), make available information in the case record to the resident, his counsel or the resident's parent(s) or legal guardian(s).

f. If, in the professional judgment of the clinical director, it is felt that information contained in the record is reasonably likely to endanger the life or physical safety of the resident, the provider may deny access to the record. In any such case the provider shall prepare written reasons for denial to the person requesting the record and shall maintain detailed written reasons supporting the denial in the resident's file.

g. The provider may use material from case records for teaching for research purposes, development of the governing body's understanding and knowledge of the facility's services, or similar educational purposes, provided names are deleted, other identifying information is disguised or deleted, and written authorization is obtained from the resident or his/her parent(s) or legal guardian(s).

2. PRTF records shall be retained by the PRTF in their original, microfilmed or similarly reproduced form for a minimum period of 10 years from the date a resident is discharged.

a. Graphic matter, images, x-ray films, nuclear medicine reports and like matter that were necessary to produce a diagnostic or therapeutic report shall be retained, preserved and properly stored by the PRTF in their original, microfilmed or similarly reproduced form for a minimum period of five years from the date a resident is discharged. Such graphic matter, images, x-ray film and like matter shall be retained for longer periods when requested in writing by any one of the following:

i. an attending or consulting physician of the resident;

ii. the resident or someone acting legally in his/her behalf; or

iii. legal counsel for a party having an interest affected by the resident's medical records.

3. The written record for each resident shall include:

a. administrative, treatment, and educational data from the time of admission until the time the resident leaves the facility, including intake evaluation notes and physician progress notes;

b. the name, home address, home telephone number, name of parent(s) or legal guardian(s), home address, and telephone number of parent(s) or legal guardian(s) (if different from resident's), sex, race, religion, birth date and birthplace of the resident;

c. other identification data including documentation of court status, legal status or legal custody and who is authorized to give consents;

d. placement agreement;

e. the resident's history including educational background, employment record, prior medical history and prior placement history;

f. a copy of the resident's individual service plan and any modifications to that plan;

g. progress reports;

h. reports of any incidents of abuse, neglect, accidents or critical incidents, including use of passive physical restraints;

i. reports of any resident's grievances and the conclusions or dispositions of these reports. If the resident's grievance was in writing, a copy of the written grievance shall be included;

- j. a summary of family visits and contacts including dates, the nature of such visits/contacts and feedback from the family;
- k. a summary of attendance and leaves from the facility;
- l. the written notes from providers of professional or specialized services; and
- m. the discharge summary at the time of discharge.

4. All of the resident's records shall be available for inspection by the department.

**M. Quality Assessment and Improvement**

1. The governing body shall ensure that there is an effective, written, ongoing, facility-wide program designed to assess and improve the quality of resident care.

2. There shall be a written plan for assessing and improving quality that describes the objectives, organization, scope and mechanisms for overseeing the effectiveness of monitoring, evaluation and improvement activities. All organized services related to resident care, including services furnished by a contractor, shall be evaluated. The services provided by each LMHP shall be periodically evaluated to determine whether they are of an acceptable level of quality and appropriateness.

- 3. Assessment of quality shall address:
  - a. resident care problems;
  - b. cause of problems;
  - c. documented corrective actions; and
  - d. monitoring or follow-up to determine effectiveness of the corrective actions taken.

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 38:380 (February 2012).

**§9037. Notifications [Formerly §9033]**

A. The facility shall comply with the following notification requirements.

1. The facility shall notify the department on the next working day in the event of temporary or permanent closing of the facility due to natural or man-made disasters or damage to the premises of the facility caused by fire, accident, or other elements that seriously affects the provision of services.

2. If a resident is absent without permission, the resident's parents or custodians are to be notified immediately.

B. The facility shall comply with the notification requirements regarding:

- 1. any case of suspected resident abuse or neglect;
- 2. each serious occurrence; and
- 3. the death of a resident.

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 38:383 (February 2012).

**Subchapter D. Human Resources**

**§9041. Personnel [Formerly §9043]**

A. The PRTF shall have personnel policies which include, but are not limited to, defining staff, essential job functions, qualifications, and lines of authority.

- 1. The PRTF shall have:
  - a. a written plan for recruitment, screening, orientation, ongoing training, development, supervision and performance evaluation of staff members whether directly employed, contract or volunteer;
  - b. written personnel policies and written job descriptions for each staff position;
  - c. written employee grievance procedures; and
  - d. written nondiscrimination policy that shall ensure that the provider does not discriminate in the employment of individuals because of race, color, religion, sex, age, national origin, handicap, political beliefs, veteran's status or any non-merit factor in accordance with all state and federal regulations.

- 2. The PRTF shall have written policies, contracts and practices to assure:
  - a. the availability of adequate psychiatric services to meet the following requirements:
    - i. provide medical oversight of all of the clinical aspects of care, and provide 24-hour, seven days per week psychiatric on-call coverage;
    - ii. assess each resident's medication and treatment needs including administration of medication; prescribe medications or otherwise assure the case management and consultation services are provided to obtain prescriptions, and prescribed therapeutic modalities to achieve the resident's individual treatment plan's goals; and
    - iii. participate in the facility's plan of care team and quality assessment and improvement process;
  - b. sufficient supervision of all residents 24 hours a day.

**3. Staff Medical Requirements**

a. The PRTF shall have policies and procedures that define how the facility will comply with current regulations regarding healthcare screenings of PRTF personnel.

b. The PRTF shall have policies and procedures and require all personnel to immediately report any signs or symptoms of a communicable disease or personal illness to their supervisor or administrator as appropriate for possible reassignment or other appropriate action to prevent the disease or illness from spreading to other residents or personnel.

B. There shall be a single organized professional staff that has the overall responsibility for the quality of all clinical care provided to patients, and for the ethical conduct and professional practices of its members, as well as for accounting to the governing body. The manner in which the professional staff is organized shall be consistent with the facility's documented staff organization and policies and shall pertain to the setting where the facility is located. The organization of the professional staff and its policies shall be approved by the facility's governing body.

C. The staff of a PRTF must have the appropriate qualifications to provide the services required by its residents' comprehensive plans of care. Each member of the direct care staff may not practice beyond the scope of his/her license, certification or training.

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 38:383 (February 2012).

### **§9043. Personnel Qualifications and Responsibilities**

A. Staffing Definitions. All experience requirements are related to paid experience. Volunteer work, college work/study or internship related to completion of a degree cannot be counted as work experience. If experience is in a part-time position, the staff person must be able to verify the amount of time worked each week. Experience obtained while working in a position for which the individual is not qualified may not be counted as experience.

1. - 2.b.Repealed.

#### **B. Criminal History Investigation and References**

1. The PRTF shall arrange for a criminal history investigation, as required by R.S. 15:587.1 for any applicant for employment, contractor, volunteer and other person who will provide services to the residents prior to that person working at the facility.

2. Staff criminal history investigations shall be maintained in a confidential manner, separate from the individual's personnel record.

#### **C. Prohibitions**

1. The facility is restricted from knowingly employing and/or contracting with a person who:

- a. has entered a plea of guilty or nolo contendere, no contest, or has been convicted of:
  - i. any criminal activity involving violence against a person;
  - ii. child abuse or neglect;
  - iii. possession, sale, or distribution of illegal drugs;
  - iv. sexual misconduct and/or is required to register pursuant to the Sex Offenders Registration Act; or
  - v. gross irresponsibility or disregard for the safety of others;
- b. has a finding placed on the Louisiana State Nurse Aide Registry or the Louisiana Direct Service Worker Registry.

2. The restrictions contained in this Subsection apply to employees and contractors who provide direct care to the residents of the facility.

3. Persons who are employed by the facility or who provide services to the facility may not use or be under the influence of, alcohol or illegal drugs during hours of work.

4. If a staff member is alleged to have committed an act described in §9043.C.1, the accused shall be removed from contact with residents until the allegations are resolved. If criminal charges are filed, the accused shall be removed from contact with residents until the charges are resolved.

a. A person who has received a deferred sentence for any charge in §9043.C.1 shall be removed from contact with residents for the duration of the deferment.

D. The PRTF shall check the Louisiana State Nurse Aide Registry and the Louisiana Direct Service Worker Registry to ensure that every individual providing direct care does not have a finding placed against him/her on either registry.

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 30:63 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:384 (February 2012).

### **§9045. Personnel Orientation and Training**

A. Orientation. Staff shall receive orientation within 30 days of employment.

1. Staff who will work with residents shall receive orientation before being assigned as the only staff responsible for residents.

2. Orientation includes, but is not limited to:

- a. confidentiality;
- b. grievance process;
- c. fire and disaster plans;
- d. emergency medical procedures;
- e. organizational structure;
- f. program philosophy;
- g. personnel policy and procedure;
- h. detecting and mandatory reporting of resident abuse;
- i. detecting signs of illness or dysfunction that warrant medical or nursing intervention;
- j. basic skills required to meet the health needs and problems of the resident;
- k. crisis de-escalation and the management of aggressive behavior including acceptable and prohibited responses;
  - l. physical restraint which is to include a practice element in the chosen method; and
  - m. safe administration and handling of all medications including psychotropic drugs, dosages and side effects.

3. Orientation may be counted toward the total training hours for the first year.

3.a - 6. Repealed.

B. The staff shall meet the following requirements for training.

1. Licensed mental health professionals (LMHPs), mental health professionals (MHPs), and mental health specialists (MHSs), with the exception of the administrator and clinical director shall obtain training according to the facility policy at least annually and as deemed necessary depending on the needs of the residents. The content of the training shall pertain to the roles and responsibilities of the position. Content areas shall include, but are not limited to:

- a. crisis intervention and the use of nonphysical intervention skills, such as de-escalation, mediation conflict resolution, active listening, and verbal and observational methods, to prevent emergency safety situations;
- b. child/youth development;
- c. discipline;
- d. stress management;
- e. therapeutic relationship;
- f. therapeutic intervention;
- g. abuse prevention, detection, and reporting;
- h. techniques to identify staff and resident behaviors, events, and environmental factors that may trigger emergency safety situations; and
- i. the safe use of restraint and the safe use of seclusion, including the ability to recognize and respond to signs of physical distress or injury in residents who are restrained or in seclusion.

2. Certification in the use of cardiopulmonary resuscitation, including periodic recertification, along with

an annual demonstration of competency in the use of cardiopulmonary resuscitation is required.

3. Staff training shall be provided by individuals who are qualified by education, training, and experience.

4. Staff training must include training exercises in which staff members successfully demonstrate in practice the techniques they have learned for managing emergency safety situations.

5. Staff must be trained and demonstrate competency before participating in an emergency safety intervention.

6. All training programs and materials used by the facility must be available for review by HSS.

7. The PRTF shall maintain documentation of all of the training of its staff.

C. The provider shall complete and document an annual performance evaluation of all staff members. For any person who interacts with residents, the provider's performance evaluation procedures shall address the quality and nature of a staff member's relationships with residents.

C.1. - G. 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 30:63 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:384 (February 2012).

#### **§9047. Personnel Requirements**

A. Staffing Requirements. The PRTF shall meet minimum licensure requirements for staffing, staff qualifications and staffing ratios.

1. - 4. ...

B. The facility shall maintain a minimum ratio of one staff person for three residents (1:3) between the hours of 6 a.m. and 10 p.m. The staff for purposes of this ratio shall consist of direct care staff (i.e. licensed practical nurse (LPN), MHS, MHP, LMHP, etc.).

1. - 2. Repealed.

C. The facility shall maintain a minimum ratio of one staff person for four residents (1:4) between 10 p.m. and 6 a.m. Staff shall always be awake while on duty. The staff for purposes of this ratio shall consist of direct care staff (i.e. LPN, MHS, MHP, LMHP, etc.).

D. - E.13. 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 30:65 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:385 (February 2012).

#### **§9049. Personnel Records**

A. The facility shall maintain on file a written personnel record for each employee working at the facility, which shall be kept for at least one year following an employee's separation from employment. The personnel record shall include:

1. - 3. ...

4. documentation of the successful completion of orientation, training and demonstrations of competency, the dates of completion and the names of the persons certifying the completion of the orientation, training and demonstrations of competency;

5. date of employment; and

6. date and reason for leaving employment.

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 30:66 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:385 (February 2012).

#### **§9051. Volunteers**

A. - B. ...

C. Volunteers shall work under the direct supervision of a paid staff member. They shall never be left alone or in charge of a resident or group of residents without a paid staff member present, unless they are a master's level or doctorate level student intern.

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 30:66 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:385 (February 2012).

#### **Subchapter E. Facility Operations**

##### **§9061. Food and Diet**

**[Formerly §9079]**

A. The provider shall ensure that a resident is, on a daily basis, provided with food of such quality and in such quantity as to meet the recommended daily dietary allowances adjusted for age, gender and activity of the Food Nutrition Board of the National Research Council. The facility shall ensure that dietary services are provided by a Louisiana licensed registered dietician. The registered dietician shall be available regarding the nutritional needs, the special diets of individual children, and to assist in the development of policies and procedures for the handling, serving, and storage of food.

1. Menus shall be written and approved annually in writing by a registered dietician.

2. The provider shall develop written menus at least one week in advance.

3. Written menus and records of foods purchased shall be maintained on file for 30 days. Menus shall provide for a sufficient variety of foods, vary from week to week and reflect all substitutions.

B. A person designated by the administrator shall be responsible for the total food service of the facility. This person shall be responsible for:

1. initiating food orders or requisitions;

2. establishing specifications for food purchases and insuring that such specifications are met;

3. storing and handling of food;

4. food preparation;

5. food serving;

6. orientation, training and supervision of food service personnel;

7. maintaining a current list of residents with special nutritional needs;

8. having an effective method of recording and transmitting diet orders and changes;

9. recording information in the resident's record relating to special nutritional needs; and

10. providing information on the resident's diets to the staff.

C. The provider shall ensure that any modified diet for a resident shall be:

1. prescribed by the resident's physician and treatment plan with a record of the prescription kept on file;

2. planned, prepared and served by persons who have received instruction from the registered dietician who has approved the menu for the modified diet.

D. The provider shall ensure that a resident is provided at least three meals or their equivalent daily at regular times with not more than 14 hours between the evening meal and breakfast on the following day.

E. The provider shall ensure that the food provided to a resident in care of the provider is in accord with his/her religious beliefs.

F. No resident shall be denied food or force-fed for any reason except as medically required pursuant to a physician's written order. A copy of the order shall be maintained in the resident's file.

G. When meals are provided to staff, the provider shall ensure that staff members eat the same food served to residents in care, unless special dietary requirements dictate differences in diet.

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

I. The provider shall ensure that food served to a resident and not consumed is discarded.

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 30:66 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:385 (February 2012).

### **§9063. Admission, Transfer and Discharge Requirements**

A. The written description of admissions policies and criteria shall be provided to the department upon request, and made available to the client and his/her legal representative.

B. A PRTF shall not refuse admission to any client on the grounds of race, national origin, ethnicity or disability.

C. A PRTF shall admit only those residents whose needs, pursuant to the certification of need and comprehensive plan of Care, can be fully met by the facility.

D. When refusing admission to a client, the PRTF shall provide a written statement to the resident with the reason for the refusal. This shall be provided to the designated representative(s) of the department upon request.

E. To be admitted into a PRTF, the individual must have received Certification of Need from the department or the department's designee that recommends admission into the PRTF. The PRTF must ensure that requirements for certification are met prior to treatment commencing. The certification must specify that:

1. ambulatory care resources available in the community do not meet the treatment needs of the recipient;

2. proper treatment of the recipient's psychiatric condition requires services on an inpatient basis under the direction of a physician; and

3. the services can reasonably be expected to improve the resident's condition or prevent further regression so that the services will no longer be needed.

4. - 9. Repealed.

F. The PRTF shall use the certification of need to develop an initial plan of care to be used upon admission until a Comprehensive Plan of Care is completed.

1. - 2. Repealed.

G. Discharge planning begins at the date of admission, and goals toward discharge shall be continually addressed in the interdisciplinary team meetings and when the comprehensive plan of care is reviewed.

1. - 3. Repealed.

H. Voluntary Transfer or Discharge. Upon notice by the resident or authorized representative that the resident has selected another provider or has decided to discontinue services, the PRTF shall have the responsibility of planning for the resident's voluntary transfer or discharge. The transfer or discharge responsibilities of the PRTF shall include:

1. holding a transfer or discharge planning conference with the resident, family, support coordinator, legal representative and advocate, if such are known, in order to facilitate a smooth transfer or discharge, unless the client declines such a meeting;

2. providing a current comprehensive plan of care. Upon written request and authorization by the resident or authorized representative, a copy of the current comprehensive treatment plan shall be provided to the resident or receiving provider;

3. preparing a written discharge summary. The discharge summary shall include, at a minimum, a summary on the health, developmental issues, behavioral issues, social issues, and nutritional status of the resident. Upon written request and authorization by the resident or authorized representative, a copy of the discharge summary shall be disclosed to the resident or receiving provider. The written discharge summary shall be completed within five working days of the notice by the resident or authorized representative that the resident has selected another provider or has decided to discontinue services. The provider's preparation of the discharge summary shall not impede or impair the resident's right to be transferred or discharged immediately if the resident so chooses; and

4. not coercing or interfering with the resident's decision to transfer. Failure to cooperate with the resident's decision to transfer to another provider may result in adverse action by the department.

I. - O.1. 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 30:66 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:386 (February 2012).

### **§9065. Health Care and Nursing Services [Formerly §9081]**

A. Health Care

1. The provider shall have a written plan for providing preventive, routine and emergency medical and dental care for residents and shall show evidence of access to the resources outlined in the plan. This plan shall include:



- a. ongoing appraisal of the general health of each resident;
- b. provision of health education, as appropriate; and
- c. provisions for keeping resident's immunizations current.

2. The provider shall ensure that a resident receives timely, competent medical care when he/she is ill or injured. The provider shall notify the resident's parent or legal guardian, verbally/in writing, within 24 hours of a resident's illness or injury that requires treatment from a physician or hospital.

3. Records of all medical examinations, follow-ups and treatment together with copies of all notices to parent(s) or guardian(s) shall be kept in the resident's file.

4. Within 30 days of admission, the provider shall obtain documentation of a resident's immunization history, insuring that the resident has received all appropriate immunizations and booster shots that are required by the Office of Public Health.

5. - 7. Repealed.

#### B. Nursing Services

1. There shall be an organized nursing service that provides 24-hour nursing services. The nursing services shall be under the direction and supervision of a registered nurse licensed to practice in Louisiana, employed full time, 40 hours per week during normal business hours.

2. Written nursing policies and procedures shall define and describe the resident care provided. There shall be a written procedure to ensure that all nursing services are performed by nurses and that all licensed nurses providing care in the PRTF have a valid and current Louisiana license to practice, prior to providing any care.

3. Nursing services are either furnished or supervised and evaluated by a registered nurse as determined by the needs of the residents.

4. There shall be at least one registered or licensed practical nurse on duty on site at all times.

#### C. Medications

1. All PRTFs that store or dispense scheduled narcotics shall have a site-specific Louisiana dangerous substance license and a United States Drug Enforcement Administration controlled substance registration for the facility in accordance with the Louisiana Uniform Controlled Dangerous Substance Act and Title 21 of the *United States Code*.

2. The provider shall have written policies and procedures that govern the safe administration and handling of all drugs as appropriate to the facility.

3. The provider shall have a written policy governing the self-administration of both prescription and nonprescription drugs.

4. The provider shall ensure that medications are either self-administered or administered by qualified persons according to state law.

5. The provider shall have a written policy for handling medication taken from the facility by residents on pass.

6. The provider shall ensure that any medication given to a resident for therapeutic and medical purposes is in accordance with the written order of a physician.

a. There shall be no standing orders for prescription medications.

b. There shall be standing orders, signed by the physician, for nonprescription drugs with directions from the physician indicating when he/she is to be contacted. Standing orders shall be updated annually by the physician.

c. Copies of all written orders shall be kept in the resident's file.

7. Proper disposal procedures shall be followed for all discontinued and outdated drugs and containers with worn, illegible or missing labels.

8. Drugs shall be stored under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation and security.

a. Drugs used externally and drugs taken internally shall be stored on separate shelves or in separate cabinets.

b. All drugs, including refrigerated drugs, shall be kept under lock and key.

9. The provider using psychotropic medications on a regular basis shall have a written description of the use of psychotropic medications including:

a. a description of procedures to ensure that medications are used as ordered by the physician for therapeutic purposes and in accordance with accepted clinical practice;

b. a description of procedures to ensure that medications are used only when there are demonstrable benefits to the resident unobtainable through less restrictive measures;

c. a description of procedures to ensure continual physician review of medications and discontinuation of medications when there are no demonstrable benefits to the resident; and

d. a description of an ongoing program to inform residents, staff, and where appropriate, resident's parent(s) or legal guardian(s) on the potential benefits and negative side-effects of medications and to involve residents and, where appropriate, their parent(s) or legal guardian(s) in decisions concerning medication.

10. All compounding, packaging, and dispensing of drugs, biologicals, legend and controlled substances shall be accomplished in accordance with Louisiana law and Board of Pharmacy regulations and be performed by or under the direct supervision of a registered pharmacist currently licensed to practice in Louisiana.

11. Dispensing of prescription legend or controlled substance drugs direct to the public or resident by vending machines is prohibited.

12. Current and accurate records shall be maintained on the receipt and disposition of all scheduled drugs. An annual inventory, at the same time each year, shall be conducted for all Schedule I, II, III, IV and V drugs.

13. Medications are to be dispensed only upon written orders, electromechanical facsimile, or oral orders from a physician or other legally authorized prescriber, and be taken by a qualified professional.

14. All drug containers shall be labeled to show at least the resident's full name, the chemical or generic drug's name, strength, quantity and date dispensed unless a unit dose system is utilized. Appropriate accessory and cautionary statements as well as the expiration date shall be included.

15. Drugs and biologicals that require refrigeration shall be stored separately from food, beverages, blood, and laboratory specimens.

16. Drug administration errors, adverse drug reactions, and incompatibilities shall be immediately reported to the attending physician. An entry shall be made in the resident's record.

17. Abuses and losses of controlled substances shall be reported to the individual responsible for pharmaceutical services, the administrator, the Louisiana Board of Pharmacy, DHH Controlled Dangerous Substances Program and to the Regional Drug Enforcement Administration (DEA) office, as appropriate.

18. All drugs and biologicals shall be administered in accordance with the orders of the practitioner(s) responsible for the resident's care and accepted standards of practice.

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 30:67 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:386 (February 2012).

### **§9067. Delivery of Services** **[Formerly §9083]**

A. The PRTF shall have an on-going plan, consistent with available community and PRTF resources, to provide medical, dental, therapeutic, social, psychological, recreational, rehabilitative and educational services to meet the medically related needs of its residents.

B. Arrangement of Residents into Groups

1. The provider shall arrange residents into groups that effectively address the needs of the residents.

2. All residents shall have an opportunity to build relationships within small groups.

3. Residents shall be involved in decision making regarding the roles and routines of their living group to the degree possible considering their level of functioning.

4. No more than 15 residents shall be in a group or unit.

5. The PRTF shall have a distinct unit for minors.

6. Groups shall be separated by gender.

C. The services provided by the PRTF must involve active treatment.

1. The team of professionals who shall develop the comprehensive plan of care shall be composed of physician(s) and other personnel who are employed by, or who provide services to the recipient in the facility. The team must be capable of assessing the recipient's immediate and long-range therapeutic needs, personal strengths and liabilities, potential resources of the recipient's family, capable of setting treatment objectives, and prescribing therapeutic modalities to achieve the plan's objectives. The team must include, at a minimum, either:

a. a board-certified or board-eligible psychiatrist; or

b. a licensed clinical psychologist who has a doctorate degree and a physician licensed to practice medicine or osteopathy; or

c. a physician licensed to practice medicine or osteopathy with specialized training and experience in the diagnosis and treatment of mental diseases and a psychologist who has a master's degree in clinical psychology.

2. The team must also include one of the following:

a. a psychiatric social worker;

b. a registered nurse with specialized training or one year of experience in treating individuals with mental illness;

c. a licensed occupational therapist with specialized training, or one year of experience in treating individuals with mental illness; or

d. a psychologist who has a master's degree in clinical psychology or who is licensed pursuant to R.S. 37:2351 et seq. or is a licensed medical psychologist pursuant to R.S. 37:1360.51.

4. The comprehensive plan of care is a written plan developed for each recipient to improve the recipient's condition to the extent that inpatient care is no longer necessary. The plan must:

a. be based on a diagnostic evaluation that includes examination of the medical, psychosocial, social, behavioral, and developmental aspects of the recipient's situation and reflects the need for PRTF services, including:

i. diagnoses, symptoms, complaints, and complications indicating the need for admission;

ii. a description of the functional level of the individual;

iii. any orders for medication and diet;

iv. restorative, social, and rehabilitation services;

v. treatment objectives;

vi. an integrated program of therapies, activities, and experiences designed to meet the objectives;

vii. plans for continued care, as appropriate; and

viii. post-discharge plans and coordination of inpatient services with partial discharge plans and related community services to ensure continuity of care with the recipient's family, school, and community upon discharge;

b. be developed and implemented no later than 14 days after the recipient's admission; and

c. be designed to achieve the recipient's discharge at the earliest possible time.

5. The plan must be reviewed as needed, but at a minimum of every 30 days by the facility treatment team to determine that services being provided are, or were, required on an inpatient basis and recommend changes in the plan as indicated by the recipient's overall adjustment as an inpatient.

D. The provider shall ensure that any provider of professional or special services (internal or external to the agency) meets the following:

1. are adequately qualified and, where appropriate, currently licensed or certified according to state or federal law;

2. have adequate space, facilities and privacy;

3. have appropriate equipment;

4. have adequate supplies;

5. have appropriate resources.

E. The PRTF shall also have an effective, on-going discharge planning program that facilitates the provision of follow-up care. The plan of care shall include, at an appropriate time, post-discharge plans and coordination of inpatient services, with partial discharge plans and related community services to ensure continuity of care with the recipient's family, school and community upon discharge. Each resident's record shall be annotated with a note regarding the nature of post PRTF care arrangements. Discharge planning shall be initiated in a timely manner.

Residents, along with necessary medical information (e.g., the resident's functional capacity, nursing and other care requirements, discharge summary, referral forms) shall be transferred or referred to appropriate facilities, agencies or services, as needed, for follow-up or ancillary care.

F. The PRTF shall provide or have available a therapeutic activities program.

1. The program must be appropriate to the needs and interests of patients and be directed toward restoring and maintaining optimal levels of physical and psychosocial functioning.

2. The number of qualified therapists, support personnel and consultants shall be adequate to provide comprehensive therapeutic activities consistent with each patient's treatment plan.

G. The provider shall have a written plan for insuring that a range of indoor and outdoor recreational and social opportunities are provided for residents. Such opportunities shall be based on both the individual interests and needs of the resident and the composition of the living group.

1. The provider shall be adequately staffed and have appropriate recreation spaces and facilities accessible to residents.

2. Any restrictions of recreational and social opportunities shall be specifically described in the treatment plan, together with the reasons such restrictions are necessary and the extent and duration of such restrictions.

3. The PRTF shall provide a minimum of three hours per week of social and/or recreational activities.

H. The provider shall have a program to ensure that residents receive training in independent living skills appropriate to their age and functioning level. This program shall include instruction in:

1. hygiene and grooming;
2. laundry and maintenance of clothing;
3. appropriate social skills;
4. housekeeping;
5. budgeting and shopping;
6. cooking; and
7. punctuality, attendance and other employment-related matters.

I. Each resident must have a minimum of one face-to-face contact with a psychiatrist each month and additional contacts for individuals from special risk populations, and as clinical needs of the resident dictate.

J. The services of qualified professionals and specialists from the following areas shall be provided by and in the PRTF when necessary to meet the needs of the residents:

1. medicine and dentistry;
2. nursing;
3. speech, occupational, and physical therapies;
4. psychology and psychiatry;
5. social work;
6. laboratory and diagnostic/radiology services;
7. optometry or ophthalmology; and
8. pharmacy activities.

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 30:68 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:388 (February 2012).

## §9069. Transportation

A. The PRTF shall ensure that each resident is provided with the transportation necessary for implementation of the resident's treatment plan.

B. The PRTF shall provide or arrange transportation of its residents to and from the facility and is responsible for the safety of the residents during transport.

C. If the PRTF arranges transportation for participants through a transportation agency, the facility shall maintain a written contract which is signed by a facility representative and a representative of the transportation agency. The contract shall outline the circumstances under which transportation will be provided.

1. The written contract shall be dated and time limited and shall conform to these licensing regulations.

2. The transportation agency shall maintain in force at all times current commercial liability insurance for the operation of transportation vehicles, including medical coverage for residents in the event of an accident or injury. The PRTF shall maintain documentation of the insurance which shall consist of the insurance policy or current binder that includes the name of the transportation agency, the name of the insurance agency, policy number, and period of coverage and an explanation of the coverage.

D. Transportation arrangements shall conform to state laws, including laws governing the use of seat belts and resident restraints. Vehicles shall be accessible for people with disabilities or so equipped to meet the needs of the residents served by the PRTF.

E. The driver or attendant shall not leave a resident unattended in the vehicle at any time.

F. Vehicle and Driver Requirements

1. The vehicle shall be maintained in good repair with evidence of an annual safety inspection.

2. The use of tobacco in any form, use of alcohol and possession of illegal substances or unauthorized potentially toxic substances, firearms, pellet or BB guns (loaded or unloaded) in any vehicle while transporting residents is prohibited.

3. The number of persons in a vehicle used to transport resident shall not exceed the manufacturer's recommended capacity.

4. The facility shall maintain a copy of a valid appropriate Louisiana driver's license for all individuals who drive vehicles used to transport resident on behalf of the PRTF.

5. The facility shall maintain in force at all times current commercial liability insurance for the operation of its vehicles, including medical coverage for residents in the event of accident or injury.

a. The policy shall extend coverage to any staff member who provides transportation for any resident in the course and scope of his/her employment.

b. Documentation shall consist of the insurance policy or current binder that includes the name of the PRTF, the name of the insurance company, policy number, period of coverage, and explanation of the coverage.

6. The vehicle shall have evidence of a current safety inspection.

7. There shall be first aid supplies in each facility or contracted vehicle.

8. Each driver or attendant shall be provided with a current master transportation list including each resident's name, pick-up and drop-off locations, and authorized persons to whom the resident may be released. Documentation shall be maintained on file at the PRTF whether transportation is provided by the facility or contracted.

9. The driver or attendant shall maintain an attendance record for each trip. The record shall include the driver's name, the date, names of all passengers (resident and adults) in the vehicle, and the name of the person to whom the resident was released and the time of release. Documentation shall be maintained on file at the facility whether transportation is provided by the facility or contracted.

10. There shall be information in each vehicle identifying the name of the administrator and the name, telephone number, and address of the facility for emergency situations.

#### G. Resident Safety Provisions

1. The driver plus one appropriately trained staff member shall be required at all times in each vehicle when transporting any resident. Staff shall be appropriately trained on the needs of each resident.

2. Each resident shall be safely and properly:
  - a. assisted into the vehicle;
  - b. restrained in the vehicle; and
  - c. assisted out of the vehicle.

3. Every resident shall be restrained in a single safety belt or secured in an American Academy of Pediatrics recommended, age appropriate safety seat.

4. The driver or appropriate staff person shall check the vehicle at the completion of each trip to ensure that no resident is left on the vehicle. Documentation shall include the signature of the person conducting the check and the time the vehicle is checked. Documentation shall be maintained on file at the PRTF whether transportation is provided by the facility or contracted.

5. During field trips, the driver or staff member shall check the vehicle and account for each resident upon arrival at, and departure from, each destination to ensure that no resident is left on the vehicle or at any destination. Documentation shall include the signature of the person conducting the check and the time the vehicle was checked for each loading and unloading of residents during the field trip.

6. Appropriate staff person(s) shall be present when each resident is delivered to the facility.

H. The provider shall have the means of transporting residents in cases of emergency.

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 38:389 (February 2012).

#### **§9071. Resident Rights and Grievance Procedure** **[Formerly §9085]**

A. Every resident shall have the following rights, none of which shall be abridged by the PRTF or any of its staff. The PRTF administrator shall be responsible for developing and implementing policies to protect resident rights and to respond to questions and grievances pertaining to resident rights. These rights shall include at least the following:

1. every resident, or his/her designated representative, shall whenever possible, be informed of the resident's rights and responsibilities in advance of furnishing or discontinuing resident care;

2. the right to have a family member, chosen representative and/or his or her own physician notified promptly of admission to the PRTF;

3. the right to receive treatment and medical services without discrimination based on race, age, religion, national origin, sex, sexual preferences, handicap, diagnosis, ability to pay or source of payment;

4. the right to be treated with consideration, respect and recognition of their individuality, including the need for privacy in treatment;

5. the right to receive, as soon as possible, the services of a translator or interpreter, if needed, to facilitate communication between the resident and the PRTF's health care personnel;

6. the right to participate in the development and implementation of his/her plan of care;

7. every resident or his/her representative (as allowed by state law) has the right to make informed decisions regarding his/her care;

8. the resident's rights include being informed of his/her health status, and being involved in care planning and treatment;

9. the right to be included in experimental research only when he/she gives informed, written consent to such participation, or when a guardian provides such consent for an incompetent resident in accordance with appropriate laws and regulations. The resident may refuse to participate in experimental research, including the investigations of new drugs and medical devices;

10. the right to be informed if the PRTF has authorized other health care and/or educational institutions to participate in the resident's treatment. The resident shall also have a right to know the identity and function of these institutions;

11. the right to be informed by the attending physician and other providers of health care services about any continuing health care requirements after the resident's discharge from the PRTF. The resident shall also have the right to receive assistance from the physician and appropriate PRTF staff in arranging for required follow-up care after discharge;

12. the right to consult freely and privately with his/her parent(s) or legal guardian(s);

13. the right to consult freely and privately with legal counsel, as well as the right to employ legal counsel of his/her choosing;

14. the right to make complaints without fear of reprisal;

15. the opportunity for telephone communication;

16. the right to send and receive mail;

17. the right to possess and use personal money and belongings, including personal clothing, in accordance with the facility's policies;

18. the right to visit or be visited by family and friends subject only to reasonable rules and to any specific restrictions in the resident's treatment plan. Special restrictions shall be imposed only to prevent serious harm to

the resident. The reasons for any special restrictions shall be recorded in the resident's treatment plan;

19. the right to have the individual resident's medical records, including all computerized medical information, kept confidential;

20. the right to access information contained in his/her medical records within a reasonable time frame subject to the exception contained in §9035.L.1.f;

21. the right to be free from all forms of abuse and harassment;

22. the right to receive care in a safe setting;

23. the right to be informed in writing about the PRTF's policies and procedures for initiation, review and resolution of resident complaints;

24. the provider shall ensure that each resident has access to appropriate educational services consistent with the resident's abilities and needs, taking into account his/her age and level of functioning;

25. the provider shall have a written description regarding the involvement of the resident in work including:

a. a description of any unpaid tasks required of the resident;

b. a description of any paid work assignments including the pay scales for such assignments;

c. a description of the provider's approach to supervising work assignments;

d. assurance that the conditions and compensation of such work are in compliance with applicable state and federal laws;

e. all work assignments shall be in accordance with the resident's treatment plan;

f. the provider shall assign as unpaid work for the resident only housekeeping tasks similar to those performed in a normal family home. Any other work assigned shall be compensated, at such rate and under such conditions as the resident might reasonably be expected to receive for similar work in outside employment;

26. every resident shall be permitted to attend religious services in accordance with his/her faith. Residents shall not be forced to attend religious services; and

27. in addition to the rights listed herein, residents have the rights provided in the Louisiana Mental Health Law.

#### B. Grievance Procedure for Residents

1. The provider shall have a written grievance procedure for residents designed to allow residents to make complaints without fear of retaliation.

2. The provider shall document that the resident and the resident's parent(s) or legal guardian(s) are aware of and understand the grievance procedure.

3. The provider shall document the resolution of the grievance in the resident's record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:390 (February 2012).

### Subchapter F. Physical Environment

#### §9075. General Provisions

##### [Formerly §9061]

A. The PRTF shall be constructed, arranged and maintained to ensure the safety and well being of the resident.

#### B. Buildings

1. The buildings shall reflect good housekeeping and shall by means of an effective pest control program, be free of insects and rodents.

2. The PRTF shall maintain PRTF-wide ventilation, lighting and temperature controls.

3. There shall be a policy regarding the provision of services during any period in which the supply of electricity, natural gas, water and fuel is temporarily disrupted.

4. Doors leading into a facility or unit may be locked only in the direction of ingress.

5. Doors in the line of egress shall not be locked. Any deviation to allow the outermost doors in the line of egress to be locked may only be made after approval has been given by the Office of the State Fire Marshal.

C. All PRTFs shall comply with established fire protection standards and enforcement policies as promulgated by the Office of State Fire Marshal, including handicapped accessibility requirements.

1. Prior to new construction, additions, conversions or major alterations, PRTFs shall submit construction documents to the OSFM for review.

D. The PRTF shall comply with the rules, Sanitary Code and enforcement policies as promulgated by the Office of Public Health (OPH).

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 38:391 (February 2012).

#### §9077. Interior Space

##### [Formerly §9063]

A. The arrangement, appearance and furnishing of all of the interior areas of the facility shall be similar to those of a normal family home within the community.

B. The provider shall ensure that there is evidence of routine maintenance and cleaning programs in all of the areas of the facility.

1. - 7. Repealed.

C. Each living unit of a facility shall contain a space for the free and informal use of the residents. This space shall be constructed and equipped in a manner in keeping with the programmatic goals of the facility.

D. A facility shall have a minimum of 60 square feet of floor area per resident in living areas accessible to the residents and excluding halls, closets, bathrooms, bedrooms, staff or staff's family quarters, laundry areas, storage areas and office areas.

#### E. Resident Bedrooms

1. Single rooms must contain at least 80 square feet and multi-bed rooms shall contain at least 60 square feet per bed, exclusive of fixed cabinets, fixtures, and equipment.

2. All PRTFs shall have bedroom space that does not permit more than two residents per designated bedroom.

a. Exception. If the facility maintains a valid child residential license from DCFS, has more than two residents per bedroom and is converting to a PRTF, the PRTF may have bedroom space that allows no more than four residents per designated bedroom.

3. Rooms shall have at least a 7 1/2 foot ceiling height over the required area. In a room with varying ceiling height, only portions of the room with a ceiling height of at least 7 1/2 feet are allowed in determining usable space.

4. There shall be at least 3 feet between beds.
5. There shall be sufficient and satisfactory separate storage space for clothing, toilet articles and other personal belongings of residents.
6. There shall be at least one toilet bowl with accessories, lavatory basin and bathing facility reserved for resident use on each resident floor and additional toilets, lavatories, and bathing facilities to adequately meet the needs of employees, professional personnel and residents on each unit.
7. Doors to individual bedrooms shall not be equipped with locks or any other device that would prohibit the door from being opened from either side.
8. The provider shall not use any room that does not have a window as a bedroom space.
9. The provider shall ensure that sheets, pillow, bedspread and blankets are provided for each resident. Enuretic residents shall have mattresses with moisture resistant covers. Sheets and pillowcases shall be changed at least weekly, but shall be changed more frequently if necessary.
10. Each resident shall have his/her own dresser or other adequate storage space for private use and designated space for hanging clothing in proximity to the bedroom occupied by the resident.
11. No resident over the age of five years shall occupy a bedroom with a member of the opposite sex.
12. The provider shall ensure that the ages of residents sharing bedroom space are not greater than four years in difference unless contraindicated based on diagnosis, the treatment plan, or the behavioral health assessment of the resident.
13. Each client shall have his/her own bed. A client's bed shall be longer than the client is tall, no less than 30 inches wide, of solid construction and shall have a clean, comfortable, nontoxic fire retardant mattress.
14. Mobile homes shall not be used for resident sleeping areas.
15. The use of bunk beds is prohibited in resident bedrooms.
16. If the PRTF has a sexually-based treatment program, the residents of that program shall reside in its own unit or wing of the PRTF that is separate from the unit or wing housing the other residents. Residents of the sexually-based treatment program shall reside in single rooms with only one bed per bedroom.

#### F. Dining Areas

1. The facility shall have dining areas that permit residents, staff and guests to eat together in small groups.
2. A facility shall have dining areas that are clean, well lit, ventilated, and attractively furnished.

#### G. Bathrooms

1. A facility shall have wash basins with hot and cold water, flush toilets, and bath or shower facilities with hot and cold water according to resident care needs.
  - a. Bathrooms shall be so placed as to allow access without disturbing other resident during sleeping hours.
  - b. Each bathroom shall be properly equipped with toilet paper, towels, soap and other items required for personal hygiene unless residents are individually given such items. Residents shall be provided individual items such as hair brushes and toothbrushes.

- c. Tubs and showers shall have slip proof surfaces.
- d. The PRTF shall have at a minimum the following:
  - i. one lavatory per eight male residents and one lavatory per eight female residents;
  - ii. one toilet per eight male residents and one toilet per eight female residents; and
  - iii. one shower or tub per eight male residents and one shower or tub per eight female residents.
2. A facility shall have toilets and baths or showers that allow for individual privacy unless the residents in care require assistance.
3. Toilets, wash basins and other plumbing or sanitary facilities in a facility shall, at all times, be maintained in good operating condition and shall be kept free of any materials that might clog or otherwise impair their operation.

#### 4. - 7. Repealed.

#### H. Kitchens

1. Kitchens used for meal preparations shall have the equipment necessary for the preparation, serving, storage, and clean up of all meals regularly served to all of the residents and staff. All equipment shall be maintained in proper working order.
2. The provider shall ensure that all dishes, cups and glasses used by residents are free from chips, cracks or other defects and are in sufficient number to accommodate all residents.

#### 3. - 9. Repealed.

#### I. Administrative and Counseling Area

1. The provider shall provide a space that is distinct from resident's living areas to serve as an administrative office for records, secretarial work and bookkeeping.
2. The provider shall have a designated space to allow private discussions and counseling sessions between individual residents and staff, excluding, bedrooms and common living areas.

#### J. Furnishings

1. The provider shall have comfortable customary furniture as appropriate for all living areas. Furniture for the use of residents shall be appropriately designed to suit the size and capabilities of the residents.
2. The provider shall promptly replace or repair broken, run-down, or defective furnishings and equipment.

#### K. Doors and Windows

1. The provider shall provide insect screens for all windows that can be opened. The screens shall be in good repair and readily removable in emergencies.
2. The provider shall ensure that all closets, bedrooms and bathrooms are equipped with doors that can be readily opened from both sides.
3. Windows or vents shall be arranged and located so that they can be opened from the inside to permit venting of combustion products and to permit occupants direct access to fresh air in emergencies. The operation of windows shall be restricted to inhibit possible escape or suicide. If the PRTF has an approved engineered smoke control system, the windows may be fixed. Where glass fragments pose a hazard to certain residents, safety glazing and/or other appropriate security features shall be used. There shall be no curtain or venetian blind chords.

L. Storage

- 1. The provider shall ensure that there are sufficient and appropriate storage facilities.
- 2. The provider shall have securely locked storage space for all potentially harmful materials. Keys to such storage spaces shall only be available to authorized staff members.

M. Electrical Systems

- 1. The provider shall ensure that all electrical equipment, wiring, switches, sockets and outlets are maintained in good order and in safe condition.
- 2. The provider shall ensure that any room, corridor or stairway within a facility shall be well lit.

N. Heating, Ventilation and Air Conditioning

- 1. The provider shall take all reasonable precautions to ensure that heating elements, including exposed hot water pipes, are insulated and installed in a manner that ensures the safety of all clients.
- 2. The provider shall not use open flame heating equipment or portable electrical heaters.
- 3. All gas heating units and water heaters must be vented adequately to carry the products of combustion to the outside atmosphere. Vents must be constructed and maintained to provide a continuous draft to the outside atmosphere in accordance with the recommended procedures of the American Gas Association Testing Laboratories, Inc.
- 4. All heating units must be provided with a sufficient supply of outside air so as to support combustion without depletion of the air in the occupied room.

O. Smoking shall be prohibited in all areas of the PRTF.

P. The layout, design of details, equipment and furnishings shall be such that patients shall be under close observation and shall not be afforded opportunities for hiding, escape or injury to themselves or others. The environment of the unit shall be characterized by a feeling of openness with emphasis on natural light and exterior views. Interior finishes, lighting and furnishings shall suggest a residential rather than an institutional setting while conforming with applicable fire safety codes. Security and safety devices shall not be presented in a manner to attract or challenge tampering by patients.

Q. Seclusion Room

- 1. A PRTF shall have a seclusion room. This room shall be free of potentially hazardous conditions such as unprotected light fixtures and electrical outlets.
- 2. The room(s) shall be either located for direct nursing staff supervision or observed through the use of electronic monitoring equipment. If electronic monitoring equipment is used, it shall be connected to the facility's emergency electrical source.
- 3. Each room shall be for single occupancy and contain at least 60 square feet. It shall be constructed to prevent patient hiding, escape, injury or suicide.

R. Where grab bars are provided, they shall be institutional type, shall not rotate within their fittings, be securely fastened with tamper-proof screw heads, and shall be free of any sharp or abrasive elements. If grab bars are mounted adjacent to a wall, the space between the wall and the grab bar shall be 1 1/2 inches.

S. Where towel racks, closet and shower curtain rods are provided, they shall be the breakaway type.

T. Plastic bags and/or trash can liners shall not be used in patient care areas.

U. Electrical receptacles shall be of the safety type or protected by 5-milliampere ground-fault-interrupters.

V. The provider shall have a laundry space complete with washers and dryers that are sufficient to meet the needs of the residents.

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 30:68 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:391 (February 2012).

**§9079. Facility Exterior**

**[Formerly §9065]**

A. The provider shall maintain all areas of the facility that are accessible to the residents in good repair and free from any reasonably foreseeable hazard to health or safety. All structures on the grounds of the facility shall be maintained in good repair.

- 1. Garbage and rubbish stored outside shall be secured in noncombustible, covered containers and shall be removed on a regular basis.
- 2. Trash collection receptacles and incinerators shall be separate from recreation/play areas and located as to avoid being a nuisance.
- 3. Recreation/playground equipment shall be so located, installed, and maintained as to ensure the safety of the residents.
- 4. Areas determined unsafe, including steep grades, open pits, swimming pools, high voltage boosters or high speed roads shall be fenced or have natural barriers to protect residents.
- 5. Fences that are in place shall be in good repair.
- 6. Residents shall have access to safe, suitable outdoor recreational space and age appropriate equipment.
- 7. The provider shall ensure that exterior areas are well lit at night.

B. - I. 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 30:69 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:393 (February 2012).

**§9081. Equipment**

**[Formerly §9067]**

A. Equipment shall be clean and in good repair for the safety and well-being of the residents.

- 1. - 4. Repealed.
- B. Therapeutic, diagnostic and other resident care equipment shall be maintained and serviced in accordance with the manufacturer's recommendations.
- 1. - 4. Repealed.
- C. Methods for cleaning, sanitizing, handling and storing of all supplies and equipment shall be such as to prevent the transmission of infection.
- 1. - 17. Repealed.

D. After discharge of a resident, the bed, mattress, cover, bedside furniture and equipment shall be properly cleaned. Mattresses, blankets and pillows assigned to residents shall

be in a sanitary condition. The mattress, blankets and pillows used for a resident with an infection shall be sanitized in an acceptable manner before they are assigned to another resident.

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 30:69 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:393 (February 2012).

### **Subchapter G. Emergency Preparedness**

#### **§9083. Safety and Emergency Preparedness**

A. The PRTF shall have an emergency preparedness plan designed to manage the consequences of medical emergencies, power failures, fire, natural disasters, declared disasters or other emergencies that disrupt the facility's ability to provide care and treatment or threatens the lives or safety of the residents. The facility shall follow and execute its emergency preparedness plan in the event or occurrence of a disaster or emergency.

B. Upon the department's request, a facility shall present its emergency preparedness plan for review. At a minimum, the emergency preparedness plan shall include and address the following.

1. The emergency preparedness plan shall be individualized and site specific. All information contained in the plan shall be current and correct. The plan shall be made available to representatives of the Office of the State Fire Marshal and the Office of Public Health upon request of either of these offices. The facility's plan shall follow all current applicable laws, standards, rules or regulations.

2. The facility's plan shall be submitted to the parish or local Office of Homeland Security and Emergency Preparedness (OHSEP) yearly and verification of this submittal maintained in the plan. Any recommendations by the parish or local OHSEP regarding the facility's plan shall be documented and addressed by the PRTF.

3. The facility's plan shall contain census information, including transportation requirements for the PRTF residents as to the need for:

a. wheelchair accessible or para-transit vehicle transport; or

b. the numbers of PRTF residents that do not have any special transport needs.

4. The plan shall contain a clearly labeled and legible master floor plan(s) that indicate the following:

a. the areas in the facility, either in the resident's individual unit or apartment or the PRTF, that is to be used by residents as shelter or safe zones during emergencies;

b. the location of emergency power outlets (if none are powered or all are powered, this shall be stated on the plan);

c. the locations of posted, accessible, emergency information;

d. the plan shall provide for floor plans or diagrams to be posted in each resident's room and shall clearly indicate that specific room or apartment's location, the fire exits, the fire evacuation routes, locations of alarm boxes and fire extinguishers, and written fire evacuation procedures shall be included on one plan; and

i. a separate floor plan or diagram with safe zones or sheltering areas for non fire emergencies shall

indicate areas of building, apartments, or rooms that are designated as safe or sheltering areas;

e. the detail of what will be powered by emergency generator(s), if applicable.

C. The facility's plan shall be viable and promote the health, safety and welfare of the facility's residents. If the plan is found to be deficient the facility shall, within 10 days of notification, respond with an acceptable plan of correction to amend its emergency preparedness plan.

1. - 5. Repealed.

D. The facility will work in concert with the local OHSEP or Office of Emergency Preparedness (OEP) in developing plans.

1. - 5. Repealed.

E. The facility shall provide a plan for monitoring weather warnings and watches and evacuation orders from local and state emergency preparedness officials. This plan will include:

1. who will monitor;

2. what equipment will be used; and

3. procedures for notifying the administrator or responsible persons.

F. The plan shall provide for the delivery of essential care and services to residents during emergencies, who are housed in the facility or by the facility at another location, during an emergency.

G. The plan shall contain information about staffing when the PRTF is sheltering in place or when there is an evacuation of the PRTF. Planning shall include documentation of staff that have agreed to work during an emergency and contact information for such staff. The plan shall include provisions for adequate, qualified staff as well as provisions for the assignment of responsibilities and duties to staff.

H. The facility shall have transportation or arrangements for transportation for evacuation, hospitalization, or any other services which are appropriate. Transportation or arrangements for transportation shall be adequate for the current census and meet the ambulatory needs of the residents.

I. The plan shall include procedures to notify the resident's family or responsible representative whether the facility is sheltering in place or evacuating to another site. The plan shall include which staff is responsible for providing this notification. If the facility evacuates, notification shall include:

1. the date and approximate time that the facility is evacuating; and

2. the place or location to which the facility is evacuating, including the:

a. name;

b. address; and

c. telephone number.

J. The plan shall include the procedure or method whereby each facility resident has a manner of identification attached to his person which remains with him at all times in the event of sheltering in place or evacuation, and whose duty and responsibility this will be. The following minimum information shall be included with the resident:

1. current and active diagnosis;

2. medications, including dosage and times administered;



3. allergies;
4. special dietary needs or restrictions; and
5. next of kin or responsible person and contact information.

K. The plan shall include an evaluation of the building and necessary systems to determine the ability to withstand wind, flood, and other local hazards that may affect the facility. If applicable, the plan shall also include an evaluation of each generator's fuel source(s), including refueling plans and fuel consumption.

L. The plan shall include an evaluation of the facility's surroundings to determine lay-down hazards, objects that could fall on the facility, and hazardous materials in or around the facility, such as:

1. trees;
2. towers;
3. storage tanks;
4. other buildings;
5. pipe lines;
6. chemicals;
7. fuels; or
8. biologics.

M. For PRTFs that are geographically located south of Interstate 10 or Interstate 12, the plan shall include the determinations of when the facility will shelter in place and when the facility will evacuate for a hurricane and the conditions that guide these determinations.

1. A facility is considered to be sheltering in place for a storm if the facility elects to stay in place rather than evacuate when located in the projected path of an approaching storm of tropical storm strength or a stronger storm.

NOTE: Tropical storm strength shall be defined as a tropical cyclone in which the maximum sustained surface wind speed (using the U.S. 1 minute average standard) ranges from 34 kt (39 mph 17.5 m/s) to 63 kt (73 mph 32.5 mps).

2. If sheltering in place, the facility has elected to take this action after reviewing all available and required information on the storm, the facility, the facility's surroundings, and consultation with the local or parish OHSEP.

3. The facility accepts all responsibility for the health and well-being of all residents that shelter with the facility before, during, and after the storm. In making the decision to shelter in place or evacuate, the facility shall consider the following:

- a. what conditions will the facility shelter for;
- b. what conditions will the facility close or evacuate for; and
- c. when will these decisions be made.

4. If the facility shelters in place, the facility's plan shall include provisions for seven days of necessary supplies to be provided by the facility prior to the emergency event, to include drinking water or fluids and non-perishable food.

N. The facility's emergency plan shall include a posted communications plan for contacting emergency services and monitoring emergency broadcasts and whose duty and responsibility this will be.

O. The facility's plan shall include how the PRTF will notify OHSEP and DHH when the decision is made to shelter in place and whose responsibility it is to provide this notification.

P. The facility shall have a plan for an on-going safety program to include:

1. continuous inspection of the facility for possible hazards;
2. continuous monitoring of safety equipment and maintenance or repair when needed;
3. investigation and documentation of all accidents or emergencies;
4. fire control and evacuation planning with documentation of all emergency drills:
  - a. residents can be informed of emergency drills;
5. all aspects of the facility's plan, planning, and drills shall meet the current requirements of the Office of the State Fire Marshal, and the Life Safety Code National Fire Protection Association (NFPA) 101; and
6. the facility shall inform the resident and/or responsible party of the facility's emergency plan and the actions to be taken.

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 30:70 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:394 (February 2012).

#### **§9085. Emergency Plan Activation, Review, and Summary**

A. The facility's emergency plan(s) shall be activated at least annually, either in response to an emergency or in a planned drill. All staff shall be trained and have knowledge of the emergency plan.

1. - 30. Repealed.

B. PRTFs must conduct a minimum of 12 fire drills annually with at least one every three months on each shift. In addition to drills for emergencies due to fire, the facility shall conduct at least one drill per year for emergencies due to a disaster other than fire, such as storm, flood, and other natural disasters.

1. All staff shall participate in at least one drill annually. Residents shall be encouraged to participate, but the provider may not infringe upon the right of the resident to refuse to participate.

a. - b. Repealed.

2. The facility shall test at least one manual pull alarm each month of the year and maintain documentation of test dates, location of each manual pull alarm tested, persons testing the alarm, and its condition.

a. - j. Repealed.

3. Fire extinguishers shall be conspicuously hung, kept easily accessible, shall be visually examined monthly and the examination shall be recorded on a tag which is attached to the fire extinguisher. Fire extinguishers shall also be inspected and maintained in accordance with manufacturers' and applicable NFPA requirements. Each fire extinguisher shall be labeled to show the date of such inspection and maintenance.

3.a. - 9.d. Repealed.

C. The facility's performance during the activation of the plan shall be evaluated annually by the facility and the findings shall be documented in the plan.

1. - 3. Repealed.

D. The plan shall be revised if indicated by the facility's performance during the emergency event or the planned drill.

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 30:71 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:395 (February 2012).

#### **§9087. Notification**

A. Emergency preparedness procedures shall specify the following:

1. persons to be notified;
  2. process of notification;
  3. verification of notification;
  4. locations of emergency equipment and alarm signals;
  5. evacuation routes;
  6. procedures for evacuating residents;
  7. procedures for re-entry and recovery;
  8. frequency of fire drills;
  9. tasks and responsibilities assigned to all personnel;
- and
10. medications and records to be taken from the facility upon evacuation and to be returned following the emergency.

B. A PRTF shall immediately notify the department and other appropriate agencies of any fire, disaster or other emergency that may present a danger to residents or require their evacuation from the facility.

C. In the event that a PRTF evacuates, temporarily relocates or temporarily ceases operations at its licensed location as a result of an evacuation order issued by the state, local or parish OHSEP, the PRTF must immediately give notice to the Health Standards Section and OHSEP by facsimile or email of the following:

1. the date and approximate time of the evacuation;
- and
2. the locations of where the residents have been placed, whether this location is a host site for one or more of the PRTF residents.

D. In the event that a PRTF evacuates, temporarily relocates or temporarily ceases operations at its licensed location for any reason other than an evacuation order, the PRTF must immediately give notice to the Health Standards Section by facsimile or email of the following:

1. the date and approximate time of the evacuation;
- and
2. the locations of where the residents have been placed, whether this location is a host site for one or more of the PRTF residents.

E. If there are any deviations or changes made to the locations of the residents that was given to the Health Standards Section and OHSEP, then both Health Standards and OHSEP shall be notified of the changes within 48 hours of their occurrence.

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 38:396 (February 2012).

#### **§9089. Authority to Re-Open After an Evacuation, Temporary Relocation or Temporary Cessation of Operation**

A. In the event that a PRTF evacuates, temporarily relocates or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the state, local, or parish OHSEP, due to a declared disaster or other emergency, and that facility sustains damages due to wind, flooding, precipitation, fire, power outages or other causes, the facility shall not be reopened to accept returning evacuated residents or new admissions until surveys have been conducted by the Office of the State Fire Marshal, the Office of Public Health and the Health Standards Section, and the facility has received a letter of approval from the department for reopening the facility.

1. The purpose of these surveys is to assure that the facility is in compliance with the licensing standards including, but not limited to, the structural soundness of the building, the sanitation code, staffing requirements and the execution of emergency plans.

B. If a PRTF evacuates, temporarily relocates or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the state or parish OHSEP, due to a declared disaster or other emergency, and the facility does not sustain damages due to wind, flooding, precipitation, fire, power outages or other causes, the facility may be reopened without the necessity of the required surveys.

1. Prior to reopening, the facility shall notify the Health Standards Section in writing that the facility is reopening.

C. The facility shall submit a written initial summary report to the department's Health Standards Section. This report shall be submitted within 14 days from the date of the emergency event which led to the facility having to evacuate, temporarily relocate or temporarily cease operations. The report shall indicate how the facility's emergency preparedness plan was followed and executed. The initial summary shall contain, at a minimum:

1. pertinent plan provisions and how the plan was followed and executed;
2. plan provisions that were not followed;
3. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;
4. contingency arrangements made for those plan provisions not followed; and
5. a list of all injuries and deaths of residents that occurred during the execution of the plan, including the date, time, causes and circumstances of the injuries and deaths.

D. If a facility shelters in place at its licensed location during a declared disaster or other emergency, the facility shall submit a written initial summary report to the department's Health Standards Section. This report shall be submitted within 14 days from the date of the emergency event which led to the facility having to shelter in place. The report shall indicate how the facility's emergency preparedness plan was followed and executed. The initial summary shall contain, at a minimum:

1. pertinent plan provisions and how the plan was followed and executed;
2. plan provisions that were not followed;

3. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;

4. contingency arrangements made for those plan provisions not followed; and

5. a list of all injuries and deaths of residents that occurred during the execution of the plan, including the date, time, causes and circumstances of these injuries and deaths.

E. Upon request by the department's Health Standards Section, a report that is more specific and detailed regarding the facility's execution of their emergency plan shall be submitted to the department.

F. Inactivation of License due to Declared Disaster or Emergency

1. A licensed PRTF licensed in a parish which is the subject of an executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766 may seek to inactivate its license for a period not to exceed one year, provided that the following conditions are met:

a. the licensed PRTF provider shall submit written notification to the Health Standards Section within 60 days of the date of the executive order or proclamation of emergency or disaster that:

i. the PRTF has experienced an interruption in the provisions of services as a result of events that are the subject of such executive order or proclamation of emergency or disaster;

ii. the licensed PRTF intends to resume operation as a PRTF in the same service area;

iii. includes an attestation that the emergency or disaster is the sole casual factor in the interruption of the provision of services;

iv. includes an attestation that all residents have been properly released or transferred to another provider; and

v. provides a list of each resident's name and the location where that resident has been released or transferred to;

b. the licensed PRTF resumes operating as a PRTF in the same service area within one year of the issuance of such an executive order or proclamation of emergency or disaster;

c. the licensed PRTF continues to pay all fees and costs due and owed to the department including, but not limited to:

i. annual licensing fees; and

ii. outstanding civil monetary penalties; and

d. the licensed PRTF continues to submit required documentation and information to the department, including but not limited to cost reports.

2. Upon receiving a completed written request to inactivate a PRTF license, the department shall issue a notice of inactivation of license to the PRTF.

3. Upon completion of repairs, renovations, rebuilding or replacement of the facility, a PRTF which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met:

a. the PRTF shall submit a written license reinstatement request to the licensing agency of the department 60 days prior to the anticipated date of reopening;

b. the license reinstatement request shall inform the department of the anticipated date of opening and shall request scheduling of a licensing survey;

c. the license reinstatement request shall include a completed licensing application with appropriate licensing fees, approval from the Office of Public Health and the Office of State Fire Marshal; and

d. the provider resumes operating as a PRTF in the same service area within one year.

4. Upon receiving a completed written request to reinstate a PRTF license, the department shall schedule a licensing survey. If the PRTF meets the requirements for licensure and the requirements under this Subsection, the department shall issue a notice of reinstatement of the PRTF license.

5. No change of ownership in the PRTF shall occur until such PRTF has completed repairs, renovations, rebuilding or replacement construction and has resumed operations as a PRTF.

6. The provisions of this Subsection shall not apply to a PRTF which has voluntarily surrendered its license and ceased operation.

7. Failure to comply with any of the provisions of this Subsection shall be deemed a voluntary surrender of the PRTF 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 38:396 (February 2012).

## **Subchapter H. Additional Requirements for Mental Health PRTFs**

### **§9091. General Provisions**

A. A mental health PRTF is a PRTF that provides inpatient psychiatric services to its residents who are suffering from mental illness, or who are suffering from co-occurring mental illness and a substance abuse/addiction disorder. In addition to the provisions applicable to all PRTFs, a mental health PRTF shall comply with the provisions of this Subchapter.

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).

### **§9093. Personnel Qualifications, Responsibilities, and Requirements**

A. A mental health PRTF shall have the following minimum personnel:

1. Administrator. The administrator must have a Bachelor's degree from an accredited college or university in a mental health-related field, plus at least five years of related experience. The administrator is responsible for the on-site, daily implementation and supervision of the overall facility's operation commensurate with the authority conferred by the governing body.

a. Grandfathering Provision. For a facility with a current child residential license from DCFS at the time of the promulgation of this rule, the current administrator may remain the administrator of the facility provided the following conditions are met.

i. The administrator has been the administrator on a full time basis for the facility for at least five years.

ii. The administrator was approved by the governing body to hold the position of administrator of the PRTF.

iii. An administrator under this grandfathering provision may not transfer as an administrator to another PRTF.

## 2. Clinical Director

a. The clinical director shall be a physician holding an unrestricted license to practice medicine in Louisiana and who has the following:

i. unrestricted Drug Enforcement Agency (DEA) and state controlled substance licenses;

ii. if the license(s) is from another jurisdiction, the license(s) must be documented in the employment record and must also be unrestricted;

iii. board-certification in general psychiatry; and

iv. satisfactory completion of a specialized psychiatric residency training program accredited by the Accreditation Council for Graduate Medical Education (ACGME), as evidenced by a copy of the certificate of training or a letter of verification of training from the training director, which includes the exact dates of training and verification that all ACGME requirements have been satisfactorily met. If the training was completed in a psychiatric residency program not accredited by the ACGME, the physician must demonstrate that he/she meets the most current requirements as set forth in the American Board of Psychiatry and Neurology's Board Policies, Rules and Regulations regarding Information for Applicants for Initial Certification in Psychiatry.

b. The clinical director is responsible for the following:

i. providing a monthly minimum of one hour of on-site clinical direction per resident; and

ii. monitoring and evaluating the quality and appropriateness of services and treatment provided by the facility's direct care staff.

3. LMHPs, MHPs, and MHSs. The PRTF shall provide or make available adequate numbers of LMHPs, MHPs, and MHSs to care for its residents. There shall be at least one LMHP or MHP supervisor on duty at all times. The PRTF shall develop a policy to determine the number of LMHPs, MHPs, MHSs on duty and the ratio of LMHPs and MHPs to MHSs based on the needs of its residents.

a. A LMHP or a MHP shall be designated and assigned as treatment plan manager for each resident and given responsibility for and authority over those activities detailed in the minimum licensure requirements, including:

i. supervision of the treatment plan;

ii. integration of the various aspects of the resident's program;

iii. recording of the resident's progress as measured by objective indicators and making appropriate changes/modifications; and

iv. serving as liaison between the resident, provider, family, and community during the resident's admission to and residence in the facility, or while the resident is receiving services from the provider.

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

c. A LMHP or MHP shall provide a minimum of two group therapy sessions per week for each resident.

d. A LMHP or MHP shall have a maximum caseload not to exceed 12 residents.

e. LMHPs, MHPs, and MHSs shall be responsible for:

i. evaluating residents;

ii. formulating written individualized plans of care;

iii. providing active treatment measures; and

iv. engaging in discharge planning.

f. The MHSs shall be under the supervision of LMHPs and/or MHPs to assist with the duties and requirements of the PRTF.

4. Psychologist. Psychological services shall be provided by, or supervised by, a psychologist with a doctorate degree from an accredited program in clinical or counseling psychology and with appropriate post-graduate experience. The PRTF shall provide or have available a psychologist to provide psychological testing and psychological services, as necessary to assist in essential diagnostic formulations as requested, and participate in program development and evaluation of program effectiveness, in therapeutic interventions and in treatment plan team meetings. Psychological services may be provided directly or by contract.

## 5. Registered Nurse

a. A registered nurse licensed to practice in Louisiana shall oversee and direct the nursing services of the PRTF. He/she shall be employed full time and be on-site 40 hours per week during normal business hours.

b. Nursing services shall be provided by or supervised by a registered nurse licensed to practice in Louisiana. There shall be an adequate number of registered nurses, licensed practical nurses, and other staff, to provide the nursing care necessary under each resident's treatment plan. When no RN is on site, there shall be an RN available to be on-site within 30 minutes as needed.

6. Physician. The PRTF shall have available a physician licensed in the state of Louisiana who shall assume 24-hour on-call medical responsibility for non-emergent physical needs of the facility's residents.

7. A licensed dietician, whether provided directly or by contract, shall be responsible for the dietary services program of the PRTF.

B. If the PRTF is providing both mental health and substance abuse treatment, the PRTF must also meet the staffing requirements for the resident's ASAM level required by the department, or the department's designee, in addition to the mental health PRTF requirements.

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).

## Subchapter I. Additional Requirements for Addictive Disorder PRTFs

### §9095. General Provisions

A. An addictive disorder PRTF is a PRTF that provides inpatient psychiatric services to its residents who are admitted primarily for treatment for substance abuse or

addictive disorders, not including mental illness. In addition to the provisions applicable to all PRTFs, an addictive disorder PRTF shall comply with the provisions of this Subchapter.

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 38:398 (February 2012).

**§9097. Personnel Qualifications, Responsibilities, and Requirements for Addictive Disorder PRTFs**

A. An addictive disorder PRTF shall have the following minimum personnel.

1. Administrator. The administrator must have a bachelor's degree from an accredited college or university in a mental health-related field, plus at least five years of related experience. The administrator is responsible for the on-site, daily implementation and supervision of the overall facility's operation commensurate with the authority conferred by the governing body.

a. Grandfathering Provision. For a facility with a current substance abuse license from DHH at the time of the promulgation of this final Rule, the current administrator may remain the administrator of the facility provided the following conditions are met.

i. The administrator has been the administrator on a full time basis for the facility for at least five years.

ii. The administrator was approved by the governing body to hold the position of administrator of the PRTF.

iii. An administrator under this grandfathering provision may not transfer as an administrator to another PRTF.

2. Clinical Director

a. The clinical director shall be a physician holding an unrestricted license to practice medicine in Louisiana and who has the following:

i. unrestricted DEA and state controlled substance licenses;

ii. if the license(s) is from another jurisdiction, the license(s) must be documented in the employment record and must also be unrestricted; and

iii. one of the following:

(a). board certification in general psychiatry and is eligible for certification in the subspecialty of addiction psychiatry by the American Board of Psychiatry and Neurology (ABPN);

(b). board eligible in general psychiatry with ABPN and has current certification in addiction psychiatry by the American Society of Addiction Medicine (ASAM); or

(c). an ABMS board-certified physician (non-psychiatrist) with ASAM certification and consultation with an ABPN board-certified psychiatrist. Proof of consultation shall be a current contract with a board-certified psychiatrist and written documentation of consults in the client's medical record.

b. The clinical director is responsible for the following:

i. providing a monthly minimum of one hour of on-site clinical direction per resident; and

ii. monitoring and evaluating the quality and appropriateness of services and treatment provided by the facility's direct care staff.

3. LMHPs, MHPs and MHSs. The PRTF shall provide or make available adequate numbers of LMHPs, MHPs and MHSs to care for its residents. There shall be at least one LMHP or MHP supervisor on duty at all times. The PRTF shall develop a policy to determine the number of LMHPs, MHPs, MHSs on duty and the ratio of LMHPs and MHPs to MHSs based on the needs of its residents.

a. A LMHP or a MHP shall be designated and assigned as treatment plan manager for each resident and given responsibility for and authority over those activities detailed in the minimum licensure requirements, including:

i. supervision of the treatment plan;

ii. integration of the various aspects of the resident's program;

iii. recording of the resident's progress as measured by objective indicators and making appropriate changes/modifications; and

iv. serving as liaison between the resident, provider, family, and community during the resident's admission to and residence in the facility, or while the resident is receiving services from the provider.

b. A LMHP or MHP shall provide a minimum of three individual therapy sessions each week for each resident (a minimum weekly total of 120 minutes) and a minimum of two group therapy sessions per week for each resident; for detoxification programs, there shall be at least 25 hours of structured treatment activities per week including counseling and educational activities.

c. LMHPs, MHPs, and MHSs shall be responsible for:

i. evaluating residents;

ii. formulating written individualized plans of care;

iii. providing active treatment measures; and

iv. engaging in discharge planning.

d. The MHSs shall be under the supervision of LMHPs and/or MHPs to assist with the duties and requirements of a PRTF.

4. Psychologist. Psychological services shall be provided by or supervised by a psychologist with a doctorate degree from an accredited program in clinical or counseling psychology and with appropriate post-graduate experience. The PRTF shall provide or have available a psychologist to provide psychological testing and psychological services, as necessary to assist in essential diagnostic formulations as requested, and participate in program development and evaluation of program effectiveness, in therapeutic interventions and in treatment plan team meetings. Psychological services may be provided directly or by contract. PRTFs that provide only a detoxification program are not required to provide a psychologist.

5. Registered Nurse

a. A registered nurse licensed to practice in Louisiana shall oversee and direct the nursing services of the PRTF. He/she shall be employed full time and be on-site 40 hours per week during normal business hours.

b. Nursing services shall be provided by or supervised by a registered nurse licensed to practice in Louisiana. There shall be an adequate number of registered nurses, licensed practical nurses, and other staff, to provide the nursing care necessary under each resident's treatment

plan. When no RN is on site, there shall be an RN available to be on-site within 30 minutes as needed.

6. Physician. The PRTF, except one that provides a social detoxification program only, shall have available a physician licensed in the state of Louisiana who shall assume 24-hour on-call medical responsibility for non-emergent physical needs of the facility's residents; the PRTF may have a licensed nurse practitioner or physician's assistant in place of the physician provided he/she works under a licensed physician.

7. A licensed dietician, whether provided directly or by contract, shall be responsible for the dietary services program of the PRTF.

B. The PRTF shall abide by the staffing requirements for the ASAM level of the admitted resident required by the department or the department's designee.

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 38:399 (February 2012).

Bruce D. Greenstein  
Secretary

1202#066

## RULE

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

#### School Based Behavioral Health Services (LAC 50:XXXIII.Chapters 41-47)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted 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, Office of Behavioral Health, in collaboration with a statewide management organization (SMO) which shall be responsible for the necessary operational and administrative functions to ensure adequate service coordination and delivery.

B. The school based behavioral health services rendered to children with emotional or behavioral disorders are medically necessary behavioral health services provided to Medicaid recipients in accordance with an Individualized Education Program (IEP).

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).

#### §4103. Recipient Qualifications

A. Individuals at least 3 years of age and under the age of 21, who meet Medicaid eligibility and clinical criteria, shall qualify to receive behavioral health services in a school setting.

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 of the healing arts, 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).

#### Chapter 43. Services

#### §4301. General Provisions

A. The Medicaid Program shall provide coverage for behavioral health services pursuant to §1905(a) of the Social Security Act which are addressed in the IEP, medically necessary, and that correct or ameliorate a child's health condition.

B. Services must be performed by qualified providers who provide school based behavioral health services as part of their respective area of practice (e.g. psychologist providing a behavioral health evaluation). Services rendered by certified school psychologists must be supervised consistent with R.S. 17:7.1.

C. Services shall be provided in accordance with the established service limitations.

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).

#### §4303. Covered Services

A. School based behavioral health services shall include Medicaid covered services, including treatment and other services to correct or ameliorate an identified mental health or substance abuse diagnosis. Services are provided by or through a local education agency (LEA) to children with, or suspected of having, a disability and who attend public school in Louisiana.

B. The following school based behavioral health services shall be reimbursed under the Medicaid Program:

1. therapeutic services, including diagnosis and treatment; and

2. rehabilitation services, including community psychiatric support and treatment (CPST) and psychosocial rehabilitation.

C. Service Limitations. Psychosocial rehabilitation is limited to 750 hours of group services per calendar year. Hours in excess of 750 may be authorized when deemed medically necessary.

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).

**§4305. Service Limitations and Exclusions**

A. The Medicaid Program shall not cover school based behavioral health services performed solely for educational purposes (e.g. academic testing). Services that are not reflected in the IEP (as determined by the assessment and evaluation) shall not be covered.

B. Social needs, educational needs, or habilitative services are not covered school based behavioral health 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 38:401 (February 2012).

**Chapter 45. Provider Participation**

**§4501. Local Education Agency Responsibilities**

A. The LEA shall ensure that its licensed and unlicensed behavioral health practitioners are employed according to the requirements specified under IDEA.

B. An LEA shall ensure that individual practitioners are in compliance with Medicaid qualifications, Department of Education Bulletin 746, and Louisiana Standards for State Certification of School Personnel prior to billing the Medicaid Program for any school based behavioral health services rendered by clinicians.

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).

**Chapter 47. Payments**

**§4701. Payment Methodology**

A. Payments for school based behavioral health services shall be made to the LEA.

B. The interim payment to the LEA for behavioral health services is based upon the established Medicaid fee schedule for behavioral health services.

C. Final payment to each LEA shall be the lesser of:

1. the number of units billed multiplied by \$100;
  - a. this amount may be periodically adjusted at the department's discretion; or
2. the most recent school year's actual cost as determined by desk review and/or audit for each local education agency (LEA) 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, Bureau of Health Services Financing, LR 38:401 (February 2012).

**§4703. Cost Calculations**

A. Each LEA shall determine its own costs and certify to those costs annually by using the appropriate form(s), report(s) and/or template(s) designated by the department. LEAs shall report costs in accordance with federal and state laws and regulations, the provisions of this Rule, and other manuals, notices, or directives issued by the department.

B. For each of the IDEA related school based services other than specialized transportation services, the participating LEAs' actual cost of providing the services will be claimed for Medicaid reimbursement.

C. The state will gather actual expenditure information for each LEA through its payroll/benefits and accounts payable system. These costs are also reflected in the annual financial report (AFR) that all LEAs are required to certify and submit to the Department of Education.

D. The department may at its discretion request and utilize other LEA specific data and information to determine actual costs for providing 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 38:401 (February 2012).

Bruce D. Greenstein  
Secretary

1202#067

**RULE**

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

Therapeutic Group Homes  
Minimum Licensing Standards  
(LAC 48:I.Chapter 62)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 48:I.Chapter 62 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2009. 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**

**Chapter 62. Therapeutic Group Homes**

**Subchapter A. General Provisions**

**§6201. Introduction**

A. The purpose of this Chapter is to provide for the development, establishment and enforcement of statewide licensing standards for the care of clients in therapeutic group homes (TGHs), to ensure the maintenance of these standards, and to regulate conditions in these facilities through a program of licensure which shall promote safe and adequate treatment of clients of TGHs.

B. TGHs provide a 24 hours per day, seven days per week, structured and supportive living environment. The purpose of a therapeutic group home (TGH) is to provide community-based services in a homelike environment to clients under the age of 21 who are determined to need psychiatric or psychological services.

C. Each TGH shall deliver an array of clinical treatment and related services, including psychiatric supports, integration with community resources, and skill building taught within the context of a safe home-like setting under the supervision of a professional staff person.

D. The goal of a therapeutic group home is to maintain the client's connections to their community, yet receive and participate in a more intensive level of treatment in which the client lives safely in a 24-hour setting.

E. The care and services rendered by a TGH shall include, but not be limited to:

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

**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 38:401 (February 2012).

### §6203. Definitions

**Active Treatment**—implementation of a professionally developed and supervised comprehensive treatment plan that is developed no later than seven days after admission and designed to achieve the client's discharge from inpatient status at the earliest possible time. To be considered active treatment, the services must contribute to the achievement of the goals listed in the comprehensive treatment plan. Recreation, tutoring, attending school, vocational services and transportation are not considered active treatment.

**Comprehensive Treatment Plan**—the comprehensive plan of care which is developed by the TGH for each client receiving services that includes all of the services each client needs, including medical/psychiatric, nursing, psychological and psychosocial therapies.

**Core Mental Health Discipline**—academic training programs in psychiatry, psychology, social work and psychiatric nursing.

**Department**—the Louisiana Department of Health and Hospitals, or "DHH."

**DCFS**—the Louisiana Department of Child and Family Services.

**Direct Care Staff**—any member of the staff, including an employee or contractor, that provides the services delineated in the comprehensive treatment plan. Food services, maintenance and clerical staff and volunteers are not considered as direct care staff.

**Division of Administrative Law**—the Louisiana Department of State Civil Service, Division of Administrative Law or "DAL."

**Health Standards Section**—the Louisiana Department of Health and Hospitals, Health Standards Section or "HSS."

**Human Services Field/Mental Health-Related Field**—an academic program with a curriculum content in which at least 70 percent of the required courses for the major field of study are based upon the core mental health disciplines.

**Licensed Mental Health Professional (LMHP)**—an individual who meets one of the following education and experience requirements:

1. a physician duly licensed to practice medicine in the state of Louisiana and has completed an accredited training program in psychiatry;
2. a psychologist licensed as a practicing psychologist under the provisions of R.S. 28:2351-2370;
3. a medical psychologist licensed to practice under the provisions of R.S. 37:1360.51 et seq.;
4. a social worker who holds a master's degree in social work from an accredited school of social work and is

a licensed clinical social worker under the provisions of R.S. 37:2701-2718, as amended;

5. an advanced practice registered nurse licensed as a registered nurse in the state of Louisiana by the Board of Nursing who may practice to the extent that services are within the nurse's scope of practice:

a. is a nurse practitioner specialist in adult psychiatric and mental health and family psychiatric and mental health; or

b. is a certified nurse specialist in psychosocial, gerontological psychiatric mental health, adult psychiatric and mental health and child-adolescent mental health;

6. a licensed professional counselor who is licensed as such under the provision of R.S. 37:1101-1115;

7. a licensed marriage and family therapist who is licensed as such under the provisions of R.S. 37:1116-1121; or

8. a licensed addiction counselor who is licensed as such under the provisions of R.S. 37:3387.

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

**LSUCCC**—the Department of Public Safety and Corrections, Louisiana State Uniform Construction Code Council.

**Mental Health Professional (MHP)**—an individual who is supervised by a LMHP and meets the following criteria as documented by the provider:

1. the individual has a Master of Social Work degree; or

2. the individual has a Master of Arts degree, Master of Science degree or a Master of Education degree in a mental health-related field and has a minimum of 15 hours of graduate level course work and/or practicum in applied intervention strategies/methods designed to address behavioral, emotional and/or mental problems. These hours may have been obtained as a part of, or in addition to, the master's degree.

**OSFM**—the Department of Public Safety and Corrections, Office of State Fire Marshal.

**Passive Physical Restraint**—the least amount of direct physical contact required on the part of a staff member to prevent a client from harming himself/herself or others.

**Pretreatment Assessment (PTA)**—the documented examination of a client which provides clinical information to support the medical necessity of the referral to the therapeutic group home and establishes that TGH services are the most appropriate services to meet the client's needs.

**Secretary**—the secretary of the Louisiana Department of Health and Hospitals, or his designee.

**Supervising Practitioner**—the qualified psychiatrist or psychologist who supervises and oversees the therapeutic group home's services and programs.

**Therapeutic Group Home (TGH)**—a facility that provides community-based residential services to clients under the age of 21 in a home-like setting of no greater than eight beds under the supervision and oversight of a psychiatrist or psychologist.



*Time Out*—the restriction of a resident for a period of time to a designated area from which the resident is not physically prevented from leaving, for the purpose of providing the resident an opportunity to regain self-control.

*Validated Complaint*—a complaint received by DHH Health Standards Section and found to be substantiated.

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 38:402 (February 2012).

## **Subchapter B. Licensing**

### **§6207. General Provisions**

A. All TGH providers shall be licensed by the Department of Health and Hospitals. The department is the only licensing authority for TGH providers in Louisiana. It shall be unlawful to operate as a therapeutic group home without possessing a current, valid license issued by the department. Each TGH shall be separately licensed.

B. A TGH license shall:

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

C. In order for the TGH to be considered operational and retain licensed status, the provider shall meet the following conditions.

1. There shall be adequate direct care staff and professional services staff employed and available to provide services to clients at the TGH at all times.
2. There shall always be at least two employees on duty at the facility at all times.

D. The licensed TGH shall abide by and adhere to any state and federal law, rules, policy, procedure, manual or memorandum pertaining to such facilities.

E. A separately licensed TGH shall not use a name which is substantially the same as the name of another TGH licensed by the department or by DCFS. A TGH provider shall not use a name which is likely to mislead the client or family into believing it is owned, endorsed or operated by the state of Louisiana.

G. No branches, satellite locations or offsite campuses shall be authorized for a TGH.

H. No new TGH shall accept clients until the TGH has written approval and/or a license issued by HSS. If the facility is currently maintaining a license as a child residential facility from DCFS, the facility may remain operational under its DCFS license during the TGH application process.

I. Plan Review. Construction documents (plans and specifications) are required to be submitted and approved by both the OSFM and the Department of Health and Hospitals

as part of the licensing procedure and prior to obtaining a license.

1. Applicable Projects. Construction documents require approval for the following types of projects:

- a. new construction;
- b. any entity that intends to operate and be licensed as a TGH in a physical environment that is not currently licensed by DCFS as a child residential facility; and
- c. major alterations.

2. Submission Plans

a. Submittal Requirements

i. One set of the final construction documents shall be submitted to the OSFM for approval. The fire marshal's approval letter and final inspection shall be sent to the DHH.

ii. One set of the final construction documents shall be submitted to DHH, or its designated plan review entity, along with the appropriate review fee and a "plan review application form" for approval.

b. Design Criteria. The project shall be designed in accordance with the following criteria:

i. the latest OSFM adopted edition of the National Fire Protection Agency (NFPA) 101-Life Safety Code;

ii. the latest LSUCCC adopted edition of the *International Building Code*;

iii. the latest edition of the Americans with Disabilities Act (ADA) Standards;

iv. the current DHH licensing standards for therapeutic group home facilities;

v. the latest OPH adopted edition of the *Louisiana State Plumbing Code*;

vi. the latest edition of the State Sanitary Code regulations applicable to residential facilities/group homes;

c. Construction Document Preparation.

Construction documents submitted to DHH, or its designated plan review entity, shall be prepared only by a Louisiana licensed architect or licensed engineer as governed by the licensing laws of the state for the type of work to be performed. These documents shall be of an architectural or engineering nature and thoroughly illustrate the project that is accurately drawn, dimensioned, and contain noted plans, details, schedules and specifications. At a minimum the following shall be submitted:

i. site plans;

ii. floor plans. These shall include architectural, mechanical, plumbing, electrical, fire protection, and if required by code, sprinkler and fire alarm plans;

iii. building elevations;

iv. room finish, door and window schedules;

v. details pertaining to the ADA Standards; and

vi. specifications for materials.

3. Waivers. The secretary of DHH may, within his/her sole discretion, grant waivers to building and construction guidelines which are not part of or otherwise required under the provisions of the State Sanitary Code. The facility must submit a waiver request in writing to HSS. The facility must demonstrate how patient safety and quality of care offered is not compromised by the waiver, and must demonstrate the undue hardship imposed on the facility if the waiver is not granted. The facility must demonstrate its ability to completely fulfill all other requirements of service. The

department will make a written determination of the requests.

a. Waivers are not transferable in an ownership change and are subject to review or revocation upon any change in circumstances related the waiver.

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 38:403 (February 2012).

### §6209. Initial Licensing Application Process

A. An initial application for licensing as a TGH shall be obtained from the department. A completed initial license application packet for a TGH shall be submitted to and approved by the department prior to an applicant providing TGH services.

B. Currently licensed DCFS providers that are converting to TGHs must comply with all of the initial licensure requirements, except plan review, and may be eligible for the exception to the bedroom space requirement of this Chapter.

C. An applicant must submit a completed initial licensing application packet to the department, which shall include:

1. a completed TGH licensure application and the non-refundable licensing fee as established by statute;

2. a copy of the approval letter of the architectural facility plans for the TGH from the department and from the OSFM, and any other office/entity designated by the department to review and approve the facility's architectural plans, if the facility must go through plan review;

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

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

5. a copy of statewide criminal background checks, including sex offender registry status, on all individual owners with a 5 percent or more ownership interest in the TGH, and on all managing employees;

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

a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$50,000;

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

c. worker's compensation insurance;

7. an organizational chart, including the names and position titles of key administrative personnel and the governing body; and

8. a floor sketch or drawing of the premises to be licensed;

9. a letter of intent as to the types of services or specialization that will be provided by the TGH (i.e. sexually offending behaviors, etc.); and

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

D. Any person convicted of one of the following felonies is prohibited from being the health care provider, owner, supervising practitioner or clinical director or any managing employee of a TGH. For purposes of these provisions, the licensing application shall be rejected by the department for

any felony conviction, guilty plea or nolo contendere plea relating to:

1. the violence, abuse, or negligence of a person;

2. the misappropriation of property belonging to another person;

3. cruelty, exploitation or the sexual battery of a juvenile or the infirmed;

4. a drug offense;

5. crimes of a sexual nature;

6. a firearm or deadly weapon;

7. Medicare or Medicaid fraud; or

8. fraud or misappropriation of federal or state funds.

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

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

G. Applicants must be in compliance with all appropriate federal, state, departmental or local statutes, laws, ordinances, rules, regulations and fees before the TGH provider will be issued an initial license to operate.

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 38:404 (February 2012).

§6211. Types of Licenses

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

1. Full Initial License. The department shall issue a full license to the TGH provider when the initial licensing survey finds that the provider is compliant with all licensing laws and regulations, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees. The license for a TGH shall be valid until the expiration date shown on the license, unless the license is revoked, suspended, or modified prior to that time.

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

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

b. The TGH provider shall submit a plan of correction to the department for approval and the provider shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional initial license.

c. A follow-up survey shall be conducted prior to the expiration of the provisional initial license.

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

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

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

4. Provisional Renewal License. The department, in its sole discretion, may issue a provisional license to an existing licensed TGH for a period not to exceed six months.

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

b. A provisional renewal license may be issued for the following reasons:

i. the existing TGH has more than five deficient practices or deficiencies cited during any one survey;

ii. the existing licensed TGH has more than three validated complaints in a one year period;

iii. the existing TGH provider has been issued a deficiency that involved placing a client at risk for serious harm or death;

iv. the existing TGH provider has failed to correct deficient practices within 60 days of being cited for such deficient practices or at the time of a follow-up survey; or

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

c. When the department issues a provisional renewal license to an existing licensed TGH provider, the provider shall submit a plan of correction to the department for approval, and the provider shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license. The department shall conduct an on-site follow-up survey at the TGH prior to the expiration of the provisional license.

i. If the on-site follow-up survey determines that the TGH has corrected the deficient practices and has maintained compliance during the period of the provisional license, the department may issue a full license for the

remainder of the year until the anniversary date of the TGH license.

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

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 38:404 (February 2012).

### **§6213. Changes in Licensee Information or Personnel**

A. Any change regarding the TGH's name, "doing business as" name, mailing address, phone number, or any combination thereof, shall be reported in writing to the department within five days of the change. Any change regarding the TGH name or "doing business as" name requires a change to the facility license and shall require a \$25 fee for the issuance of an amended license.

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

1. Key administrative personnel shall include the:

- a. supervising practitioner;
- b. clinical director; and
- c. house manager.

2. The TGH provider's notice to the department shall include the individual's:

- a. name;
- b. hire date; and
- c. qualifications.

C. A change of ownership (CHOW) of a TGH shall be reported in writing to the department at least five days prior to the change of ownership.

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

2. A PRTF that is under license revocation or denial of license renewal may not undergo a CHOW.

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

1. A written notice of intent to relocate must be submitted to HSS when the plan review request is submitted to the department for approval.

2. Relocation of the TGH's physical address results in a new anniversary date and the full licensing fee must be paid.

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

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 38:405 (February 2012).

### **§6215. Renewal of License**

A. To renew a license, a TGH must submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the existing current license. The license renewal application packet shall include:

1. the license renewal application;
2. a copy of the current on-site inspection report with approval for occupancy from the Office of the State Fire Marshal and the Office of Public Health;
3. proof of financial viability, comprised of the following:
  - a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$50,000;
  - b. general and professional liability insurance of at least \$300,000; and
  - c. worker's compensation insurance;
4. the license renewal fee; and
5. any other documentation required by the department.

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

C. Failure to submit a completed license renewal application packet prior to the expiration of the current license shall result in the voluntary non-renewal of the TGH license.

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

E. If an existing licensed TGH has been issued a notice of license revocation, suspension, or termination, and the facility's license is due for annual renewal, the department shall deny the license renewal application and shall not issue a renewal 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 38:406 (February 2012).

### **§6217. Deemed Status**

A. A licensed TGH may request deemed status from the department. The department may accept accreditation in lieu of a routine on-site licensing survey provided that:

1. the accreditation is obtained through an organization approved by the department;
2. all services provided under the TGH license must be accredited; and
3. the provider forwards the accrediting body's findings to the Health Standards Section within 30 days of its accreditation.

B. If approved, accreditation will be accepted as evidence of satisfactory compliance with all of the provisions of these requirements.

C. Occurrence of any of the following may be grounds for the department to perform a licensing survey on an accredited TGH provider with deemed status:

1. any valid complaint in the preceding 12-month period;
2. addition of services;

3. a change of ownership in the preceding 12-month period;

4. issuance of a provisional license in the preceding 12-month period;

5. serious violations of licensing standards or professional standards of practice that were identified in the preceding 12-month period that placed clients at risk for harm;

6. a report of inappropriate treatment or service resulting in death or serious injury; or

7. a change in geographic location.

D. A TGH with deemed status is responsible for complying with all of the provisions of this Rule and is subject to all of the provisions of this Rule.

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 38:406 (February 2012).

### **§6219. Licensing Surveys**

A. Prior to the initial license being issued to the TGH, an initial licensing survey shall be conducted on-site at the facility to assure compliance with licensing standards. Except for facilities currently maintain a license as a child residential facility from DCFS, a TGH shall not provide services to any resident until the initial licensing survey has been performed and the facility found in compliance with the licensing standards. The initial licensing survey shall be an announced survey.

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

C. A follow-up survey may be conducted for any survey where deficiencies have been cited to ensure correction of the deficient practices. The department shall issue written notice to the provider of the results of the follow-up survey.

D. An acceptable plan of correction may be required for any survey where deficiencies have been cited.

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; and
3. license revocations.

F. Surveyors and staff on behalf of the department shall be:

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

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 38:406 (February 2012).

## §6221. Complaint Surveys

A. The department shall conduct complaint surveys in accordance with R.S. 40:2009.13 et seq., on any TGH, including those with deemed status.

B. Complaint surveys shall be unannounced surveys.

C. An acceptable plan of correction may be required by the department for any complaint survey where deficiencies have been cited. If the department determines other action, such as license revocation is appropriate, a plan of correction may not be required and the facility will be notified of such action.

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

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

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

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

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

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

J. Except for the right to an administrative appeal provided in R.S. 40:2009.16(A), the informal reconsideration shall constitute final action by the department regarding the complaint survey or investigation, and there shall be no right to an administrative appeal.

1. To request an administrative appeal pursuant to R.S. 40:2009.16, the written request for the appeal shall be submitted to the Division of Administrative Law (DAL) and

must be received within 30 calendar days of the receipt of the results of the informal reconsideration.

2. The administrative law judge shall not have the authority to overturn or delete deficiencies or violations and shall not have the authority to add deficiencies or violations.

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 38:407 (February 2012).

## §6223. Statement of Deficiencies

A. The following statements of deficiencies issued by the Department to the TGH shall be posted in a conspicuous place on the licensed premises:

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

2. any complaint survey statement of deficiencies issued after the most recent annual survey.

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

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

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

2. The 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 days of the provider's receipt of the statement of deficiencies.

3. If a timely request for an informal reconsideration is received, the department shall schedule and conduct the informal reconsideration.

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

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

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 38:407 (February 2012).

## §6225. Cessation of Business

A. A TGH that intends to close or cease operations shall comply with the following procedures:

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;

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

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

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

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 38:407 (February 2012).

**§6227. Denial of License, Revocation of License, or Denial of License Renewal**

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

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

B. Denial of an Initial License

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

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

C. Voluntary Non-Renewal of a License

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

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

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

3. If a TGH 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.

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

1. failure to be in substantial compliance with the TGH licensing laws, rules and regulations, or with other required statutes, laws, ordinances, rules, or regulations;

2. failure to comply with the terms and provisions of a settlement agreement or education letter with or from the department, the Attorney General's Office, any regulatory agency, or any law enforcement agency;

3. failure to uphold a client's rights whereby deficient practices result in harm, injury, or death of a client;

4. negligence or failure to protect a client from a harmful act of an employee or other client including, but not limited to:

- a. mental or physical abuse, neglect, exploitation, or extortion;
- b. any action posing a threat to a client's health and safety;
- c. coercion;
- d. threat or intimidation;
- e. harassment; or
- f. criminal activity;

5. failure to notify the proper authorities, as required by federal or state law, rules, or regulations, of all suspected cases of the acts outlined in §6227.D.4;

6. knowingly making a false statement in any of the following documentation, including but not limited to:

- a. application for initial license or renewal of license;
- b. data forms;
- c. records, including:
  - i. clinical;
  - ii. client; or
  - iii. provider;
- d. matters under investigation by the department or the Office of Attorney General; or
- e. information submitted for reimbursement from any payment source;

7. knowingly making a false statement or providing false, forged, or altered information or documentation to department employees or to law enforcement agencies;

8. the use of false, fraudulent or misleading advertising;

9. fraudulent operation of a TGH by the owner, administrator, manager, member, officer, or director;

10. an owner, officer, member, manager, administrator, director, or person designated to manage or supervise client care has pled guilty or nolo contendere to a felony, or has been convicted of a felony, as documented by a certified copy of the record of the court.

a. For purposes of these provisions, conviction of a felony means a felony relating to any of the following:

- i. violence, abuse, or neglect of another person;
- ii. misappropriation of property belonging to another person;
- iii. cruelty, exploitation, or sexual battery of a juvenile or the infirmed;
- iv. a drug offense;
- v. crimes of a sexual nature;
- vi. possession or use of a firearm or deadly weapon; or
- vii. fraud or misappropriation of federal or state funds, including Medicare or Medicaid funds;

11. failure to comply with all of the reporting requirements in a timely manner as required by the department;

12. failure to allow or refusal to allow the department to conduct an investigation or survey, or to interview provider staff or the residents;

13. interference with the survey process, including but not limited to, harassment, intimidation, or threats against the survey staff;

14. failure to allow or refusal to allow access to facility or resident records by authorized departmental personnel;

15. bribery, harassment, or intimidation of any resident or family member designed to cause that client or family member to use or retain the services of any particular TGH provider;

16. cessation of business or non-operational status; or

17. failure to repay an identified overpayment to the department or failure to enter into a payment agreement to repay such overpayment;

18. failure to timely pay outstanding fees, fines, sanctions, or other debts owed to the department; or

19. failure to maintain accreditation, or for a new TGH that has applied for accreditation, the failure to obtain accreditation.

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

F. The denial of the license renewal application shall not affect in any manner the license revocation, suspension, or termination.

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 38:408 (February 2012).

### **§6229. Notice and Appeal of License Denial, License Revocation, License Non-Renewal, and Appeal of Provisional License**

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

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

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

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

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

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

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

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

7. The provider shall be notified in writing of the results of the informal reconsideration.

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

1. The TGH shall request the administrative appeal within 30 calendar days of the receipt of the notice of the results of the informal reconsideration of the license denial, license revocation, or license non-renewal.

a. The TGH provider may forego its rights to an informal reconsideration, and if so, the facility shall request the administrative appeal within 30 calendar days of the receipt of the notice of the license denial, license revocation, or license non-renewal.

2. The request for administrative appeal must be in writing and shall be submitted to the DAL or its successor. The request shall include any documentation that demonstrates that the determination was made in error and must include the basis and specific reasons for the appeal.

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

a. If the secretary of the department determines that the violations of the facility pose an imminent or immediate threat to the health, welfare, or safety of a resident, the imposition of the license revocation or license non-renewal may be immediate and may be enforced during the pendency of the administrative appeal. The facility shall be notified of this determination in writing.

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

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

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

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

department and the payment of any outstanding sanctions due to the department.

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

F. There is no right to an informal reconsideration or an administrative appeal of the issuance of a provisional initial license to a new TGH or a provisional license to an existing TGH. The issuance of a provisional license is not considered to be a denial of license, a denial of license renewal, or a license revocation.

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

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

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

3. The provider shall submit a written request for informal reconsideration within five calendar days of receipt of the department's notice of the results of the follow-up survey.

a. The provider may forego its right to an informal reconsideration.

4. The provider shall submit a written request to the Division of Administrative Law or its successor for an administrative appeal within 15 calendar days of receipt of the department's notice of the results of the informal reconsideration.

a. If the provider has opted to forego the informal reconsideration process, a written request for an administrative appeal shall be made within 15 calendar days of receipt of the department's notice of the results of the follow-up survey.

H. A provider with a provisional initial license or an existing provider with a provisional license that expires under the provisions of this Chapter shall cease providing services and discharge the clients unless the DAL issues a stay of the expiration.

1. A stay may be granted upon application by the provider at the time the administrative appeal is filed and only after a contradictory hearing and upon a showing that there is no potential harm to the residents being served by the provider.

1. If a timely administrative appeal has been filed by a provider 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 DAL or its successor shall conduct the hearing within 90 days of the docketing of the administrative appeal. One extension, not to exceed 90 days, may be granted by the Division of Administrative Law if good cause is shown.

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

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

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 38:409 (February 2012).

## **Subchapter B. Administration and Organization**

### **§6233. General Provisions**

A. Purpose and Organizational Structure. The purpose of the TGH shall be clearly defined in a statement filed with the department. The statement includes the:

1. program philosophy;
2. program goals and objectives;
3. ages, sex and characteristics of clients accepted for care;
4. geographical area served;
5. types of services provided;
6. description of admission policies; and
7. needs, problems, situations or patterns best addressed by the provider's program; and
8. an organizational chart of the provider which clearly delineates the line of authority.

B. A TGH shall provide supervision and services that:

1. conform to the department's rules and regulations;
2. meet the needs of the clients as identified and addressed in the comprehensive treatment plan;
3. provide for the full protection of clients' rights; and
4. promote the social, physical and mental well-being of clients.

C. A TGH shall make any required information or records, and any information reasonably related to assessment of compliance with these requirements, available to the department.

D. A TGH shall allow designated representatives of the department, in performance of their mandated duties, to:

1. inspect all aspects of the TGH's operations which directly or indirectly impact clients; and
2. conduct interviews with any staff member or client of the provider.

E. A TGH shall make available, upon request, the legal ownership documents.

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 38:410 (February 2012).

### **§6237. Governing Body**

A. A TGH shall have an identifiable governing body with responsibility for and authority over the policies and operations of the home.

1. A TGH shall have documents identifying all members of the governing body, their addresses, their terms



of membership, officers of the governing body and terms of office of any officers.

2. The governing body shall be comprised of three or more persons and shall hold formal meetings at least twice a year.

3. There shall be written minutes of all formal meetings of the governing body and by-laws specifying frequency of meetings and quorum requirements.

B. The governing body of a TGH shall:

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

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

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

4. designate qualified persons to act as supervising practitioner and clinical director and delegate sufficient authority to these persons to manage the facility;

5. formulate and annually review, in consultation with the clinical director and supervising practitioner, written policies concerning the provider's philosophy, goals, current services, personnel practices, job descriptions and fiscal management;

6. annually evaluate the supervising practitioner's and clinical director's performance;

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

8. inform the department, or its designee, prior to initiating any substantial changes in the services provided by the provider; and

9. ensure statewide criminal background checks in accordance with R.S. 15:587.1.

C. A TGH provider shall maintain the following documents:

1. minutes of formal meetings and by-laws of the governing body;

2. documentation of the provider's authority to operate under state law;

3. all leases, contracts and purchases-of-service agreements to which the provider is a party;

4. insurance policies;

5. annual budgets and audit reports; and

6. a master list of all the community resources used by the provider.

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:-410 (February 2012).

### **§6239. Policies and Procedures**

A. The TGH shall have written policies and procedures approved by the owner or governing body, which must be implemented and followed, that address at a minimum the following:

1. confidentiality and confidentiality agreements;

2. security of files;

3. publicity and marketing, including the prohibition of illegal or coercive inducement, solicitation and kickbacks;

4. personnel;

5. client rights;

6. grievance procedures;

7. client funds;

8. emergency preparedness;

9. abuse and neglect;

10. incidents and accidents, including medical emergencies;

11. universal precautions;

12. documentation;

13. admission and discharge procedures;

14. bedroom assignment for clients; and

15. behavior management.

B. A TGH shall have written personnel policies, which must be implemented and followed, that include:

1. a plan for recruitment, screening, orientation, ongoing training, development, supervision and performance evaluation of staff members, whether directly employed, contract or volunteer;

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

3. policies that shall, at a minimum, be consistent with Office of Public Health guidelines, to indicate whether, when and how staff have a health assessment;

4. an employee grievance procedure;

5. abuse reporting procedures that require all employees to report any incidents of abuse or mistreatment, whether that abuse or mistreatment is done by another staff member, a family member, a client or any other person;

6. a nondiscrimination policy;

7. a policy that requires all employees to report any signs or symptoms of a communicable disease or personal illness to their supervisor or the Clinical Director as possible to prevent the disease or illness from spreading to other clients or personnel.

C. A TGH shall maintain the requirements for financial viability under this rule at all times.

D. Behavior Management

1. The provider shall develop and implement written policies and procedures for the management of behaviors to be used on facility-wide level, insuring that procedures begin with the least restrictive, most positive measures and follow a hierarchy of acceptable measures. The policies and procedures shall be provided to all provider staff and shall include:

a. appropriate and inappropriate behaviors of clients;

b. consequences of inappropriate behaviors of clients;

c. the phases of behavior escalation and appropriate intervention methods to be used at each level.

d. documentation in the client's record of the use of any behavioral management measures.

E. House Rules and Regulations. A provider shall have a clearly written list of rules and regulations governing conduct for clients in care and shall document that these rules and regulations are made available to each staff member, client and, where appropriate, the client's parent(s) or legal guardian(s). A copy of the House rules shall be given to clients and, where appropriate, the client's parent(s) or legal guardian(s) upon admission and shall be posted and accessible to all employees and clients.

F. Limitations on Potentially Harmful Responses or Punishments. A provider shall have a written list of prohibited responses and punishments to clients by staff members and shall document that this list is made available

to each staff member, client and, where appropriate, the client's parent(s) or legal guardian(s).

1. This list shall include the following prohibited responses/punishments:

a. any type of physical hitting or other painful physical contact except as required for medical, dental or first aid procedures necessary to preserve the child's life or health;

b. physical, chemical and mechanical restraints;

c. requiring a client to take an extremely uncomfortable position;

d. verbal or psychological abuse, ridicule or humiliation;

e. withholding of a meal, except under a physician's order;

f. denial of sufficient sleep, except under a physician's order;

g. requiring a child to remain silent for a long period of time;

h. denial of shelter, warmth, clothing or bedding;

i. assignment of harsh physical work.

j. physical exercise or repeated physical motions;

k. excessive denial of usual services;

l. denial of visiting or communication with family or legal guardian;

m. extensive withholding of emotional response;

n. any other cruel, severe, unusual, degrading or unnecessary punishment.

2. A provider shall not punish groups of clients for actions committed by an individual.

3. Children shall neither punish nor supervise other children except as part of an organized therapeutic self government program that is conducted in accordance with written policy and is supervised directly by staff. Such programs shall not be in conflict with regulations regarding behavior management.

4. Punishment shall not be administered by any persons who are not known to the client.

#### G. Restraints

1. A TGH shall develop and implement a written policy which prohibits the use of any form of mechanical, physical or chemical restraints. TGH providers may have a policy that allows passive physical restraint, but it shall be utilized only when the child's behaviors escalate to a level of possibly harming himself/herself or others.

2. The TGH's policy shall provide that passive physical restraints are only to be performed by two trained staff personnel in accordance with an approved curriculum. A single person restraint can be initiated in a life threatening crisis with support staff in close proximity to provide assistance.

#### H. Time-Out Procedures

1. A provider using time-out rooms for seclusion of clients for brief periods shall have a written policy governing the use of time-out procedures. This policy shall ensure that:

a. the room shall be unlocked;

b. time-out procedures are used only when less restrictive measures have been used without effect. Written documentation of less restrictive measures used shall be required;

c. emergency use of time-out shall be approved by the clinical director for a period not to exceed one hour;

d. time-out used as an individual behavior management plan shall be part of the overall plan of treatment;

e. the plan shall state the reasons for using time-out and the terms and conditions under which time-out will be terminated or extended, specifying a maximum duration of the use of the procedure that shall under no circumstances exceed eight hours;

f. when a child is in time-out, a staff member shall exercise direct physical supervision of the child at all times;

g. a child in time-out shall not be denied access to bathroom facilities, water or meals.

I. Copies of the behavior management policy, the prohibited response and punishment policy, including restraint prohibitions and time out procedures, shall be provided in triplicate upon admission. The child and parent(s) or legal guardian(s) shall sign all three copies. The child and parent(s) or legal guardian(s) shall retain one copy each and the provider shall retain the other copy in the child's record.

J. Copies of the behavior management policy, the prohibited response and punishment policy, including restraint prohibitions and time out procedures, shall be provided in duplicate to each new employee upon hiring. The employee shall sign both copies. The employee shall retain one copy and the provider shall retain the other copy in the employee's personnel record.

K. A TGH shall comply with all federal and state laws, rules and regulations in the development and implementation of its policies and procedures.

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 38:411 (February 2012).

#### §6241. Personnel Records

A. A TGH shall have a personnel file for each staff member who provides services for the TGH in the facility. Each record shall contain:

1. the application for employment and/or resume;

2. reference letters from former employer(s) and personal references or written documentation based on telephone contact with such references;

3. any required medical examinations;

4. evidence of current applicable professional credentials/certifications according to state law or regulations;

5. annual performance evaluations;

6. personnel actions, other appropriate materials, reports and notes relating to the individual's employment with the center; and

7. the employee's starting and termination dates.

B. The staff member shall have reasonable access to his/her file and shall be allowed to add any written statement that he/she wishes to make to the file at any time.

C. A TGH shall retain the staff member's personnel file for at least three years after the staff member's termination of employment.

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 38:412 (February 2012).

## Subchapter D. Provider Responsibilities

### §6245. General Provisions

A. The TGH shall have at least one staff member on duty per shift to have current CPR and first aid certification.

B. For contract services, the TGH shall have formal written agreements with professionals or other entities to provide services which may or may not be directly offered by facility staff. Both parties shall review and document review of each agreement annually.

C. The TGH shall ensure that a criminal background check is conducted on employees in accordance with the provisions of R.S. 15:587.1 and R.S. 46:51.2.

1. The TGH shall have a written policy and procedure for obtaining the criminal background check.

2. No person, having any supervisory or other interaction with clients, shall be hired until such person has submitted his or her fingerprints to the Louisiana Bureau of Criminal Identification and Information, and it has been determined that such person has not been convicted of or pled nolo contendere to a crime listed in R.S. 15:587.1(C). This shall include any employee or non-employee, including independent contractors, consultants, students, volunteers, trainees, or any other associated person, who performs paid or unpaid work with or for the TGH.

3. Contractors hired to perform work which does not involve any contact with clients shall not be required to have a criminal background check if accompanied at all times by a staff person if clients are present in the facility.

4. Any employee who is convicted of or has pled nolo contendere to any crime listed in R.S. 15:587.1(C) shall not continue employment after such conviction or nolo contendere plea.

D. The TGH shall check the Louisiana State Nurse Aide Registry and the Louisiana Direct Service Worker Registry to ensure that each member of its direct care staff does not have a finding placed against him/her on either registry.

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 38:413 (February 2012).

### §6247. Staffing Requirements

A. There shall be a single organized professional staff that has the overall responsibility for the quality of all clinical care provided to clients, for the ethical conduct and professional practices of its members, as well as for accounting therefore to the governing body. The manner in which the professional staff is organized shall be consistent with the TGH's documented staff organization and policies and shall pertain to the setting where the TGH is located. The organization of the professional staff and its policies shall be approved by the TGH's governing body.

B. The staff of a TGH must have the appropriate qualifications to provide the services required by its clients comprehensive treatment plans. Each member of the direct care staff may not practice beyond the scope of his/her license or certification.

#### C. Staffing Ratios

1. All staffing shall be adequate to meet the individualized treatment needs of the clients and the responsibilities of the staff. Staffing schedules shall reflect overlap in shift hours to accommodate information exchange for continuity of client treatment, adequate numbers of staff

reflective of the tone of the unit, appropriate staff gender mix and the consistent presence and availability of professional staff. In addition, staffing schedules should ensure the presence and availability of professional staff on nights and weekends, when parents are available to participate in family therapy and to provide input on the treatment of their child.

2. A TGH shall have a minimum of two staff on duty per shift in each living unit, with at least one staff person awake during overnight shifts with the ability to call in as many staff as necessary to maintain safety and control in the facility, depending upon the needs of the current population at any given time.

3. A ratio of not less than one staff to four clients is maintained at all times; however, two staff must be on duty at all times with at least one being direct care staff when there is a client present.

D. The staff shall have the following acceptable hours and ratios:

1. Supervising Practitioner. The supervising practitioner's hours shall be adequate to provide the necessary direct services and to meet the administrative and clinical responsibilities of supervision and of directing the care in a TGH. The number of hours the supervising practitioner needs to be on-site is dependent upon the size of program and the unique needs of each individual client.

2. Clinical Director. The clinical director shall have adequate hours to fulfill the expectations and responsibilities of the clinical director.

3. Nurse. The TGH shall have at least one licensed nurse available to meet the nursing health care needs of the clients and who is on-call 24 hours a day and can be on-site within 30 minutes as needed.

4. Therapist. The ratio of the therapist to clients served shall be no greater than 1:16. Each therapist shall be available at least three hours per week for individual and group therapy and two hours per month for family therapy.

5. Direct Care Staff. The ratio of direct care staff to clients served shall be 1:4 with a minimum of two staff on duty per shift for an 8 bed capacity. This ratio may need to be increased based on the assessed level of acuity of the youth or if treatment interventions are delivered in the community and offsite.

#### E. Orientation

1. All staff shall receive orientation prior to being assigned to provide client care without supervision.

2. Orientation includes, but is not limited to:

- a. confidentiality;
- b. grievance process;
- c. fire and disaster plans;
- d. emergency medical procedures;
- e. organizational structure;
- f. program philosophy;
- g. personnel policy and procedure;
- h. detecting and mandatory reporting of client

abuse, neglect or misappropriation;

- i. detecting signs of illness or dysfunction that warrant medical or nursing intervention;

- j. basic skills required to meet the health needs and problems of the client;

- k. crisis intervention and the use of nonphysical intervention skills, such as de-escalation, mediation conflict

resolution, active listening and verbal and observational methods to prevent emergency safety situations;

1. the safe use of time out and passive physical restraint (including a practice element in the chosen method); and

m. recognizing side effects of all medications including psychotropic drugs.

F. Training. All staff shall receive training according to facility policy at least annually and as deemed necessary depending on the needs of the clients. The TGH must maintain documentation of all training provided to its staff. The TGH shall meet the following requirements for training.

1. Staff shall have ongoing education, training and demonstrated knowledge of at least the following:

a. techniques to identify staff and client behaviors, events, and environmental factors that may trigger emergency safety situations;

b. the use of nonphysical intervention skills, such as de-escalation, mediation conflict resolution, active listening, and verbal and observational methods, to prevent emergency safety situations;

c. the safe use of time out for behavior management, including the ability to recognize any adverse effects as a result of the use of time out; and

d. the safe use of passive physical restraint (including a practice element in the chosen method).

2. Certification in the use of cardiopulmonary resuscitation, including periodic recertification, is required within 30 days of hire.

3. Training shall be provided only by staff who are qualified by education, training, and experience.

4. Staff training must include training exercises in which staff members successfully demonstrate in practice the techniques they have learned for managing emergency safety situations.

5. Staff must be trained and demonstrate competency before participating in an emergency safety intervention.

6. All training programs and materials used by the facility must be available for review by HSS.

G. Staff Evaluation. The TGH shall complete an annual performance evaluation of all staff members. For any person who interacts with clients, the provider's performance evaluation procedures shall address the quality and nature of a staff member's relationships with clients.

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 38:413 (February 2012).

#### **§6249. Personnel Qualifications and Responsibilities**

A. Professional Staffing Standards. The following are the minimum staffing requirements for TGHs.

1. Supervising Practitioner

a. A supervising practitioner shall be one of the following:

i. a physician with an unrestricted license to practice in Louisiana and who meets all of the following qualifications:

(a). an unrestricted drug enforcement agency (DEA) and Louisiana controlled substance license;

(b). if the physician holds an additional license(s) in another state or jurisdiction, that license(s) must

be unrestricted and be documented in the employment record;

(c). board-certification in general psychiatry; and

(d). satisfactory completion of a specialized psychiatric residency training program accredited by the Accreditation Council for Graduate Medical Education (ACGME), as evidenced by a copy of the certificate of training or a letter of verification of training from the training director, which includes the exact dates of training and verification that all ACGME requirements have been satisfactorily met. If training was completed in a psychiatric residency program not accredited by the ACGME, the physician must demonstrate that he/she meets the most current requirements as set forth in the American Board of Psychiatry and Neurology's Board policies, rules and regulations regarding information for applicants for initial certification in psychiatry;

ii. a psychologist/medical psychologist must have the following:

(a). an unrestricted license to practice psychology in Louisiana issued by the Louisiana State Board of Examiners of Psychologists under R.S. 37:2351 et seq., or an unrestricted license to practice medical psychology issued by the Louisiana State Board of Medical Examiners under R.S. 37.1360.51 et seq.;

(b). unrestricted DEA and Louisiana controlled substance licenses, if the supervising practitioner is a medical psychologist;

(c). demonstrated competence and experience in the assessment, diagnosis, and treatment of children and adolescents who have mental and emotional disorders or disabilities, alcoholism and substance abuse. Acceptable competence/experience is specialized training at the internship or post-doctoral level before licensure and/or being in the independent practice of child/adolescent psychology in private practice, as a consultant, or within an outpatient or inpatient treatment facility for a period of at least two years post-licensure.

b. A supervising practitioner's responsibilities shall include, but are not limited to:

i. reviewing the referral PTA and completing an initial diagnostic assessment at admission or within 24 hours of admission and prior to service delivery;

ii. assuming accountability to direct the care of the client at the time of admission and during the entire TGH stay;

iii. supervising the development of a comprehensive treatment plan in the seven days following admission.

iv. providing clinical direction in the development of the comprehensive treatment plan;

v. at least every 14 days or more often as necessary, providing:

(a). a face-to-face assessment/service to the client;

(b). a review of the need for continued care; and

(c). continued supervision of the comprehensive treatment plan;

vi. providing crisis management including supervision and direction to the staff to resolve any crisis of the client's condition;

- vii. monitoring and supervising an aggressive plan to transition the client from the program into less intensive treatment services as medically necessary;
- viii. providing 24-hour on call coverage, seven days a week;
- ix. assuming professional responsibility for the services provided and assure that the services are medically appropriate.

## 2. Clinical Director

- a. A clinical director shall be an LMHP.
- b. The clinical director must have the appropriate qualifications to meet the responsibilities of the clinical director and the needs of the TGH's clients. A clinical director may not practice beyond his/her scope of practice license.
- c. If the TGH treats clients with both mental health and substance abuse conditions, then the clinical director must have the training and experience necessary to practice in both fields.
- d. Practitioners who meet the criteria of the clinical director may also serve as the TGH's therapist.
- e. The responsibilities of a clinical director include, but are not limited to:
  - i. overseeing, implementing, and coordinating treatment services;
  - ii. continually incorporating new clinical information and best practices into the program to assure program effectiveness and viability;
  - iii. overseeing the process to identify, respond to, and report crisis situations on a 24-hour per day, 7 day per week basis;
  - iv. clinical management for the program in conjunction with and consultation with the supervising practitioner;
  - v. assuring confidentiality and quality organization and management of clinical records and other program documentation; and
  - vi. applying and supervising the gathering of outcome data and determining the effectiveness of the program.

## 3. TGH Therapist

- a. A TGH therapist shall be an LMHP or an individual with a Master's degree in social work, counseling, psychology or a related human services field.
- b. The role and the responsibilities of the TGH Therapist include but are not limited to:
  - i. reporting to the clinical director and supervising practitioner for clinical and non-clinical guidance and direction;
  - ii. communicating treatment issues to the clinical director and to the supervising practitioner as needed;
  - iii. providing individual, group, family, psychotherapy and/or substance abuse counseling;
  - iv. assisting in developing/updating treatment plans for clients in TGH care in conjunction with the other multidisciplinary team members;
  - v. providing assistance to direct care staff and implementing the treatment plan when directed by the clinical director;
  - vi. providing clinical information to the multidisciplinary team and attending treatment team meetings; and

- vii. providing continuous and ongoing assessments to assure clinical needs of clients and parents(s)/caregivers(s) are met.

## 4. Nursing Services

- a. The TGH shall have a licensed registered nurse who shall supervise the nursing services of the TGH. He/She must be operating within his/her scope of practice and have documented experience and training in the treatment of children or adolescents.
- b. All nursing services must be furnished by licensed nurses. All nursing services furnished in the TGH shall be provided in accordance with acceptable nursing professional practice standards.
- c. The responsibilities of the registered nurse include, but are not limited to:
  - i. providing a nursing assessment within 24 hours of admission for each client;
  - ii. establishing a system of operation for the administration and supervision of the clients' medication and medical needs;
  - iii. training staff regarding the potential side effects of medications, including psychotropic drugs;
  - iv. coordinating psychiatric and medical care per physician's direction; and
  - v. monitoring and supervising all staff providing nursing care and services to clients.
- d. The responsibilities of all nurses include, but are not limited to:
  - i. reporting to the clinical director for programmatic guidance;
  - ii. reporting to the supervising practitioner as necessary regarding medical, psychiatric, and physical treatment issues;
  - iii. reviewing all medical treatment orders and implementing orders as directed;
  - iv. serving as a member of the multidisciplinary treatment team;
  - v. administering medications and monitoring the clients' responses to medications;
  - vi. providing education on medication and other health issues as needed;
  - vii. abiding by all state and federal laws, rules, and regulations; and
  - viii. identifying and assessing the clients for dental and medical needs.

## 5. House Manager

- a. The house manager shall have the following qualifications:
  - i. be at least 21 years of age and at least 3 years older than the oldest client; and
  - ii. possess one of the following:
    - (a) a Bachelor's degree in a human services field and one year of documented employment with a health care provider that treats clients with mental illness; or
    - (b) two years of course work toward a Bachelor's degree in a human services field and two years of documented employment with a health care provider that treats clients with mental illness.
- b. The house manager's responsibilities include, but are not limited to the following:
  - i. supervising the activities of the facility when the professional staff is on call, but not on duty;

- ii. identifying, respond to, and report any crisis situation to the clinical director on a 24-hour, seven day per week basis;
- iii. reporting incidents of abuse, neglect and misappropriation to the clinical director;
- iv. assessing situations related to relapse;
- v. coordinating and consulting with the clinical director as needed; and
- vi. providing access to appropriate medical care when needed.

6. Direct Care Staff

a. All direct care staff shall have at least the following qualifications:

- i. a high school diploma or equivalent;
- ii. at least 18 years of age, but must also be at least three years older than all clients under the age of 18;
- iii. a minimum of two years of experience working with children, be equivalently qualified by education in the human services field, or have a combination of work experience and education with one year of education substituting for one year of experience;
- iv. not have a finding on the Louisiana State Nurse Aide Registry and the Louisiana Direct Service Worker Registry against him/her;
- v. be certified in crisis prevention/management (example: CPI, Mandt, etc.);
- vi. be proficient in de-escalation techniques; and
- vii. be certified by the state of Louisiana.

b. The responsibilities of direct care staff include, but are not limited to:

- i. completing the required program orientation and training, and demonstrating competency prior to being assigned to direct care;
- ii. having a clear understanding of the treatment plan;
- iii. assisting clients in developing social, recreational, and other independent living skills as appropriate;
- iv. being aware of safety issues and providing safety intervention within the milieu;
- v. reporting all crisis or emergency situations to the clinical director or his/her designee in the absence of the clinical director;
- vi. reporting to the therapist or clinical director as necessary regarding treatment issues;
- vii. understanding the program philosophy regarding behavior management and applying this philosophy in daily interactions with clients in TGH care; and
- viii. having the ability to effectively implement de-escalation techniques.

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 38:414 (February 2012).

**§6251. Client Records**

A. Client records shall be maintained in the TGH and shall be kept secure and confidential. The provider shall have a written record for each client which shall include:

- 1. identifying data including:
  - a. name;
  - b. date of birth;

- c. address;
- d. telephone number;
- e. social security number; and
- f. legal status;

2. the client's pretreatment assessment, the referral and documentation pertaining to admission from Medicaid or its designee, initial diagnostic interview, nursing assessment and comprehensive treatment plan plus any modifications or updates;

3. the client's history including, where applicable:

- a. family data;
- b. next of kin;
- c. educational background;
- d. employment record;
- e. prior medical history; and
- f. prior service history;

4. written authorization signed by the client or, in the case of a minor, the legally responsible person for emergency care;

5. written authorization signed by the client or, in the case of a minor, the legally responsible person for maintaining the client's money, if applicable;

6. a current balance sheet, containing all financial transactions and required signatures, involving the personal funds of the client deposited with the provider;

7. required assessment(s) and additional assessments that the provider may have received or is privy to;

8. the names, addresses, and telephone numbers of the client's physician(s).

9. legible written progress notes or equivalent documentation and reports of the services delivered for each client for each visit. The written progress notes shall include, at a minimum:

- a. the date and time of the visit and services;
- b. the services delivered;
- c. who delivered or performed the services;
- d. observed changes in the physical or mental condition(s) of the client if applicable; and
- e. doctor appointments scheduled or attended that day;

10. health and medical records of the client, including:

- a. a medical history, including allergies; and
- b. a description of any medical treatment or medication necessary for the treatment of any medical condition;

11. a copy of any advance directive that may have been executed by the client;

12. reports of any incidents of abuse, neglect, accidents or critical incidents, including use of passive physical restraints; and

13. reports of any client's grievances and the conclusions or dispositions of these reports. If the client's grievance was in writing, a copy of the written grievance shall be included.

B. TGHs shall maintain client records for a period of 10 years from discharge.

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 38:416 (February 2012).

### **§6253. Client Funds and Assets**

A. The TGH shall develop and implement written policies and procedures governing the maintenance and protection of client funds. These policies and procedures shall have provisions which include, but are not limited to, the following:

1. the amount each client can have;
2. the criteria by which clients can access their money;
3. the procedure for disbursement; and
4. staff who can access such funds.

B. If the TGH manages a client's personal funds, the facility must furnish a written statement listing the client's rights regarding personal funds to the client and/or his/her legal or responsible representative.

C. If a client chooses to entrust funds with the facility, the TGH shall obtain written authorization from the client and/or his/her legal or responsible representative for the safekeeping and management of the funds.

D. The TGH shall:

1. provide each client with an account statement upon request with a receipt listing the amount of money the facility is holding in trust for the client;
2. maintain a current balance sheet containing all financial transactions to include the signatures of staff and the client for each transaction;
3. provide a list or account statement regarding personal funds upon request of the client; and
4. not commingle the clients' funds with the provider's operating account.

E. If the TGH is managing funds for a client and he/she is discharged, any remaining funds shall be refunded to the client or his/her legal or responsible representative within five business days of notification of discharge. Upon the death of a client, any remaining funds shall be refunded to the client's legal or responsible representative within five business days of the client's death.

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 38:417 (February 2012).

### **§6255. Quality Improvement Plan**

A. A TGH provider shall have a quality improvement (QI) plan which puts systems in place to effectively identify issues for which quality monitoring, remediation, and improvement activities are necessary. The QI plan shall include plans of action to correct identified issues including monitoring the effect of implemented changes and making needed revisions to the action plan.

B. The QI plan shall include:

1. a process for obtaining input annually from the client/guardian/authorized representatives and family members, as applicable. This process shall include, but not be limited to:
  - a. satisfaction surveys done by mail or telephone;
  - b. focus groups; and
  - c. other processes for receiving input regarding the quality of services received;
2. a 10 percent sample review of client case records on a quarterly bases to assure that:
  - a. individual treatment plans are up to date;
  - b. records are complete and current; and

c. the treatment plans have been developed and implemented as ordered.

3. a process for identifying on a quarterly basis the risk factors that affect or may affect the health, safety and/or the clients of the TGH receiving services which includes, but is not limited to:

- a. review and resolution of complaints;
  - b. review and resolution of incidents; and
  - c. incidents of abuse, neglect and exploitation;
4. a process to review and resolve individual client issues that are identified; and
5. a process to review and develop action plans to resolve all system wide issues identified as a result of the processes above.

C. The QI program outcomes shall be documented and reported to the supervising practitioner for action, as necessary, for any identified systemic problems.

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 38:417 (February 2012).

### **Subchapter E. Admission, Transfer, and Discharge**

#### **§6259. Admission Requirements**

A. A TGH shall have written admissions policies and criteria which shall include the following:

1. intake policy and procedures;
2. admission criteria and procedures;
3. policy regarding the determination of legal status, according to appropriate state laws, before admission;
4. the age of the populations served;
5. the services provided by the TGH; and
6. criteria for discharge.

B. The written description of admissions policies and criteria shall be provided to the department upon request, and made available to the client and his/her legal representative.

C. A TGH shall not refuse admission to any client on the grounds of race, national origin, ethnicity or disability.

D. A TGH shall admit only those clients whose needs, pursuant to the pretreatment assessment and comprehensive treatment plan, can be fully met by the TGH.

E. When refusing admission to a client, the TGH shall provide a written statement to the client with the reason for the refusal. This shall be provided to the designated representative(s) of the department upon request.

F. Pretreatment Assessment. To be admitted into a TGH, the individual must have received a pretreatment assessment by the Medicaid Program, or its designee, that recommends admission into the TGH. The TGH must ensure that requirements for pretreatment assessment are met prior to treatment commencing. The referral PTA shall contain clinical information to support medical necessity to the therapeutic group home and to establish that TGH is the most appropriate service to meet the client's treatment needs.

G. The TGH shall use the pretreatment assessment to develop an initial plan of care to be used upon admission until a comprehensive treatment plan is completed.

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 38:417 (February 2012).

## **§6261. Transfer and Discharge Requirements**

A. The goal of the therapeutic group home is to return the client to a less restrictive level of service as early as possible in the development of the plan.

B. Discharge planning begins at the date of admission, and goals toward discharge shall be continually addressed in the multi-disciplinary team meetings and when the comprehensive treatment plan is reviewed. Discharge may be determined based on the client no longer making adequate improvement in this facility (and another facility being recommended) or the client no longer having medical necessity at this level of care.

C. Continued TGH stay should be based on a clinical expectation that continued treatment in the TGH can reasonably be expected to achieve treatment goals and improve or stabilize the client's behavior, such that this level of care will no longer be needed and the client can return to the community.

D. Transition should occur to a more appropriate level of care if the client is not making progress toward treatment goals and there is no reasonable expectation of progress at this level of care (e.g., client's behavior and/or safety needs requires a more restrictive level of care or, alternatively, client's behavior is linked to family functioning and can be better addressed through a family/home-based treatment).

E. Voluntary Transfer or Discharge. Upon notice by the client or authorized representative that the client has selected another provider or has decided to discontinue services, the TGH shall have the responsibility of planning for a client's voluntary transfer or discharge.

1. The transfer or discharge responsibilities of the TGH shall include:

a. holding a transfer or discharge planning conference with the client, family, support coordinator, legal representative and advocate, if such are known, in order to facilitate a smooth transfer or discharge, unless the client declines such a meeting;

b. providing a current comprehensive treatment plan. Upon written request and authorization by the client or authorized representative, a copy of the current comprehensive treatment plan shall be provided to the client or receiving provider;

c. preparing a written discharge summary. The discharge summary shall include, at a minimum, a summary on the health, developmental issues, behavioral issues, social issues, and nutritional status of the client. Upon written request and authorization by the client or authorized representative, a copy of the discharge summary shall be disclosed to the client or receiving provider. The written discharge summary shall be completed within five working days of the notice by the client or authorized representative that the client has selected another provider or has decided to discontinue services. The provider's preparation of the discharge summary shall not impede or impair the client's right to be transferred or discharged immediately if the client so chooses; and

d. not coercing or interfering with the client's decision to transfer. Failure to cooperate with the client's decision to transfer to another provider will result in adverse action by the department.

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 38:418 (February 2012).

## **Subchapter F. Services**

### **§6265. General Provisions**

A. Upon admission, the TGH must conduct an Initial Diagnostic Interview. A nursing assessment shall be completed by a Registered Nurse within 24 hours of admission.

B. The TGH shall develop and implement an initial plan of care after completion of the initial diagnostic interview and utilizing the information contained in the pretreatment assessment to implement care for the client up to and until the comprehensive treatment plan is developed.

C. The TGH shall ensure that requirements for pretreatment assessment are met prior to treatment commencing.

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 38:418 (February 2012).

### **§6267. Comprehensive Treatment Plan**

A. Within seven days of admission, a comprehensive treatment plan shall be developed by the established multidisciplinary team of staff providing services for the client. Each treatment team member shall sign and indicate their attendance and involvement in the treatment team meeting. The treatment team review shall be directed and supervised by the supervising practitioner at a minimum of every 14 days.

B. The multi-disciplinary team shall be made up of at least the supervising practitioner, clinical director, registered nurse, and therapist. The client and the client's guardian/family shall be included as treatment planning members in the development of the comprehensive treatment plan and in the update of treatment goals.

C. In the event the supervising practitioner is not present at a treatment team meeting during a review of a comprehensive treatment plan, the supervising practitioner must review and sign the comprehensive treatment plan within 10 calendar days following the meeting.

D. The provider must have an original completed, dated and signed team meeting document with signatures of all who attended as well as evidence of invitations extended to the meeting, such as copies of letters, emails or service logs.

E. The multi-disciplinary team shall identify any barriers to treatment and modify the plan in order to continue to facilitate active movement toward the time-limited treatment goals identified in the plan.

F. The TGH shall use a standardized assessment and treatment planning tool such as the *Child and Adolescent Needs and Strengths* (CANS).

G. Each client's treatment plan shall identify individualized strength-based services and supports. The individualized, strengths-based services and supports:

1. are identified in partnership with the client and his or her family and support system to the fullest possible extent and if developmentally appropriate;

2. are based on both clinical and functional assessments;

3. are clinically monitored and coordinated, with 24-hour availability;



4. are implemented with oversight from a licensed mental health professional; and

5. assist with the development of skills for daily living and support success in community settings, including home and school.

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 38:418 (February 2012).

#### **§6269. Client Services**

A. The TGH shall ensure services in the following areas to meet the specialized needs of the client:

1. psychological and psychiatric services;
2. physical and occupational therapy;
3. speech pathology and audiology; and
4. other medical and dental services as needed.

B. The TGH is required to provide at least 21 hours of active treatment per week to each client. This treatment must be provided by qualified staff.

C. The TGH shall have a written plan for insuring that a range of daily indoor and outdoor recreational and leisure opportunities are provided for clients. Such opportunities shall be based on both the individual interests and needs of the client and the composition of the living group. Recreational activities are not considered a part of the 21 required treatment hours.

1. The provider shall be adequately staffed and have appropriate recreation spaces and facilities accessible to clients.

2. Any restrictions of recreational and leisure opportunities shall be specifically described in the treatment plan, together with the reasons such restrictions are necessary and the extent and duration of such restrictions.

D. The TGH shall have a program to ensure that clients receive training in independent living skills appropriate to their age and functioning level. This program shall include instruction in:

1. hygiene and grooming;
2. laundry and maintenance of clothing;
3. appropriate social skills;
4. housekeeping;
5. budgeting and shopping;
6. cooking; and
7. punctuality, attendance, and other employment related matters.

E. The TGH shall have a written description regarding the involvement of the client in work including:

1. the description of any unpaid tasks required of the client;
2. the description of any paid work assignments including the pay scales for such assignments;
3. the description of the provider's approach to supervising work assignments;
4. assurance that the conditions and compensation of such work are in compliance with applicable state and federal laws; and

5. all work assignments shall be in accordance with the client's treatment plan.

F. The provider shall assign as unpaid work for the client only housekeeping tasks similar to those performed in a normal family home. Any other work assigned shall be compensated at a rate and under such conditions as the client

might reasonably be expected to receive for similar work in outside employment.

G. When a client engages in off-grounds work, the provider shall maintain written documentation that:

1. such work is voluntary and in accordance with the client's treatment plan;
2. the clinical director approves such work;
3. such work is supervised by qualified personnel; and
4. the conditions and compensation of such work are in compliance with applicable state and federal laws;

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 38:419 (February 2012).

#### **§6271. Medications**

A. All TGHs that store and/or dispense scheduled narcotics shall have a site-specific Louisiana controlled substance license and a United States Drug Enforcement Administration (DEA) controlled substance registration for the facility in accordance with the Louisiana Uniform Controlled Dangerous Substance Act and Title 21 of the *United States Code*.

B. The facility shall have written policies and procedures that govern the safe administration and handling of all prescription and nonprescription medications.

C. The provider shall have a written policy governing the self-administration of all medications. Such policy shall include provisions regarding age limitations for self-administration, multi-disciplinary team recommendations, and parental consent, if applicable. Those clients that have been assessed to be able to safely self-administer medications shall be monitored by qualified staff to ensure medication is taken as prescribed in the comprehensive treatment plan.

D. The provider shall ensure that medications are either self-administered or administered by qualified persons according to state law.

E. The provider shall have a written policy for handling medication taken from the facility by clients on pass.

F. The provider shall ensure that any medication given to a client for therapeutic and medical purposes is in accordance with the written order of a physician.

1. There shall be no standing orders for prescription medications.

2. There shall be standing orders, signed by the physician, for nonprescription drugs with directions from the physician indicating when he/she is to be contacted. Standing orders shall be updated annually by the physician.

3. Copies of all written orders shall be kept in the client's file.

G. The TGH shall develop and implement procedures for all discontinued and/or expired medications and containers with worn, illegible or missing labels.

H. All medications shall be stored under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation and security.

1. Medications used externally and medications taken internally shall be stored on separate shelves or in separate cabinets.

2. All medications, including those that are refrigerated, shall be kept under lock and key.

I. Any TGH using psychotropic medications shall have written policies and procedures concerning the use of psychotropic medications including:

1. when used, there is medical monitoring to identify specific target symptoms;

2. procedures to ensure that medications are used as ordered by the physician for therapeutic purposes and in accordance with accepted clinical practice;

3. procedures to ensure that medications are used only when there are demonstrable benefits to the client unobtainable through less restrictive measures;

4. procedures to ensure continual physician review of medications and discontinuation of medications when there are no demonstrable benefits to the client;

5. an ongoing program to inform clients, staff, and where appropriate, client's parent(s) or legal guardian(s) on the potential benefits and negative side-effects of medications and to involve clients and, where appropriate, their parent(s) or legal guardian(s) in decisions concerning medication; and

6. training of staff to ensure the recognition of the potential side effects of the medication.

J. Current and accurate records shall be maintained on the receipt and disposition of all scheduled drugs. An annual inventory, at the same time each year, shall be conducted for all Schedule I, II, III, IV and V drugs.

K. Medications are to be administered only upon written orders, electromechanical facsimile, or oral orders from a physician or other legally authorized prescriber, taken by a licensed nurse.

L. All drug containers shall be labeled to show at least the client's full name, the chemical or generic drug's name, strength, quantity and date dispensed unless a unit dose system is utilized. Appropriate accessory and cautionary statements as well as the expiration date shall be included.

M. Medications and biologicals that require refrigeration shall be stored separately from food, beverages, blood, and laboratory specimens.

N. Drug administration errors, adverse drug reactions, and incompatibilities shall be immediately reported to the attending physician. An entry shall be made in the client's record.

O. Abuses and losses of controlled substances shall be reported to the individual responsible for pharmaceutical services, the clinical director, the Louisiana Board of Pharmacy, DHH Controlled Dangerous Substances Program and to the Regional Drug Enforcement Administration (DEA) office, as appropriate.

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 38:419 (February 2012).

### **§6273. Food and Diet**

A. The TGH shall ensure that all dietary services are provided in consultation with a Louisiana licensed registered dietician. The registered dietician shall be available regarding the nutritional needs, the special diets of individual clients and to assist in the development of policies and procedures for the handling, serving and storage of food.

B. The provider shall have written policies and procedures that ensure that a client is, on a daily basis,

provided with food of such quality and in such quantity as to meet the recommended daily dietary allowances adjusted for age, gender and activity of the Food Nutrition Board of the National Research Council and doesn't deny any rights of the client.

C. Meals, whether prepared by the facility or contracted from an outside source, shall meet the following conditions:

1. menus shall be written in advance, shall provide for a variety of nutritional foods and shall be reviewed and approved by a licensed registered dietician;

2. records of menus, as served, shall be filed and maintained for at least 30 days;

3. modified diets shall be prescribed by a physician;

4. food preparation areas and utensils shall be maintained in accordance with state and local sanitation and safe food handling standards. Pets are not allowed in food preparation and serving areas; and

5. the clinical director or house manager shall designate one staff member who shall be responsible for meal preparation/serving if meals are prepared in the facility.

D. Drinking water shall be readily available.

E. Dining areas shall be adequately equipped with tables, chairs, eating utensils and dishes designed to meet the functional needs of clients.

F. All food shall be procured, stored, prepared, distributed, and served under sanitary conditions to prevent food borne illness. This includes keeping all readily perishable food and drink according to State Sanitary Code. Refrigerator temperatures shall be maintained according to State Sanitary Code. Hot foods shall leave the kitchen or steam table according to State Sanitary Code.

G. The provider shall ensure that any prescribed modified diet for a client shall be implemented and planned, prepared and served by persons who have received instruction from the registered dietician who has approved the menu for the modified diet.

H. The provider shall ensure that a client is provided at least three meals or their equivalent daily at regular times with not more than 14 hours between the evening meal and breakfast on the following day. Specific times for serving meals shall be established and posted.

I. Bedtime nourishments shall be offered nightly to all clients, unless contraindicated by the client's medical practitioner, as documented in the client's comprehensive treatment plan.

J. The provider shall ensure that the food provided to a client in care of the provider is in accordance with his/her religious beliefs.

K. No client shall be denied food or force-fed for any reason except as medically required pursuant to a physician's written order. A copy of the order shall be maintained in the client's file.

L. When meals are provided to staff, the provider shall ensure that staff members eat the same food served to clients in care, unless special dietary requirements dictate differences in diet.

M. The provider shall ensure that food served to a client that is not consumed is discarded.

N. Written reports of inspections by the Office of Public Health shall be posted in the facility.

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 38:420 (February 2012).

#### **§6275. Transportation**

A. A TGH provider shall arrange for or provide transportation necessary for implementing the client's treatment plan.

B. Any vehicle used to transport clients, whether such vehicle is operated by a staff member or any other person acting on behalf of the facility, shall be:

1. properly licensed and inspected in accordance with state law;
2. maintained in a safe condition;
3. operated at a temperature that does not compromise the health, safety or needs of the client; and
4. operated in conformity with all of the applicable motor vehicle laws.

C. The facility shall have documentation of current liability insurance coverage for all owned and non-owned vehicles used to transport clients. The personal liability insurance of a facility's employee shall not be substituted for the required coverage.

D. Any staff member of the facility, or other person acting on behalf of the facility, who is operating a vehicle for the purpose of transporting clients shall be properly licensed to operate that class of vehicle in accordance with state law.

E. Upon hire, the facility shall conduct a driving history record of each employee, and annually thereafter.

F. The facility shall not allow the number of persons in any vehicle used to transport clients to exceed the number of available seats with seatbelts in the vehicle.

G. The facility shall ascertain the nature of any need or problem of a client which might cause difficulties during transportation. This information shall be communicated to agency staff responsible for transporting clients.

H. The following additional arrangements are required for transporting non-ambulatory clients and those who cannot otherwise be transferred to and from the vehicle.

1. A ramp device to permit entry and exit of a client from the vehicle shall be provided for vehicles. A mechanical lift may be utilized, provided that a ramp is also available in case of emergency, unless the mechanical lift has a manual override.

2. Wheelchairs used in transit shall be securely fastened inside the vehicle utilizing approved wheelchair fasteners.

3. The arrangement of the wheelchairs shall not impede access to the exit door of the vehicle.

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 38:421(February 2012).

#### **Subchapter G. Client Protections**

#### **§6279. Client Rights**

A. A TGH must develop and implement policies to protect its client's rights and to respond to questions and grievances pertaining to these rights. A TGH and its staff shall not violate a client's rights.

B. A client shall be granted at least the following rights:

1. the right to be informed of the client's rights and responsibilities in advance of furnishing or discontinuing client care;

2. the right to have a family member, chosen representative and/or his or her own physician notified promptly of admission to the TGH;

3. the right to receive treatment and medical services without discrimination based on race, age, religion, national origin, sex, sexual preferences, handicap, diagnosis, ability to pay or source of payment;

4. the right to be treated with consideration, respect and recognition of their individuality, including the need for privacy in treatment;

5. the right to receive, as soon as possible, the services of a translator or interpreter, if needed, to facilitate communication between the client and the TGH's health care personnel;

6. the right to participate in the development and implementation of his/her treatment plan;

7. the right to make informed decisions regarding his/her care by the client or in the case of a minor, the client's parent, guardian or responsible party, whichever is applicable in accordance with appropriate laws and regulations;

8. the right to be informed of his/her health status, and be involved in care planning and treatment;

9. the right to be included in experimental research only when he/she gives informed, written consent to such participation, or when a guardian provides such consent for an incompetent client or a minor client in accordance with appropriate laws and regulations. The client may refuse to participate in experimental research, including the investigations of new drugs and medical devices;

10. the right to be informed by the attending physician and other providers of health care services about any continuing health care requirements after the client's discharge from the TGH. The client shall also have the right to receive assistance from the physician and appropriate TGH staff in arranging for required follow-up care after discharge;

11. the right to consult and communicate freely and privately with his/her parent(s) or legal guardian(s), if permitted in the comprehensive treatment plan;

12. the right to consult freely and privately with legal counsel;

13. the right to make complaints without fear of reprisal;

14. the right to communicate via a telephone, as allowed by the comprehensive treatment plan;

15. the right to send and receive mail as allowed by the comprehensive treatment plan;

16. the right to possess and use personal money and belongings, including personal clothing, subject to rules and restrictions imposed by the TGH;

17. the right to visit or be visited by family and friends subject only to reasonable rules and to any specific restrictions in the client's treatment plan. The reasons for any special restrictions shall be recorded in the client's treatment plan;

18. the right to have the individual client's medical records, including all computerized medical information, kept confidential;

19. the right to access information contained in his/her medical records within a reasonable time frame, subject to restrictions imposed in the comprehensive treatment plan;

20. the right to be free from all forms of abuse and harassment;

21. the right to receive care in a safe setting;

22. the right to be informed in writing about the TGH's policies and procedures for initiation, review and resolution of client complaints;

23. the right to have access to appropriate educational services consistent with the client's abilities and needs, taking into account his/her age and level of functioning;

24. the right to indoor and outdoor recreational and leisure opportunities;

25. the right to attend religious services in accordance with his/her faith. Clients shall not be forced to attend religious services; and

26. the right to choose a provider, the right to be discharged from his current provider and be transferred to another provider, and the right to discontinue services altogether unless prohibited by court order.

C. In addition to the rights listed herein, clients have the rights provided in the Louisiana Mental Health Law and the Louisiana Children's Code.

D. A TGH shall provide a copy of the client's rights to each client upon admission and shall have documentation of each client who received a copy of them.

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 38:421 (February 2012).

#### **§6281. Grievances**

A. The provider shall have a written grievance procedure for clients designed to allow clients to make complaints without fear of retaliation. The procedure shall include, but not be limited to:

1. a time line for responding to grievances;
2. a method of responding to grievances;
3. a procedure for filing a grievance; and
4. staff responsibilities for handling grievances.

B. The provider shall have documentation reflecting that the client and the client's parent(s) or legal guardian(s) are aware of and understand the grievance procedure.

C. The provider shall have documentation reflecting the resolution of the grievance in the client's record.

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 38:422 (February 2012).

### **Subchapter H. Physical Environment**

#### **§6285. General Provisions**

A. Location of Therapeutic Group Homes. To ensure a more home-like setting, the TGH shall be located in a residential community to facilitate community integration through public education, recreation, and maintenance of family connections. The setting must be geographically situated to allow ongoing participation of the child's family. The child or adolescent must attend a school in the community (e.g., a school integrated with children not from the institution and not on the institution's campus). In this setting, the child or adolescent remains involved in community-based activities and may attend a community educational, vocational program or other treatment setting.

B. The living setting shall more closely resemble normal family existence than would be possible in a larger facility or institution.

C. Providers shall develop an environment conducive to the client safely restoring previous levels of functioning and enhancing existing levels of functioning. In addition the provider shall maintain a community-based non-institutional environment.

D. The TGH shall have an effective pest control plan.

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 38:422 (February 2012).

#### **§6287. Interior Space**

A. The arrangement, appearance and furnishing of all interior areas of a TGH shall be similar to those of a normal family home within the community.

B. The provider shall ensure that there is evidence of routine maintenance and cleaning programs in all areas of the home.

C. A home shall have a minimum of 60 square feet of floor area per client in living areas accessible to the clients and excluding halls, closets, bathrooms, bedrooms, staff or staff's family quarters, laundry areas, storage areas and office areas.

#### **D. Client Bed Rooms**

1. Single rooms must contain at least 80 square feet and multi-bed rooms shall contain at least 50 square feet per bed, exclusive of fixed cabinets, fixtures, and equipment. Rooms shall have at least a 7 1/2 foot ceiling height over the required area. In a room with varying ceiling height, only portions of the room with a ceiling height of at least 7 1/2 feet are allowed in determining usable space.

2. Any client bedrooms shall not contain more than two beds.

a. Exception. If a child residential facility currently licensed by DCFS is converting to a TGH and has more than two clients per bedroom, then the converted TGH may have bedroom space that allows no more than four clients per designated bedroom.

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

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

5. There shall be a door for privacy to each individual bedroom. The doors shall not be equipped with locks or any other device that would prohibit the door from being opened from either side.

6. There shall be a functional window in each bedroom.

7. The provider shall ensure that sheets, pillow, bedspread and blankets are provided for each client.

8. Each client shall have his/her own dresser or other adequate storage space for private use and designated space for hanging clothing in proximity to the bedroom occupied by the client.

9. No client over the age of five years shall occupy a bedroom with a member of the opposite sex.

10. The provider shall ensure that the age of client sharing bedroom space is not greater than four years in difference unless contraindicated based on diagnosis, the

treatment plan or the behavioral health assessment of the client.

11. Each client shall have his/her own bed. A client's bed shall be longer than the client is tall, no less than 30 inches wide, of solid construction and shall have a clean, comfortable, nontoxic fire retardant mattress.

#### E. Dining Areas

1. The facility shall have dining areas that permit clients, staff and guests to eat together in small groups.

2. A facility shall have dining areas that are clean, well lit, ventilated and attractively furnished.

#### F. Bathrooms

1. A facility shall have wash basins with hot and cold water, flush toilets, and bath or shower facilities with hot and cold water according to client care needs. Plumbing fixtures delivering hot water shall be protected by an approved scald control mechanism at the fixture.

2. Each bathroom shall be properly equipped with toilet paper, towels, soap and other items required for personal hygiene unless clients are individually given such items. Clients shall be provided individual items such as hair brushes and toothbrushes.

3. Tubs and showers shall have slip proof surfaces.

4. A facility shall have toilets and baths or showers that allow for individual privacy unless the clients in care require assistance.

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

6. A TGH shall have at least one separate toilet, lavatory, and bathing facility for the staff.

7. In a multi-level home, there shall be at least one toilet bowl with accessories, lavatory basin and bathing facility reserved for client use on each client floor.

8. The TGH shall meet the following ratios:

- a. one lavatory per six clients;
- b. one toilet per six clients; and
- c. one shower or tub per six clients.

9. Bathrooms shall contain shatterproof mirrors secured to the walls at convenient heights and other furnishings necessary to meet the clients' basic hygienic needs.

#### G. Kitchens

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

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

3. There shall be trash containers in the kitchen and dining area. Trash containers in kitchens and dining area shall be covered.

H. Laundry. The provider shall have a laundry space complete with washer and dryer.

I. Staff Quarters. The provider utilizing live-in staff shall provide adequate, separate living space with a private bathroom for these staff.

#### J. Administrative and Counseling Area

1. The provider shall provide a space that is distinct from client's living areas to serve as an administrative office for records, secretarial work and bookkeeping.

2. The provider shall have a designated space to allow private discussions and counseling sessions between individual clients and staff, excluding, bedrooms and common living areas.

#### K. Furnishings

1. The provider shall have comfortable customary furniture as appropriate for all living areas. Furniture for the use of clients shall be appropriately designed to suit the size and capabilities of the clients.

2. The provider shall promptly replace or repair broken, run-down or defective furnishings and equipment.

#### L. Doors and Windows

1. The provider shall provide insect screens for all windows that can be opened. The screens shall be in good repair and readily removable in emergencies.

2. The provider shall ensure that all closets, bedrooms and bathrooms are equipped with doors that can be readily opened from both sides.

3. Windows or vents shall be arranged and located so that they can be opened from the inside to permit venting of combustion products and to permit occupants direct access to fresh air in emergencies. The operation of windows shall be restricted to inhibit possible escape or suicide. If the home has an approved engineered smoke control system, the windows may be fixed. Where glass fragments pose a hazard to certain clients, safety glazing and/or other appropriate security features shall be used. The windows shall be covered for privacy, and the coverings shall pose no safety hazard for the clients living in the home.

#### M. Storage

1. The provider shall ensure that there are sufficient and appropriate storage facilities.

2. The provider shall have securely locked storage space for all potentially harmful materials. Keys to such storage spaces shall only be available to authorized staff members.

#### N. Electrical Systems

1. The provider shall ensure that all electrical equipment, wiring, switches, sockets and outlets are maintained in good order and in safe condition.

2. The provider shall ensure that any room, corridor or stairway within a facility shall be well lit.

#### O. Heating, Ventilation and Air Conditioning

1. The provider shall take all reasonable precautions to ensure that heating elements, including exposed hot water pipes, are insulated and installed in a manner that ensures the safety of all clients.

2. The provider shall not use open flame heating equipment or portable electrical heaters.

3. All gas heating units and water heaters must be vented adequately to carry the products of combustion to the outside atmosphere. Vents must be constructed and maintained to provide a continuous draft to the outside atmosphere in accordance with the recommended procedures of the American Gas Association Testing Laboratories, Inc.

4. All heating units must be provided with a sufficient supply of outside air so as to support combustion without depletion of the air in the occupied room.

P. Smoking shall be prohibited in all areas of the TGH.

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 38:422 (February 2012).

### **§6289. Exterior Space Requirements**

A. The provider shall maintain all areas of the facility that are accessible to the clients in good repair and free from any reasonably foreseeable hazard to health or safety. All structures on the grounds of the facility shall be maintained in good repair.

1. Garbage and rubbish stored outside shall be secured in noncombustible, covered containers and shall be removed on a regular basis.

2. Trash collection receptacles and incinerators shall be separate from recreation/play areas and located as to avoid being a nuisance.

3. Clients shall have access to safe, suitable outdoor recreational space and age appropriate equipment. Recreation/playground equipment shall be so located, installed and maintained as to ensure the safety of the clients.

4. Areas determined unsafe, including steep grades, open pits, swimming pools, high voltage boosters or high speed roads shall be fenced or have natural barriers to protect clients.

5. Fences that are in place shall be in good repair.

6. The provider shall ensure that exterior areas are well lit at night.

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 38:424 (February 2012).

### **§6291. Equipment**

A. Equipment shall be clean and in good repair for the safety and well-being of the clients.

B. Therapeutic, diagnostic and other client care equipment shall be maintained and serviced in accordance with the manufacturer's recommendations.

C. Methods for cleaning, sanitizing, handling and storing of all supplies and equipment shall be such as to prevent the transmission of infection.

D. After discharge of a client, the bed, mattress, cover, bedside furniture and equipment shall be properly cleaned. Mattresses, blankets and pillows assigned to clients shall be in a sanitary condition. The mattress, blankets and pillows used for a client with an infection shall be sanitized in an acceptable manner before they are assigned to another client.

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 38:424 (February 2012).

## **Subchapter I. Facility Operations**

### **§6293. Safety and Emergency Preparedness**

A. General Safety Practices

1. A provider shall not maintain any firearms or chemical weapons at any time.

2. A facility shall ensure that all poisonous, toxic and flammable materials are safely stored in appropriate containers and labeled as to the contents. Such materials shall be maintained only as necessary and shall be used in

such a manner as to ensure the safety of clients, staff and visitors.

3. Adequate supervision/training shall be provided where potentially harmful materials such as cleaning solvents and/or detergents are used.

4. A facility shall ensure that a first aid kit is available in the facility and in all vehicles used to transport clients.

5. Medication shall be locked in a secure storage area or cabinet.

6. Fire drills shall be performed at least once a month.

B. Emergency Preparedness

1. A disaster or emergency may be a local, community-wide, regional or statewide event. Disasters or emergencies may include, but are not limited to:

- a. tornados;
- b. fires;
- c. floods;
- d. hurricanes;
- e. power outages;
- f. chemical spills;
- g. biohazards;
- h. train wrecks; or
- i. declared health crisis.

2. Continuity of Operations. The provider shall have a written emergency preparedness plan to maintain continuity of the agency's operations in preparation for, during and after an emergency or disaster. The plan shall be designed to manage the consequences of all hazards, declared disasters or other emergencies that disrupt the provider's ability to render care and treatment, or threatens the lives or safety of the clients.

3. The provider shall follow and execute its emergency preparedness plan in the event of the occurrence of a declared disaster or other emergency. The plan shall include, at a minimum:

a. provisions for the evacuation of each client, delivery of essential services to each client, whether the client is in a shelter or other location;

b. provisions for the management of staff, including provisions for adequate, qualified staff as well as for distribution and assignment of responsibilities and functions;

c. provisions for back-up staff;

d. the method that the provider will utilize in notifying the client's family or caregiver if the client is evacuated to another location either by the provider or with the assistance or knowledge of the provider. This notification shall include:

i. the date and approximate time that the facility or client is evacuating;

ii. the place or location to which the client(s) is evacuating which includes the name, address and telephone number; and

iii. a telephone number that the family or responsible representative may call for information regarding the provider's evacuation;

e. provisions for ensuring that supplies, medications, clothing and a copy of the service plan are sent with the client, if the client is evacuated; and

f. the procedure or methods that will be used to ensure that identification accompanies the client. The identification shall include the following information:

- i. current and active diagnosis;

- ii. medication, including dosage and times administered;
- iii. allergies;
- iv. special dietary needs or restrictions; and
- v. next of kin, including contact information.

4. If the state, parish or local Office of Homeland Security and Emergency Preparedness (OHSEP) orders a mandatory evacuation of the parish or the area in which the agency is serving, the agency shall ensure that all clients are evacuated according to the agency's emergency preparedness plan.

5. The provider shall not abandon a client during a disaster or emergency. The provider shall not evacuate a client to a shelter without ensuring staff and supplies remain with the client at the shelter, in accordance with the client's treatment plan.

6. Emergency Plan Review and Summary. The provider shall review and update its emergency preparedness plan at least annually.

7. The provider shall cooperate with the department and with the local or parish OHSEP in the event of an emergency or disaster and shall provide information as requested.

8. The provider shall monitor weather warnings and watches as well as evacuation order from local and state emergency preparedness officials.

9. All TGH employees shall be trained in emergency or disaster preparedness. Training shall include orientation, ongoing training and participation in planned drills for all personnel.

10. Upon request by the department, the TGH shall submit a copy of its emergency preparedness plan and a written summary attesting how the plan was followed and executed. The summary shall contain, at a minimum:

- a. pertinent plan provisions and how the plan was followed and executed;
- b. plan provisions that were not followed;
- c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;
- d. contingency arrangements made for those plan provisions not followed; and
- e. a list of all injuries and deaths of clients that occurred during execution of the plan, evacuation or temporary relocation including the date, time, causes and circumstances of the injuries and deaths.

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 38:424 (February 2012).

**§6295. Inactivation of License due to a Declared Disaster or Emergency**

A. A TGH licensed in a parish which is the subject of an executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766, may seek to inactivate its license for a period not to exceed one year, provided that the following conditions are met:

- 1. the licensed provider shall submit written notification to the Health Standards Section within 60 days of the date of the executive order or proclamation of emergency or disaster that:
  - a. the TGH has experienced an interruption in the provisions of services as a result of events that are the

subject of such executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766;

- b. the licensed TGH intends to resume operation as a TGH in the same service area;

- c. includes an attestation that the emergency or disaster is the sole casual factor in the interruption of the provision of services;

- d. includes an attestation that all clients have been properly discharged or transferred to another provider; and

- e. provides a list of clients and the location of the discharged or transferred clients;

2. the licensed TGH resumes operating as a TGH provider in the same service area within one year of the issuance of an executive order or proclamation of emergency or disaster in accordance with R.S. 29:724 or R.S. 29:766;

3. the licensed TGH continues to pay all fees and cost due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties; and

4. the licensed TGH continues to submit required documentation and information to the department.

B. Upon receiving a completed written request to inactivate a TGH license, the department shall issue a notice of inactivation of license to the TGH provider.

C. Upon completion of repairs, renovations, rebuilding or replacement, a TGH which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met.

1. The TGH shall submit a written license reinstatement request to the licensing agency of the department 60 days prior to the anticipated date of reopening.

- a. The license reinstatement request shall inform the department of the anticipated date of opening, and shall request scheduling of a licensing survey.

- b. The license reinstatement request shall include a completed licensing application with appropriate licensing fees.

2. The provider resumes operating as a TGH in the same service area within one year.

D. Upon receiving a completed written request to reinstate a TGH license, the department shall conduct a licensing survey. If the TGH meets the requirements for licensure and the requirements under this Section, the department shall issue a notice of reinstatement of the TGH license.

1. The licensed capacity of the reinstated license shall not exceed the licensed capacity of the TGH at the time of the request to inactivate the license.

E. No change of ownership in the TGH shall occur until such TGH has completed repairs, renovations, rebuilding or replacement construction, and has resumed operations as a TGH provider.

F. The provisions of this Section shall not apply to a TGH which has voluntarily surrendered its license and ceased operation.

G. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the TGH license and any applicable facility need review approval for licensure.

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 38:425 (February 2012).

Bruce D. Greenstein  
Secretary

1202#070

## RULE

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

#### Substance Abuse Services (LAC 50:XXXIII.Chapters 141-147)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:XXXIII.Chapters 141-147 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 15. Substance Abuse Services

#### Chapter 141. General Provisions

#### §14101. Introduction

A. The Medicaid Program hereby adopts provisions to provide coverage under the Medicaid State Plan for substance abuse services rendered to children and adults. These services shall be administered under the authority of the Department of Health and Hospitals, Office of Behavioral Health, in collaboration with a statewide management organization (SMO) which shall be responsible for the necessary operational and administrative functions to ensure adequate service coordination and delivery.

B. The substance abuse services rendered shall be those services which are medically necessary to reduce the disability resulting from the 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 38:426 (February 2012).

#### §14103. Recipient Qualifications

A. Children and adults who meet Medicaid eligibility and clinical criteria shall qualify to receive medically necessary substance abuse services.

B. Qualifying children and adults with an identified substance abuse diagnosis shall be eligible to receive substance abuse services covered under the Medicaid State 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 38:426 (February 2012).

## Chapter 143. Services

### §14301. General Provisions

A. All addiction services must be medically necessary. The medical necessity for services shall be determined by a licensed mental health practitioner (LMHP) or physician who is acting within the scope of his/her professional license and applicable state law.

B. Substance abuse services are subject to prior approval by the SMO.

C. American Society of Addiction Medicine (ASAM) levels of care require prior approval and reviews on an ongoing basis, as deemed necessary by the department to document compliance with national standards.

D. Services provided to children and youth must include communication and coordination with the family and/or legal guardian and custodial agency for children in state custody. Coordination with other child-serving systems should occur as needed to achieve the treatment goals. All coordination must be documented in the child's medical record.

1. The agency or individual who has the decision making authority for a child or adolescent in state custody must request and approve the provision of services to the recipient.

E. Children who are in need of substance abuse services shall be served within the context of the family and not as an isolated unit. Services shall be appropriate for:

1. age;
2. development;
3. education; and
4. culture.

F. 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 38:426 (February 2012).

### §14303. Covered Services

A. The following substance abuse services shall be reimbursed under the Medicaid Program:

1. assessment;
2. outpatient treatment; and
3. residential treatment.

B. Service Exclusions. The following services/components 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;

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 substance abuse services;

4. services rendered in an institute for mental disease; and

5. room and board for any rates provided in a residential setting.



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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:426 (February 2012).

#### **Chapter 145. Provider Participation**

##### **§14501. Provider Responsibilities**

A. Each provider of substance abuse services shall enter into a contract with the statewide management organization 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.

C. Providers of substance abuse 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 substance abuse services must be certified by the department in addition to operating within their scope of practice license. To be certified or recertified, providers shall meet the provisions of this Rule, the provider manual and the appropriate statutes. The provider shall create and maintain documents to substantiate that all requirements are met.

E. Substance abuse providers shall be accredited by an approved accrediting body and maintain such accreditation. Denial, loss of or any negative change in accreditation status must be reported to the SMO in writing within the time limit established by the department.

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.

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 38:427 (February 2012).

#### **Chapter 147. Reimbursement**

##### **§14701. Reimbursement Methodology**

A. Reimbursement for services shall be based upon the established Medicaid fee schedule for substance abuse 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 38:427 (February 2012)

Bruce D. Greenstein  
Secretary

1202#068

## **RULE**

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

#### **Therapeutic Group Homes (LAC 50:XXXIII.Chapters 121-127)**

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:XXXIII.Chapters 121-127 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 13. Therapeutic Group Homes**

#### **Chapter 121. General Provisions**

##### **§12101. Introduction**

A. The Medicaid Program hereby adopts provisions to provide coverage under the Medicaid State Plan for behavioral health services rendered to children and youth in a therapeutic group home (TGH). These services shall be administered under the authority of the Department of Health and Hospitals, Office of Behavioral Health in collaboration with a statewide management organization (SMO) which shall be responsible for the necessary operational and administrative functions to ensure adequate service coordination and delivery.

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

C. A therapeutic group home provides a community-based residential service in a home-like setting of no greater than eight beds under the supervision and program oversight of a psychiatrist or psychologist.

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 38:427 (February 2012).

##### **§12103. Recipient Qualifications**

A. Individuals under the age of 21, who meet Medicaid eligibility and clinical criteria, shall qualify to receive therapeutic group home services.

B. Qualifying children and adolescents with an identified mental health or substance abuse diagnosis shall be eligible to receive behavioral health services rendered by a TGH.

C. In order for a child to receive TGH services:

1. the department, or its designee, must have determined that less intensive levels of treatment are unsafe, unsuccessful, or unavailable;

2. the child must require active treatment that would not be able to be provided at a less restrictive level of care on a 24-hour basis with direct supervision/oversight by professional behavioral health staff; and

3. the child must attend a school 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 38:427 (February 2012).

### **Chapter 123. Services**

#### **§12301. General Provisions**

A. All behavioral health services must be medically necessary. 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. All services shall be prior authorized. Services which exceed the initial authorization must be approved for re-authorization prior to service delivery.

C. Services provided to children and youth must include communication and coordination with the family and/or legal guardian and custodial agency for children in state custody. Coordination with other child-serving systems should occur as needed to achieve the treatment goals. All coordination must be documented in the child's medical record.

1. The agency or individual who has the decision making authority for a child or adolescent in state custody must request and approve the provision of services to the recipient.

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. Services shall be appropriate for:

1. age;
2. development;
3. education; and
4. culture.

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 38:428 (February 2012).

#### **§12303. Covered Services**

A. The Medicaid Program may reimburse a therapeutic group home for the following services:

1. screening and assessment services;
2. therapy services (individual, group, and family whenever possible);
3. on-going psychiatric assessment and intervention as needed; and
4. skill-building services.

B. Service Exclusions. The following services/components 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;
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 substance abuse services;
4. services rendered in an institution for mental disease; and

5. room and board; and

6. supervision associated with the child's stay in the TGH.

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 38:428 (February 2012).

### **Chapter 125. Provider Participation**

#### **§12501. Provider Responsibilities**

A. Each provider of TGH services shall enter into a contract with the Statewide Management Organization in order to receive reimbursement for Medicaid covered services.

B. All services shall be delivered in accordance with federal and state laws and regulations, licensing regulations, the provisions of this Rule, the provider manual, and other notices or directives issued by the department.

C. Providers of TGH 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 TGH services must be certified by the department in addition to operating within their scope of practice license.

E. TGH facilities shall be accredited by an approved accrediting body and maintain such accreditation. Denial, loss of or any negative change in accreditation status must be reported to the SMO in writing within the time limit established by the department.

F. Providers of TGH services shall be required to perform screening and assessment services upon admission and within the timeframe established by the department thereafter to track progress and revise the treatment plan to address any lack of progress and to monitor for current medical problems and concomitant substance abuse issues.

G. Annually, TGH facilities shall submit documentation demonstrating compliance with fidelity monitoring for at least two evidence-based practices (EBP) and/or one level of American Society of Addiction Medicine (ASAM) criteria. The Office of Behavioral Health (OBH) shall approve the auditing body providing the EBP/ASAM fidelity monitoring.

H. For TGH facilities that provide care for sexually deviant behaviors, substance abuse, or dually diagnosed individuals, the facility shall submit documentation regarding the appropriateness of the research-based, trauma-informed programming and training, as well as compliance with ASAM level of care being provided.

I. A TGH must incorporate at least two research-based approaches pertinent to the sub-populations of TGH clients to be served by the specific program. The specific research-based models to be used should be incorporated into the program description. The research-based models must be approved by OBH.

J. A TGH must provide the minimum amount of active treatment hours established by the department, and performed by qualified staff per week for each child, consistent with each child's treatment plan and meeting assessed needs.

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 38:428 (February 2012).

## **Chapter 127. Reimbursement**

### **§12701. Reimbursement Methodology**

A. Reimbursement for covered TGH services shall be based upon an interim Medicaid per diem payment.

1. The interim Medicaid per diem payment shall be inclusive of, but not limited to:

- a. allowable cost of clinical and related services;
- b. psychiatric support services;
- c. allowable cost of integration with community resources; and
- d. skill-building services provided by unlicensed practitioners.

2. Allowable and non-allowable costs components, as defined by the department, shall be outlined in the TGH provider manual and other departmental guides.

B. All in-state Medicaid participating TGH providers are required to file an annual Medicaid cost report according to the department's specifications and departmental guides and manuals. The cost report period shall correspond to a calendar year basis of January 1 through December 31.

C. Services provided by psychologists and licensed mental health practitioners shall be billed separately and reimbursed according to the established Medicaid fee schedule for the services rendered.

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 38:429 (February 2012).

### **§12703. In-State Privately Owned and Operated Therapeutic Group Homes**

A. In-state privately owned and operated therapeutic group homes shall be reimbursed for covered TGH services through a modeled interim Medicaid per diem reimbursement rate using estimated allowable cost for the TGH covered services and staffing requirements.

B. Retroactive Adjustments to the Interim Rates. Interim payments to in-state privately owned and operated TGH facilities shall be subject to retroactive rate adjustments according to the following criteria.

1. The facility's allowable per diem cost will be determined from the Medicaid cost report submitted. The provider will receive a retroactive rate adjustment equal to 50 percent of the difference between the actual Medicaid allowable per diem cost and the interim Medicaid per diem reimbursement rate for each covered TGH patient day.

2. The payment adjustment will not recognize provider allowable cost beyond the threshold of 125 percent of the initial Medicaid per diem reimbursement rate paid during each fiscal year.

3. Providers who have disclaimed cost reports or are non-filers will be subject to the modification of the payment adjustment as deemed appropriate 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 38:429 (February 2012).

### **§12705. In-State Publicly Owned and Operated Therapeutic Group Homes**

A. In-state publicly owned and operated therapeutic group homes shall be reimbursed for all reasonable and necessary cost of operation. These facilities shall receive the interim Medicaid per diem payment established for the in-state privately owned and operated TGH facilities according to the provisions of §12703.A.

B. The interim payment to in-state publicly owned and operated TGH facilities will be subject to retroactive cost settlement in accordance with Medicare allowable cost principles outlined in the Centers for Medicare and Medicaid Service's Provider Reimbursement Manual Publication 15-1.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:429 (February 2012).

### **§12707. Out-of-State Therapeutic Group Homes**

A. Out-of-state therapeutic group homes shall be reimbursed the lesser of their specific in-state TGH Medicaid per diem reimbursement rate, or 95 percent of the Louisiana interim Medicaid per diem reimbursement rate calculated according to the provisions of §12703.A.

B. Payments to out-of-state TGH facilities that provide covered services shall not be subject to retroactive cost adjustments or TGH cost reporting requirements.

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 38:429 (February 2012).

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

Bruce D. Greenstein  
Secretary

1202#069

## **RULE**

### **Department of Public Safety and Corrections Corrections Services**

Louisiana Sex Offender Assessment Panels (LAC 22:I.109)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, has amended the contents of Section 109, Louisiana Sex Offender Assessment Panels.

## **Title 22**

### **CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT**

#### **Part I. Corrections**

#### **Chapter 1. Secretary's Office**

### **§109. Louisiana Sex Offender Assessment Panels**

A. Purpose—to facilitate the identification and management of those offenders who may be sexually violent

predators and/or child sexual predators and to develop written policy and procedures for the sex offender assessment panels consistent with statutory requirements, public safety and administrative efficiency. The provisions of this regulation shall apply to all sex offenders and child predators in accordance with Act no. 205 of the 2009 Regular Session who are released by any means from the department's custody on or after August 15, 2006.

B. Applicability—deputy secretary, undersecretary, chief of operations, regional wardens, wardens, director of probation and parole, chairman of the board of pardons, chairman of the board of parole and the sheriff or administrator of local jail facilities. Each unit head is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.

C. Policy. It is the secretary's policy to identify those offenders who meet the statutory requirements of a sexually violent predator and/or child sexual predator through the sex offender assessment panel (SOAP) review process. The panels shall evaluate all sex offenders and child predators in accordance with the provisions of this regulation prior to their release from incarceration.

#### D. Definitions

*Child Predator*—a person who has been convicted of a criminal offense against a victim who is a minor as defined in R.S. 15:541(12).

*Child Sexual Predator*—a judicial determination as provided for in R.S. 15:560 et seq., for an offender who has been convicted of an offense as defined in R.S. 15:541(12) and/or (24) and who is likely to engage in additional sex offenses against children because he has a mental abnormality or condition which can be verified, or because he has a history of committing crimes, wrongs, or acts involving sexually assaultive behavior or acts which indicate a lustful disposition toward children.

*Court*—the judicial district court where the offender was sentenced for the instant offense.

*Criminal Offense Against a Victim Who is a Minor*—a conviction for the perpetration or attempted perpetration, or conspiracy to commit an offense outlined in R.S. 15:541(12). Persons convicted of any of these offenses are considered *child predators* (see definition in this Subsection).

*Judicial Determination*—a decision by the court that an offender is or continues to be a child sexual predator or a sexually violent predator.

*Mental Abnormality*—a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of others. Nothing in this definition is intended to supersede or apply to the definitions found in R.S. 14:10 or 14 in reference to criminal intent or insanity.

*Regional Facility*—a state correctional facility located within one of nine regions of the state, as designated by the secretary. Each warden of a regional facility shall be responsible for certain requirements pursuant to the provisions of this regulation for offenders housed in their state correctional facility, as well as DPSC offenders housed in local jail facilities within their respective region.

*Sex Offender*—an offender committed to the custody of the Department of Public Safety and Corrections for a crime enumerated in R.S. 15:541(24). A conviction for any offense provided in this definition includes a conviction for the offense under the laws of another state, or military, territorial, foreign, tribal or federal law equivalent to such offense. An individual convicted of the attempt or conspiracy to commit any of the defined sex offenses shall be considered a sex offender for the purposes of this regulation.

*Sexually Violent Predator*—a judicial determination as provided for in R.S. 15:560 et seq. for an offender who has been convicted of an offense as defined in R.S. 15:541(12) and/or (25) and who has a mental abnormality or anti-social personality disorder that makes the person likely to engage in predatory sexually violent offenses.

#### E. Panel Composition and Guidelines

1. A total of three sex offender assessment panels are hereby created within the Department of Public Safety and Corrections. An executive management officer within the secretary's office shall serve as the administrator for all panels. Three executive staff officers, employees of the department (one for each of the three panels), shall serve as coordinator for an assigned panel. Each panel shall consist of three members as follows.

a. One member shall be the secretary or designee who shall be chairman.

b. One member shall be a psychologist licensed by the Louisiana State Board of Examiners of Psychologists who has been engaged in the practice of clinical or counseling psychology for not less than three consecutive years who is employed by the Department of Public Safety and Corrections or the Department of Health and Hospitals or a physician in the employ of the Department of Public Safety and Corrections or the Department of Health and Hospitals or under contract to the Department of Public Safety and Corrections whose credentials and experience are compatible with the evaluation of the potential threat to public safety that may be posed by a child sexual predator or a sexually violent predator.

i. Note—if the psychologist or physician is an employee of the Department of Health and Hospitals, the secretary of both departments shall consult and jointly select the member.

c. The warden (or deputy) at the state facility where the offender is housed or the warden (or deputy) of the regional facility for offenders housed in local jail facilities, or a probation and parole officer with a minimum of ten years experience or a retired law enforcement officer with at least five years of experience in investigating sex offenses may serve as the third panel member at the discretion of the secretary.

2. A majority of the members of each panel shall constitute a quorum. All official actions of a panel shall require an affirmative vote of a majority of the members of the panel.

3. Each panel shall meet at least once quarterly and upon the call of the chairman or upon the request of any two members.

4. Notwithstanding the provisions of R.S. 15:574.12, each panel shall review presentence reports, prison records, medical and psychological records, information and other

data gathered by the staff of the division of probation and parole, the district attorney from the judicial district which prosecuted the case and information provided by or obtained from the victim(s) and the offender (which may include a personal interview), and any other information obtained by the department.

5. Panels shall have the duty to evaluate every offender who is currently serving a sentence for a conviction of a sex offense and/or child predator who is to be released from the custody of the department or a local jail facility, by any means, to determine if the offender may be a child sexual predator and/or a sexually violent predator in accordance with the provisions of R.S. 15:560 et seq.

#### F. Procedures

1. Each panel shall evaluate every offender currently serving a sentence for a conviction of a sex offense and/or child predator as stated in Paragraph E.5 of this Section and who is required to register pursuant to the provisions of R.S. 15:542 at least six months prior to the release date of the offender.

2. A panel's evaluation shall primarily be conducted by file review of all relevant information available to the department, including the information specified in Paragraph E.4 of this Section. Information and/or recommendations received from individuals other than those employed by the department or the local jail facility where the offender is housed shall be made in writing. Interview, telephone or video conferencing may be conducted at the discretion of the panel.

3. Panel decisions shall be recorded by individual vote. Official results shall be maintained by the respective panel coordinator. Each panel coordinator is responsible for maintaining a separate file on each offender reviewed by the panel.

4. If a panel affirmatively votes that an offender may be a sexually violent predator and/or a child sexual predator, the panel shall forward the determination and the recommendation for such designation to the sentencing court. The recommendation shall include the factual basis upon which the recommendation was based and shall include a copy of all information that was available to the panel during the evaluation process.

5. Upon receiving a recommendation from a panel, the sentencing court will review the recommendation that an offender is a sexually violent predator and/or a child predator.

6. If, after a contradictory hearing the sentencing court finds by clear and convincing evidence and renders a judicial determination that the offender is a sexually violent predator or a child sexual predator, the offender shall be ordered to comply with the following:

a. supervision by the division of probation and parole, upon release from incarceration, for the duration of his natural life;

b. registration as a sex offender in accordance with the provisions of R.S. 15:542 et seq., for the duration of his natural life;

c. provide community notification in accordance with the provisions of R.S. 15:542 et seq., for the duration of his natural life;

d. submit to electronic monitoring pursuant to the provisions of R.S. 15:560.4 for the duration of his natural life; and

e. abide by the supervised release conditions enumerated in R.S. 15:560.3(A)(4) through (14), which may include treatment for persons convicted of sex offenses when deemed appropriate or ordered to do so by the offender's probation and parole officer as stated in R.S. 15:560.3(A)(10).

7. If a judicial determination is rendered that an offender is a sexually violent predator or a child sexual predator, the panel administrator shall notify the warden of the state facility where the offender is housed or the warden of the regional facility for offenders housed in local jail facilities of the designation, as well as the division of probation and parole.

8. Upon receipt of notification from the panel administrator, the warden of the state facility where the offender is housed or the warden of the regional facility for offenders housed in local jail facilities shall ensure that the sex offender pre-registration process is initiated in accordance with established procedures.

#### G. Electronic Monitoring of Child Sexual Predators or Sexually Violent Predators

1. Each offender determined by the court to be a child sexual predator and/or a sexually violent predator pursuant to the provisions of this regulation shall be required to be electronically monitored by the division of probation and parole in a fashion that provides for electronic location tracking.

2. Unless it is determined pursuant to established procedure that an offender is unable to pay all or any portion of the costs for electronic monitoring, each offender to be electronically monitored shall pay the cost of such monitoring.

3. The costs attributable to the electronic monitoring of an offender who has been determined unable to pay shall be borne by the department if, and only to the degree that sufficient funds are made available for such purpose whether by appropriation of state funds or from any other source.

4. Only in the case that an offender determined to be a child sexual predator and/or a sexual violent predator is unable to pay his own electronic monitoring costs, and there are no funds available to the department to pay for such monitoring, may the requirements of electronic monitoring be waived.

#### H. Notification of Release

1. The office of adult services shall notify the office of state police when a child sexual predator and/or sexually violent predator has been released from imprisonment. The Office of State Police shall then send out an alert by means of a predator alert system to local law enforcement officials to inform them of such releases.

#### I. Appeal of Decision

1. An offender determined to be a sexually violent predator and/or a child sexual predator may petition the court for a review of this determination not more than once every three years, provided that the sex offender is currently receiving treatment from a court or treatment provider

approved by the department, and good cause for such reconsideration is shown by the offender.

2. If the court grants the petition for review and should the department be notified of the rehearing and the court's decision, the division of probation and parole shall document the case accordingly.

#### J. Rights of Action

1. Any employee who participates in the Louisiana sex offender assessment panels review process pursuant to this regulation shall be immune from civil or criminal liability when the actions taken are in good faith in a reasonable manner in accordance with generally accepted medical or other professional practices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:560 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 34:1631 (August 2008), amended LR 36:534 (March 2010), LR 38:429 (February 2012).

James M. Le Blanc  
Secretary

1202#045

### RULE

#### Department of Public Safety and Corrections Corrections Services

##### Sex Offender Payment for Electronic Monitoring (LAC 22:I.407)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, has amended the contents of §407, Sex Offender Payment for Electronic Monitoring.

#### Title 22

### CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

#### Part I. Corrections

#### Chapter 4. Division of Probation and Parole

#### §407. Sex Offender Payment for Electronic Monitoring

A. Purpose—to state the secretary's policy regarding a sex offender's ability to pay for electronic monitoring.

B. Applicability—deputy secretary, undersecretary, chief of operations, regional wardens, wardens and director of probation and parole. Each unit head is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.

C. Policy. It is the secretary's policy to provide for close control and/or tracking of sex offender movement and to utilize electronic monitoring to achieve this within resource limits.

#### D. Definitions

1. *Child Sexual Predator*—a judicial determination as provided for in R.S. 15:560 et seq. for an offender who has been convicted of a sex offense as defined in R.S. 15:541(12) and/or (24) and who is likely to engage in additional sex offenses against children because he has a mental abnormality or condition which can be verified or because he has a history of committing crimes, wrongs or

acts involving sexually assaultive behavior or acts which indicate a lustful disposition toward children.

2. *Sex Offender*—an offender committed to the custody of the Department of Public Safety and Corrections for a crime enumerated in R.S. 15:541(24). A conviction for any offense provided for in this definition includes a conviction for the offense under the laws of another state, or military, territorial, foreign, tribal, or federal law equivalent to such offense. An individual convicted of the attempt or conspiracy to commit any of the defined sex offenses shall be considered a sex offender for the purpose of this regulation.

3. *Sexually Violent Predator*—a judicial determination as provided for in R.S. 15:560 et seq., for an offender who has been convicted of an offense as defined in R.S. 15:541(12) and/or (24) and who has a mental abnormality or anti-social personality disorder which makes the person likely to engage in predatory sexually violent offenses.

#### E. Procedures

1. Sex offenders shall be placed on electronic monitoring based on the following levels of priority:

a. sex offenders with victims under the age of 13 years pursuant to R.S. 14:43.1(C)(2) and (3), 14:43.2(C)(2) and (3), 14:43.3(C), 14:78.1(D), 14:81.1(D)(1) and (3) and 14:81.2(E);

b. child sexual predators and sexually violent predators based upon a judicial determination made in accordance with established policy and procedures. Pursuant to the provisions of R.S. 15:560.4, these sex offenders shall be required to be electronically monitored utilizing electronic location tracking;

c. sex offenders under supervision by the division of probation and parole who pose a high level of risk due to indicators such as past and present criminal behavior/arrests, citizen complaints/reports, officer observation and/or other related risk indicators.

2. Each sex offender being electronically monitored shall pay the cost of such monitoring. The cost attributable to the monitoring of a sex offender who has been determined unable to pay shall be borne by the department if, and only to the degree that such funds are made available by appropriation of state funds or from any other source.

a. A sliding scale of payment may be imposed if the offender is unable to pay all (or any portion) of such costs. The division of probation and parole shall determine the offender's ability to pay by considering income to include all earned and unearned income (i.e. benefits, such as unemployment, disability, retirement, real estate) and all assets and basic living expenses and care of dependents, excluding mandated judgments. Factors to be considered may also include public assistance, such as food stamps, Temporary Assistance for Needy Families, Medicaid, public housing and earnings of less than 200 percent of the federal poverty guideline.

b. Whenever the sex offender cannot fully pay the costs, the determination of ability to pay and amount of payment will be made by the supervising officer with the approval of his supervisor or the district administrator or designee.

c. Failure to comply with established payment responsibilities when it is determined the sex offender had sufficient income shall be deemed a major violation and

dealt with according to the division of probation and parole's policies and procedures.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:560.4(B), (C) and (D).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 34:1630 (August 2008), amended LR 38:432 (February 2012).

James M. Le Blanc  
Secretary

1202#044

## RULE

### Department of Wildlife and Fisheries Office of Fisheries

#### Triploid Grass Carp (LAC 76:VII.901)

Editor's Note: This Rule is being repromulgated to correct a typographical error. The original Rule may be viewed on pages 3533-3535 of the December 20, 2011 edition of the *Louisiana Register*.

The Department of Wildlife and Fisheries, Office of Fisheries, hereby amends the rules governing exotic aquaculture species, specifically triploid grass carp. The amendments include reorganization of the rules and regulations for greater clarity. Additional changes would make the triploid grass carp possession and transport permit valid for one year from the date of purchase and allow for the stocking of up to 500 fish, and would allow for multiple sales to the holder of a valid triploid grass carp possession and transport permit for up to 500 fish. The amendments also revise the triploid grass carp permit to require sellers possess a valid domestic aquatic organism license.

#### Title 76

### WILDLIFE AND FISHERIES

#### Part VII. Fish and Other Aquatic Life

#### Chapter 9. Aquaculture

#### §901. Triploid Grass Carp

##### A. General Provisions

1. No person, firm or corporation shall at any time possess, sell or cause to be transported into this state, triploid grass carp (*Ctenopharyngodon idella*), except in accordance with and in compliance with the following regulations.

a. The following regulations govern the importation, transportation, possession, disposal and sale of live triploid grass carp for aquatic plant control in private and public waters, including ponds on public golf courses, municipal water treatment plants, parks and zoos. Nothing contained herein shall be construed to restrict or prevent the department from conducting bona-fide research studies and fish and aquatic plant management programs as authorized by law or regulation.

##### 2. Definitions

*Department*—the Louisiana Department of Wildlife and Fisheries or an authorized employee of the department.

*Permittee*—individual that possesses a valid Louisiana triploid grass carp permit. A permittee can only be a natural person. A permittee may represent himself, a business, corporation or organization. The permittee is

responsible for compliance with all stipulations in the permit.

*Secretary*—the secretary of the Louisiana Department of Wildlife and Fisheries.

*Triploid Grass Carp*—refers to *Ctenopharyngodon idella* fingerlings and larger individuals that are certified as triploid carp (3N chromosomes) by the U.S. Fish and Wildlife Service or a qualified agent or contractor approved by the department.

*Triploid Grass Carp Possession and Transportation Permit*—the official document that identifies the terms of and allows for the importation, transportation and possession of live triploid grass carp in Louisiana for use in privately owned waterbodies.

*Triploid Grass Carp Sales Permit*—the official document that allows for the importation, transportation, possession and sale of live triploid grass carp in Louisiana as approved by the secretary or his designee.

*Triploid Grass Carp Seller*—a properly licensed fish farmer who possesses a triploid grass carp sales permit.

##### B. Triploid Grass Carp Possession and Transport Permit

##### 1. General Rules for Triploid Grass Carp Possession and Transportation Permit

a. No person shall stock private waterbodies in the state of Louisiana without a triploid grass carp possession and transport permit.

b. No person shall import, transport and/or purchase triploid grass carp to be brought into the state of Louisiana unless such fish are certified as triploid grass carp by the U.S. Fish and Wildlife Service or a qualified agent or contractor approved by the department.

c. No person shall import, transport or possess fingerlings less than six inches in total length or eggs or fry within the state of Louisiana.

d. Permits are not transferable from person to person or from site location to site location.

e. Permittee shall provide an adequate number of triploid grass carp to the department, at no cost to the department, upon request, to verify ploidy. The permittee shall agree to allow department officials or a department approved contractor to conduct unannounced random inspections of the transport vehicle, property, waterbody site and fish.

f. Department officials may be accompanied by other persons during these inspections. The department or its agents have the right to remove or take fish samples for analysis and/or inspection.

g. Permittee is responsible for damages caused by any escapement.

h. In cases of mortality or unavoidable loss, restocking will be permitted as long as permit is still valid.

i. If a permittee terminates the use of triploid grass carp in the permitted waterbody, the permittee shall notify the department immediately and dispose of the triploid grass carp according to methods approved by the department.

j. In addition to all other legal remedies, failure to comply with any of the provisions in this Section shall be just cause to immediately suspend and/or revoke the permittee's permit. All triploid grass carp shall be destroyed at permittee's expense under the department's supervision

within 30 days of permit revocation. Violation of any of the provisions of the permit constitutes a Class Four violation in accordance with R.S. 56:319(E).

k. Any permittee charged with violation of this Section may make a written response to the alleged violation(s) to the secretary, and may request a hearing to review the alleged violation(s).

l. Qualified universities and public entities conducting research approved by or in conjunction with the department shall be exempt from fee charges.

### 2. Request Procedure for a Triploid Grass Carp Possession and Transport Permit

a. Individuals wishing to import or possess live triploid grass carp in Louisiana, but not sell them, must apply for a triploid grass carp possession and transport permit from the department for a fee of \$50.

b. The triploid grass carp possession and transport permit shall be valid for one year from date of purchase. Permittee must request new permit for subsequent purchases if permit has expired.

c. Permittees may stock up to 10 fish per acre of water, and shall not exceed 500 fish. Request to stock more than 500 fish must be approved by the department through site visitations by a department representative. Fisheries staff of the Louisiana Cooperative Extension Service or other qualified fisheries professional approved by the department may be used as a substitution for departmental site visit.

### 3. Requirement for transporting and stocking of triploid grass carp in private water bodies

a. Permittee must have in his immediate possession and available upon demand by department representatives, a triploid grass carp possession and transportation permit when importing, transporting and/or purchasing live triploid grass carp within the state of Louisiana.

b. A bill of lading must accompany those individuals in possession of live triploid grass carp during transportation and shall include:

- i. source of triploid grass carp (hatchery);
- ii. name, address and phone number of seller;
- iii. name, address and phone number of buyer;
- iv. copy of triploid certification;
- v. total number of fish;
- vi. destination of shipment.

c. No person shall stock private waters in the state of Louisiana without a valid triploid grass carp possession and transport permit.

d. Permittee is responsible for containing triploid grass carp in his private waterbody. Permittee is also responsible for erecting barriers to prevent the escape of triploid grass carp into adjoining waters.

e. This permit does not authorize the permittee to stock triploid grass carp in public waterbodies of the state. Release of any fish into the waters of the state is strictly prohibited, except as provided in Subsection D below.

### C. Triploid Grass Carp Sales Permit

#### 1. Request Procedure for a Triploid Grass Carp Permit

a. Individuals wishing to sell live triploid grass carp in the state of Louisiana must first request a triploid grass carp sales permit through an application furnished by the department.

b. The triploid grass carp sales permit shall be valid for one year beginning January first and ending December thirty-first of that same calendar year. The permit may be purchased at any time during the year for the current permit year and beginning November fifteenth for the immediately following permit year. The cost of a triploid grass carp sales permit is \$250.

c. An annual report detailing each sales transaction, including name and address of permitted buyer, permit number, date and number of triploid grass carp sold must be submitted with permit renewal application.

#### 2. Requirement for Triploid Grass Carp Sales Permit

a. No person shall import or cause to be imported into the state of Louisiana triploid grass carp unless certified as triploid grass carp by the U.S. Fish and Wildlife Service or a qualified agent or contractor approved by the department. Such certification must be furnished to and approved by the department prior to importing of any fish into the state of Louisiana for stocking.

b. A triploid grass carp seller must possess a valid domestic aquatic organism license.

c. The person shall ship triploid grass carp with the words "TRIPLOID GRASS CARP" prominently on at least two sides of the vehicle or hauling tank with block letters that are not less than four inches high.

d. A triploid grass carp seller is bound by the triploid grass carp possession and transportation regulations as stipulated in LAC 76:VII.901.B; except that:

i. the triploid grass carp sales permit serves in lieu of the triploid grass carp possession and transportation permit;

ii. the holders of a triploid grass carp sales permit may only sell live triploid grass carp to holders of a valid triploid grass carp possession and transportation permit or a triploid grass carp sales permit;

iii. no person shall sell more than 500 triploid grass carp to an individual possessing a valid triploid grass carp possession and transport permit unless otherwise stipulated by the department in the permit.

e. A triploid grass carp seller shall notify the department at the designated telephone number (1-800-442-2511) of shipments of live triploid grass carp to permitted buyers at least 24 hours prior to shipment. Notification shall include seller's permit number, buyer's name, address, buyer's permit number, number of fish, destination of shipment and date.

f. In addition to all other legal remedies, failure to comply with any of the provisions in this section shall be just cause to immediately suspend and/or revoke the permittee's permit. All triploid grass carp shall be destroyed at permittee's expense under the department's supervision within 30 days of permit revocation. Violation of any of the provisions of the permit constitutes a class four violation in accordance with R.S. 56:319(E).

### D. Requirements for Stocking Triploid Grass Carp in Public (state or local) Waterbodies

1. No person shall release triploid grass carp into the public waters of Louisiana without written approval of the secretary or his designee. Individuals, organizations and local governments may request, in writing, that they be



allowed to stock triploid grass carp in public waters. The department shall review the request, and if approved, shall provide written approval signed by the secretary or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318, R.S. 56:319 and R.S. 56:319.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 17:806 (August

1991), amended LR 19:511 (April 1993), LR 24:962 (May 1998), LR 37:3534 (December 2011), LR 38:433 (February 2012).

Robert J. Barham  
Secretary

1202#009

# Notices of Intent

## NOTICE OF INTENT

### Department of Children and Family Services Division of Programs Licensing Section

Child Safety Alarm (LAC 67.III.7331 and 7363)

The Department of Children and Family Services (DCFS), Division of Programs, Licensing Section in accordance with provisions of the Administrative Procedure Act, R.S. 49:953(A) proposes to amend LAC 67:III, Subpart 21, Chapter 73 Day Care Centers, Subchapter A, Licensing Class "A" Regulations for Child Care Centers and Subchapter B, Licensing Class "B" Regulations for Child Care Centers.

In accordance with R.S. 32:295.3.1, the department finds it necessary to amend Subpart 21, Section 7331 General Transportation and Section 7363 Transportation, to provide guidelines for child day care providers who elect to install a child safety alarm in any vehicle that is owned or operated by the day care center, its owner, operator, or employees and used to transport children to or from the day care center. The vehicle must have a seating capacity of six or more passengers in addition to the driver. The regulations shall require that the child safety alarm is an ignition-based alarm system that voice prompts the driver to inspect the vehicle for children before exiting the vehicle.

#### Title 67

#### SOCIAL SERVICES

#### Part III. Economic Stability and Self-Sufficiency

#### Subpart 21. Child Care Licensing

#### Chapter 73. Day Care Centers

#### Subchapter A. Licensing Class "A" Regulations for Child Care Centers

#### §7331. General Transportation (Contract, Center-Provided, Parent Provided)

A. - L. ...

M. In accordance with R.S. 32:295.3.1, a provider may have a child safety alarm installed in any vehicle that has a seating capacity of six or more passengers in addition to the driver. This vehicle has to be owned or operated by the day care center, its owner, operator, or employees and used to transport children to or from the day care center. The child safety alarm is an ignition-based alarm system that voice prompts the driver to inspect the vehicle for children before exiting the vehicle and shall be installed by a person or business that is approved by the manufacturer of the child safety alarm. An owner or director of a day care center who elects to have a child safety alarm installed in a vehicle owned or operated by the day care center shall ensure that the child safety alarm is properly maintained and in good working order each time the vehicle is used for transporting children to or from a day care center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1119 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2767 (December 2007), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:

#### Subchapter B. Licensing Class "B" Regulations for Child Care Centers

#### §7363. Transportation

A. - E. ...

F. In accordance with R.S. 32:295.3.1, a provider may have a child safety alarm installed in any vehicle that has a seating capacity of six or more passengers in addition to the driver. This vehicle has to be owned or operated by the day care center, its owner, operator, or employees and used to transport children to or from the day care center. The child safety alarm is an ignition-based alarm system that voice prompts the driver to inspect the vehicle for children before exiting the vehicle and shall be installed by a person or business that is approved by the manufacturer of the child safety alarm. An owner or director of a day care center who elects to have a child safety alarm installed in a vehicle owned or operated by the day care center shall ensure that the child safety alarm is properly maintained and in good working order each time the vehicle is used for transporting children to or from a day care center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 26:1638 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2773 (December 2007), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:

#### Family Impact Statement

1. What effect will this Rule have on the stability of the family? There will be no effect on the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? There will be no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? There will be no effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? There will be no effect on family earnings and the family budget.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this is strictly an agency function.

### Small Business Impact Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

### Public Comments

All interested persons may submit written comments through March 29, 2012, to Sammy Guillory, Deputy Assistant Secretary, Department of Children and Family Services, Division of Programs, Post Office Box 94065, Baton Rouge, LA 70821-9065.

### Public Hearing

A public hearing on the proposed Rule will be held on March 29, 2012, at the Department of Children and Family Services, Iberville Building, 627 N. Fourth Street, Seminar Room 1-127, Baton Rouge, LA, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the DCFS Appeals Bureau at least seven working days in advance of the hearing. For assistance, call area code (225) 342-4120 (voice and TDD).

Ruth Johnson  
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Child Safety Alarm

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This Rule proposes to amend the Louisiana Administrative Code (LAC) 67, Part III, Subpart 21, Chapter 73 Day Care Centers, Subchapter A, Licensing Class "A" Regulations for Child Care Centers and Subchapter B, Licensing Class "B" Regulations for Child Care Centers.

In accordance with R.S. 32:295.3.1, the Department of Children and Family Services (DCFS) shall amend Section 7331 General Transportation and Section 7363 Transportation to provide guidelines for child day care providers who voluntarily elect to install a child safety alarm in any vehicle that has a seating capacity of six or more passengers in addition to the driver. This vehicle has to be owned or operated by the day care center, its owner, operator, or employees and used to transport children to or from the day care center. The regulations shall require that the child safety alarm is an ignition-based alarm system that voice prompts the driver to inspect the vehicle for children before exiting the vehicle.

The only cost associated with implementing this proposed Rule is the cost of publishing rulemaking and printing policy that is estimated to be approximately \$820.00 (\$410 state and \$410 federal) in FY 11-12, which is a one-time cost routinely included in the department's annual operating budget.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementing this proposed Rule will have no estimated effect on the revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule does not "require" providers to install a child safety alarm in any vehicle owned or operated by the day care center, its owner, operator, or employees that is used to transport children to or from the day care center and has a seating capacity of six or more passengers in addition to the driver. Since it is impossible to determine the number of providers that will voluntarily elect to install a child safety alarm, the department is unable to determine the estimated costs of implementing this proposed Rule to the affected groups.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Implementing this proposed Rule will have no estimated impact on competition and employment.

Sammy Guillory  
Deputy Assistant Secretary  
1202#073

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Civil Service Board of Ethics

Late Filings (LAC 52:I.Chapter 12)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Civil Service, Louisiana Board of Ethics, has initiated rulemaking procedures to amend rules for late filing procedures.

### Title 52 ETHICS

#### Part I. Board of Ethics

#### Chapter 12. Late Filings

#### §1201. Late Filing; Notice of Delinquency

A. The staff shall mail, by certified mail, a notice of delinquency within four business days after the due date for any report or statement, of which the staff knows or has reason to know is due by the filer that is due under any law within the board's jurisdiction which has not been timely filed.

B. If the date on which a report is required to be filed occurs on a weekend or federal or state holiday, the report shall be filed no later than the first working day after the date it would otherwise be due that is not a federal or state holiday.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:

#### §1203. Late Filing; Assessment of Late Fee

A. The staff of the board shall automatically assess and order the payment of late filing fees for any failure to timely file any report or statement due under any law within the board's jurisdiction in accordance with R.S. 42:1157 and in accordance with the appropriate fee schedule provided in §1204.

B. The assessment and order of the late fee shall be mailed by certified mail to the late filer. If the assessment and order is not claimed by the late filer, the assessment and

order shall be served on the late filer via a subpoena of notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:

### **§1205. Late Filing; Fee Schedule**

A. Definitions. For purposes of §1205, the following definitions shall apply.

*Amount of Activity*—the total amount of receipts or expenditures, whichever is greater.

*Person Regularly Responsible*—the person designated by the person required to file a report, in accordance with any law under the jurisdiction of the board, who is responsible for keeping the records and filing the reports on behalf of the required filer.

B. An automatic late fee shall not be assessed, and if one is assessed shall be rescinded by the staff, if the person required to file the report did not file the report for any of the following reasons which occurred on the due date or during the seven days prior to the date the report was due:

1. death of the person required to file or the person regularly responsible, or a death in their immediate family, as defined in R.S.42:1102(13);

2. serious medical condition, in the considered judgment of the staff, which prevented the person required to file or the person regularly responsible from filing the report timely;

3. a natural disaster, an act of God, force majeure, a catastrophe, or such other similar occurrence.

C. If a report is filed more than 10 days late and the amount of activity on the report is less than the amount of the late fee to be assessed, the staff may reduce the late fee to the amount of activity or 10 times the per day penalty, whichever is greater.

D. An automatic late fee shall not be assessed, and if one is assessed, shall be rescinded by the staff, if the candidate officially withdrew with the Secretary of State from the election and received no contributions or loans and/or made any expenditures, excluding his qualifying fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:

### **§1207. Late Filing; Waiver for “Good Cause”**

A. Any person assessed with automatic late filing fees may request a waiver of the late fee, in writing, to the board within 20 days after the receipt of the assessment requiring the payment of late filing fees, setting forth the facts which tend to prove that the late filer had good cause for filing late.

B. *Good cause* shall be defined for purposes of this Section as any actions or circumstances which, in the considered judgment of the board, were not within the control of the late filer and which were the direct cause of the late filing. The board shall also consider the significance of the information that was not timely disclosed. As to candidates, the board shall also consider the nature of the office sought by the candidate; and, as to political committees or other persons, the nature of the office or offices sought by a candidate supported or opposed by the political committee or other person.

C. The executive secretary shall place all such requests for a waiver on the board’s agenda for consideration. If a late filer requests to make an appearance, the executive secretary shall schedule the appearance.

D. At the time of submission of his request for a waiver, the late filer shall submit all information and documentation to support his request.

E. If the board affirms the order assessing the late fee, notice shall be mailed by regular mail to the late filer, notifying him that the order was affirmed.

F. If the board waives or alters in any way the assessment of the late fee after consideration of a waiver request, a new order shall be issued by the staff consistent with the decision of the board after consideration of the waiver request. The new order shall be sent to late filer in the same manner as the original order as set forth in §1203.B.

G. Within 30 days of mailing of the notice of the board’s decision on the waiver request, the late filer may

1. seek reconsideration of the board’s decision only upon submission of information not provided or available to the board during its initial consideration of the matter; or,

2. appeal the board’s decision to the Ethics Adjudicatory Board pursuant to §1209.C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:

### **§1209. Late Filing; Appeal**

A. Any person ordered to pay late filing fees pursuant to §1203 may appeal the order to the Ethics Adjudicatory Board.

B. Notice of the person’s intent to appeal should be submitted in writing to the executive secretary of the board within 20 days of the receipt of the order.

C. If a person submits a waiver request pursuant to §1207, the notice of intent to file an appeal should be submitted to the executive secretary of the board within 30 days of the mailing of the board’s decision with respect to the waiver request.

D. The notice of intent to appeal shall include all grounds for which the late filer is seeking an appeal, along with any documentation and evidence to be considered by the Ethics Adjudicatory Board.

E. The executive secretary shall forward the notice of appeal, along with the order assessing the late fee and any correspondence concerning the assessment of the late fee to the Ethics Adjudicatory Board. The notice from the executive secretary shall include the name of the attorney for the board and contact information for the late filer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:

### **Family Impact Statement**

The proposed Rule changes have no impact on family formation, stability or autonomy, as described in R.S. 49.972.

### **Public Comments**

Interested persons may direct their comments to Kathleen M. Allen, Louisiana Board of Ethics, P.O. Box 4368, Baton

Kathleen M. Allen  
Ethics Administrator

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Late Filings**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The cost to implement the rule, regarding late filings, is estimated to be \$400 in FY 12, which accounts for the cost to publish the rule change in the State Register. The proposed rules provide for the manner in which notices of delinquency are mailed to late filers, late fees assessed pursuant to R.S. 42:1157, waivers requested from the Board of Ethics and appeals made for consideration by the Ethics Adjudicatory Board.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change will have no anticipated effect on revenue collections of state or local governmental units. Pursuant to R.S. 42:1157, the Ethics Administration Program is responsible for issuing orders for late fees for reports and registrations that are not filed timely according to the Code of Governmental Ethics, Campaign Finance Disclosure Act, and the Legislative, Executive and Local Lobbyist Disclosure Acts. The rules do not change the amount of late fees imposed. The rules make changes with respect to the process for requesting a waiver from the Board of Ethics. Also, the proposed rules provide for the process whereby individuals can seek an appeal from the agency's decision and seek a hearing from the Ethics Adjudicatory Board (EAB).

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule change will have no anticipated costs or economic benefits to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule change will have no anticipated effect on competition and employment.

Kristy Gary  
Deputy Administrator  
1202#078

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Civil Service  
Board of Ethics**

**Third Party Ethics Training (LAC 52:I.Chapter 24)**

The Department of Civil Service, Board of Ethics, in accordance with R.S. 42:1134(A) and with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., has initiated rulemaking procedures to promulgate new regulations for Third Party Ethics Training, pursuant to HCR 91 of the 2011 Regular Legislative Session.

**Title 52  
ETHICS**

**Part I. Board of Ethics**

**Chapter 24. Third Party Ethics Training**

**§2401. In General**

A. It is of primary importance to the public that each public servant in the state of Louisiana undergoes education and training on the Code of Governmental Ethics during each year of his term of public employment or term in office, as the case may be, in accordance with R.S. 42:1170. These rules establish the procedure to certify persons and programs to deliver education regarding the laws within the jurisdiction of the Board of Ethics (board) to public servants required to receive education regarding those laws. These rules do not apply to persons who are employed by the ethics administration program.

B. State agency ethics liaisons designated pursuant to R.S. 42:1170(C)(3) and legislative branch designated ethics liaisons are certified trainers and not required to comply with §2405.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:

**§2403. Definitions**

A. The following definitions supplement those not found elsewhere in these rules or in the Code of Governmental Ethics.

*Additional Material*—public servant ethics training material which has not yet been approved by the Board of Ethics for presentations. Such material requires board approval prior to being presented to public servants.

*Certified Trainer*—any person who is approved to educate and train the state's public servants on the Code of Governmental Ethics and who is not an employee of the Board of Ethics.

*Liaison*—the person designated by each agency head to provide all public servants of that agency information and instruction relative to ethics and conflicts of interest.

*Preapproved Training Material*—public servant ethics training materials that do not require approval from the Board of Ethics in order for the certified trainer to present the material to public servants.

*Proctor*—a person who does not teach a public servant ethics training program, but administers the training by recorded presentation, which may include, but is not limited to, a DVD or electronic presentation requiring computer software provided by the Board of Ethics.

*Program*—a specific session of public servant ethics training.

*Public Servant Ethics Training*—the mandatory one hour of ethics training that all public servants in the State of Louisiana are required to attend annually pursuant to R.S. 42:1170(A).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:

## §2405. Certification of Trainers

A. In order for an applicant to be an approved certified trainer, he must meet the following requirements.

1. Required Training. Certified trainer applicants are required to undergo a minimum of four hours of training within the past three years that can be verified with attendance records maintained by the ethics administration program prior to submitting an application seeking certified trainer status. Courses that may count toward an applicant's four hour training requirement include:

a. two hour training course(s) developed for liaisons pursuant to R.S. 42:1170(C);

b. public servant ethics training offered by an employee of the ethics administration program or any other trainer who has been previously certified to deliver public servant ethics training programs by the ethics administration program; or

c. public servant ethics training offered via the Board of Ethics website; however, no more than one hour will count toward an applicant's four hour training requirement.

2. Application Submission. All persons who seek approval as a certified trainer to deliver public servant ethics training program must submit an application for trainer accreditation following the completion of the required training pursuant to Subsection A of this Section. The application can be found on the board's website.

3. Ongoing Training. A certified trainer who wishes to maintain certified status in subsequent years is required to undergo two hours of continuing education within 90 days of the beginning of each calendar year; this requirement can be met through attendance at any of the courses enumerated in Subsection A of this Section. A certified trainer who does not undergo his two hour continuing education training course to maintain his certified status will be required to attend four hours of training and submit an application for trainer accreditation, which must be approved by the ethics administrator, or his designee, to renew his certified trainer status.

B. Certified trainer applicants must not have been found to have been in violation of any of the laws within The Code of Governmental Ethics, R.S. 42:1101 et seq., prior to submission of an application for trainer accreditation unless approval has been obtained by the board in accordance with Section 2405.B.3.

1. Subsection B does not include persons who have been subject to a per day late fee pursuant to R.S. 42:1157, if said fee has been paid.

2. Subsection B does not apply to any persons who have been found in violation of any other laws under the board's supervision or jurisdiction including, but not limited to, the Campaign Finance Disclosure Act, R.S. 18:1481 et seq., or the Lobbyist Disclosure Acts, R.S. 24:50 et seq., R.S. 49:71 et seq., and R.S. 33:9661 et seq.

3. A person who has been found in violation of the Code of Governmental Ethics, as set forth in Subsection B, may seek approval from the board to become a certified trainer three years from the date the decision finding the violation is final.

C. Certified trainer applicants who are licensed to practice law may not be approved if currently representing a client in connection with an ongoing investigation, if

representing a client in a matter in which charges have been filed by the board, or if an attorney of record in a civil lawsuit in which the board is named as an opposing party.

1. Subsection C shall not prohibit an attorney from becoming a certified trainer if he is representing a client in relation to an advisory opinion request before the board.

2. Subsection C shall only be read to apply to the individual attorney and shall not be read to be imputed upon an attorney's firm.

D. Only upon approval by the ethics administrator, or his designee, will an applicant become a certified trainer. The ethics administrator, or his designee, retains the right to refuse approval of applicants, or suspend or revoke the status of certified trainers as set forth in §2413.H, who do not comply with the requirements or standards of these rules. A person not approved as a certified trainer under this Section may appeal the decision of the ethics administrator, or his designee, to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:

## §2407. Training and Education Materials

A. Certified trainers are required to use training and education materials approved by the ethics administration program.

B. Access to preapproved training materials will be made available to trainers pending completion of training requirements set forth in §2405 and upon trainer certification.

C. Additional material may be used by certified trainers if the material has been approved by the ethics administrator, or his designee, pursuant to the standards and expectations set out in §2409.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:

## §2409. Standards and Expectations for Approval; Additional Material

A. Application for Approval. Certified trainers who wish to utilize material that has not been preapproved by the board must submit an application for approval of material for public servant ethics training to the Board of Ethics with a copy of the proposed program.

B. Process. The ethics administration program will evaluate the application and material pursuant to the standards and expectations in Subsection C of this Section. An application for such program and materials must be submitted to the board at least 60 days in advance of the program.

C. Standards and Expectations. The following standards will govern the approval of materials by the board.

1. The materials for the program must have significant intellectual or practical content, and its primary objective must be to maintain or increase the public servant's awareness of the ethical standards set forth in the code of governmental ethics.

2. Materials submitted with the application shall include a copy of high quality and carefully prepared materials that shall be given to all public servants at the program. Materials submitted may include written material

to be distributed to participants as well as videos, slideshows or other electronic media.

D. Additional Material. Materials that have been approved by the ethics administration program for use in a public servant ethics training program are valid for the remainder of the calendar year and are not required to undergo an approval process until the following year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:

#### **§2411. Notification of Ethics Training Program**

A. Prior to conducting a public servant ethics training program, a certified trainer must notify the ethics administration program and request approval of the session. An application for public servant ethics training program can be found on the board's website and shall be submitted to the ethics administration program electronically for approval.

B. Preapproved Training Material. A certified trainer must submit an Application for public servant ethics training program to the Board of Ethics at least 15 days prior to the program if the material to be used in the presentation is preapproved training material.

C. Additional Material. A certified trainer must submit an application for public servant ethics training program in conjunction with an application for approval of material for public servant ethics training pursuant to §2409 at least 60 days prior to the program if the material to be used in the presentation is not preapproved training material. An application for approval of material for public servant ethics training need not be submitted if the material to be used has already been approved pursuant to §2409.D for the calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:

#### **§2413. Ethics Training Program Requirements**

A. Programs must be a minimum of one hour in order for the public servant to receive credit for his public servant ethics training, and the public servant must be present during the entirety of the presentation.

B. The program must be offered by a certified trainer.

C. The costs of the program, if any, to the attending public servant must be reasonable considering the subject matter, level of instruction, supporting documentation, and educational material.

D. No examination or testing shall be required at any public servant ethics training program, unless for the sole purpose of attendance verification.

E. The program must be conducted in a physical setting conducive to learning at a time and place free of interruptions.

F. The certified trainer of an approved public servant ethics training program must announce or indicate as follows:

1. This course has been approved by the Louisiana Board of Ethics to meet the ethics training requirement pursuant to R.S. 42:1170. The person delivering this program is not employed by the Board of Ethics, and any advice given is informational in nature. No opinions given are those of the Board of Ethics. If you have any questions

regarding this program or the Code of Governmental Ethics, do not hesitate to contact the board with your inquiry.

G. At the conclusion of an approved program, each attending public servant must be given the opportunity to complete an evaluation questionnaire addressing the quality, effectiveness, and usefulness of the particular program. Within 30 days of the conclusion of the program, a summary of the results of the questionnaires must be forwarded to the board. If requested, copies of the questionnaires must also be forwarded to the board. Certified trainers must maintain the questionnaires for one year following a program, pending a board request for their submission.

H. To ensure all requirements are met in accordance with this Chapter, the board or its staff may at any time evaluate a program and suspend approval of it. The board and its staff may also at any time evaluate a trainer and suspend or revoke his status as a certified trainer. The certified trainer will be given written reasons for suspension or revocation and an opportunity to appear before the board at its next regularly scheduled monthly meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:

#### **§2415. Public Servant Attendance Information and Submission; Certified Trainers**

A. Each public servant shall complete a public servant ethics training attendance form while in attendance at an accredited program.

B. Attendance forms will be provided by the certified trainer.

C. Attendance forms shall include an area for the attendee's name, date of birth, agency, signature, course number, and certified trainer name and shall include a clause that states:

1. Your signature on this attendance form is your attestation that you attended the entire program and that you are the person whose identity this form declares. You understand that evidence brought to the attention of the Board of Ethics to the contrary may result in disciplinary action from the board for failure to comply with R.S. 42:1170.

D. The public servant must complete a form while in attendance and leave the form with the certified trainer to be filed and stored by the trainer for a minimum of four years; in the event a request is ever made by the board to view the forms by the board for the purposes of an audit, hearing, investigation, or any other purposes the board deems necessary and proper.

E. The certified trainer shall submit a certification of attendance to the board of Ethics within 30 days after the date of the program. The submission shall be made electronically on the board's website, and shall include the course number, certified trainer's name, the date of the program, and a list of the attendees with each public servant's date of birth and agency.

F. Attendance forms, or any other certification of attendance, will not be accepted by the Board of Ethics from an individual public servant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:

**§2417. Ethics Liaisons; Proctors**

A. A state agency ethics liaison may deliver information, as a proctor, to the public servants in his agency regarding the education and training required pursuant to R.S. 42:1170.A of the code of governmental ethics, provided the liaison has the training required by R.S. 42:1170.C.

B. A political subdivision ethics liaison may deliver information, as a proctor, to the public servants under his agency's supervision or jurisdiction regarding the education and training required pursuant to R.S. 42:1170.A of the code of governmental ethics, provided the liaison has been designated by his agency head and the liaison has attended a minimum of two hours of education and training designed for such persons or for persons set out in R.S. 42:1170.C regarding the provisions of the code of governmental ethics. In addition, each liaison shall be required to have at least two hours of ethics education and training annually.

1. A *political subdivision*, for purposes of this Section, is defined by R.S. 42:1102(17) as any unit of local government, including a special district, authorized by law to perform governmental functions.

C. If a request is made to the Board of Ethics, the board will provide the proctor, as defined in Subsections A and B access to a recorded presentation regarding the Code of Governmental Ethics, which may include, but is not limited to, a DVD or other presentation through the use of computer software.

D. In order for the public servant to receive credit for his public servant ethics training, the recorded presentation must be a minimum of one hour, and the public servant must be present for the entirety of the presentation.

E. Proctors for a public servant ethics training program shall announce or indicate as follows, prior to beginning the presentation.

1. This course has been approved by the Louisiana Board of Ethics to meet the ethics training requirement pursuant to R.S. 42:1170. The person delivering this program is not employed by the Board of Ethics, and any advice given is informational in nature. No opinions given are those of the Board of Ethics. If you have any questions regarding this program or the Code of Governmental Ethics, do not hesitate to contact the board with your inquiry.

F. Proctors must adhere to the following when submitting information to the Ethics Administration Program regarding the public servants in their agency.

1. Each public servant shall complete a public servant ethics training attendance form while in attendance at a recorded presentation by the proctor.

2. Attendance forms will be provided by the proctor.

3. Attendance forms shall include an area for the attendees' name, date of birth, agency, signature, course number, and proctor name and shall also include a clause that states:

Your signature on this attendance form is your attestation that you attended the entire presentation and that you are the person whose identity this form declares. You understand that evidence brought to the attention of the Board of Ethics to the contrary may result in disciplinary action from the board for failure to comply with R.S. 42:1170.

4. The public servant must complete a form while in attendance and leave the form with the proctor to be filed

and stored by the agency for a minimum of four years; in the event a request is ever made by the board to view the forms by the board for the purposes of an audit, hearing, investigation, or any other purposes the board deems necessary and proper.

5. The proctor shall submit information regarding the attendees to the Board of Ethics within 30 days after the date of the program. The submission shall be made electronically on the board's website, and shall include the course number, proctor's name, the date of the program, and a list of the attendees with each public servant's date of birth and agency.

6. Attendance forms, or any other certification of attendance, will not be accepted by the Board of Ethics from an individual public servant.

G. Proctors are required to be present for the entirety of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:

**Family Impact Statement**

The proposed Rule changes have no impact on family formation, stability or autonomy, as described in R.S. 49:972.

**Public Comments**

Interested persons may direct their comments to Kathleen M. Allen, Louisiana Board of Ethics, P.O. Box 4368, Baton Rouge, LA 70821, telephone (225) 219-5600, until 4:45 p.m. on March 10, 2012.

Kathleen M. Allen  
Ethics Administrator

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Third Party Ethics Training**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The cost to implement the rule, regarding third party ethics training and education, is estimated to be \$400 in FY 12, which accounts for the cost to publish the rule change in the State Register. The proposed rules are pursuant to HCR 91 of the 2011 Regular Legislative Session, which provided that the Board of Ethics is to develop a procedure to certify persons and programs to deliver education and training regarding the laws within the jurisdiction of the board to public servants and other persons required to receive education and training.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change 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)

The proposed rule change may result in an indeterminable cost to those affected persons. If third parties choose to charge for the training program, there will be an increased cost to those public servants attending. The cost of the program will be determined by the third party. The proposed rules specify the costs of the program, if any; to the public servant must be reasonable considering the subject matter, level of instruction, supporting documentation and educational material.



IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not have an effect on competition and employment.

Kristy Gary  
Deputy Administrator  
1202#079

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 111—The Louisiana School, District, and State Accountability System (LAC 28:LXXXIII.409, 515, 707, 3501, 3503, and 3507)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 111—The Louisiana School, District, and State Accountability System*: §409. Calculating a 9-12 Assessment Index, §515. State Assessments and Accountability, §707. Safe Harbor, §3501. Alternative Schools, §3503. Pre-GED/Skills Option Students, and §3507. Option Considerations. Proposed changes in Bulletin 111, Chapters 4, 5, and 7, provide detail for removing policy related to Graduation Exit Examination as part of the school performance score. Proposed changes in Bulletin 111, Chapter 35, provide detail to define alternative schools and alternative programs. Proposed changes in Bulletin 111, Chapter 35, provide detail relative to removing policy related to the discontinued Pre-Graduation Exit Examination /Skills Option Program. Act 478 of the 1997 Regular Legislative Session called for the development of an accountability system for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The state’s accountability system is an evolving system with different components that are required to change in response to state and federal laws and regulations.

**Title 28  
EDUCATION**

**Part LXXXIII. Bulletin 111—The Louisiana School, District, and State Accountability System**

**Chapter 4. Assessment, Attendance, and Dropout Index Calculations**

**§409. Calculating a 9-12 Assessment Index**

A. All operational end-of-course (EOC) tests will be used in the calculation of the assessment index.

1. All subjects will be weighted equally.
2. Algebra I EOC passing test scores earned by students at a middle school will be included in the SPS calculations of the high school to which the student transfers. The scores will be included in the accountability cycle that corresponds with the students’ first year of high school. Middle schools will earn incentive points for EOC passing scores the same year in which the test was administered.
3. Algebra I EOC test scores considered “not passing” will not be transferred to the high school. Students will retake the test at the high school, and the first administration of the test at the high school will be used in the calculation

of the assessment index the same year in which it was earned.

B. For all EOC assessments a dropout adjustment factor will not be used in the assessment index.

1. For EOC, use the values in the table below.

EOC	
Label	Subject-Test Index Points
Excellent	200
Good	135
Fair	75
Needs Improvement	0

C. All EOC assessment indices will be equally weighted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1021 (June 2006), amended LR 33:252 (February 2007), LR 36:1989 (September 2010), LR 38:

**Chapter 5. Inclusion in Accountability §515. State Assessments and Accountability**

A. Louisiana students in grades 3 through 8 will participate in at least one of the following state assessments on an annual basis:

1. LEAP; or
2. EOC;
3. iLEAP; or
4. LEAP Alternate Assessment Level 1 (LAA 1); or
5. LEAP Alternate Assessment Level 2 (LAA 2).

a. Some LAA 2 students will participate in a combination of regular assessment (LEAP, iLEAP, EOC) and LAA 2 if the IEP requires this.

b. These students can take only one test in each subject at any single test administration, e.g., LAA 2 in ELA and EOC in mathematics, science, and social studies.

B. For the fall 2010-11 accountability cycle, students in grades 10 and 11 will participate in at least one of the following state assessments on an annual basis:

1. EOC;
2. LEAP Alternate Assessment Level 1 (LAA 1); or
3. LEAP Alternate Assessment Level 2 (LAA 2).

C. - D. ...

E. EOC scores for repeaters (in any subject) shall not be included in high school SPS calculations.

F. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), amended LR 31:2422 (October 2005), LR 32:1022 (June 2006), LR 33:253 (February 2007), LR 36:1990 (September 2010), LR 37:2119 (July 2011), LR 38:

**Chapter 7. Subgroup Component §707. Safe Harbor**

A - E. ...

F. Beginning in 2006-07 for schools and Districts, English language arts and mathematics test results from grades 3-8 and 10 LEAP, iLEAP, LAA 1, and LAA 2 will be used to calculate the reduction of non-proficient students in Safe Harbor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2743 (December

2003), amended LR 32:1025 (June 2006), LR 33:253 (February 2007), LR 33:2594 (December 2007), LR 38:

**Chapter 35. Inclusion of Alternative Education Schools and Students in Accountability**

**§3501. Alternative Schools**

A. For the purposes of school accountability, alternative schools are those schools that:

1. are located on a separate campus (i.e., a building with a different address) from the students' sending school(s) or have a separate site code;
2. educate some or all students for more than ten days;
3. are established to meet the specific needs of students with special challenges that require educational environments that are alternatives to the regular classroom;
4. house one or more programs designed to address discipline, dropout prevention and recovery, credit recovery, etc; and
5. do not provide programs for students who are academically advanced, gifted, talented, or pursuing specific areas of study (arts, engineering, medical, technical, etc.).

B. Alternative schools will be classified into two categories:

1. **Accountable Alternative School.** There are sufficient data, as determined by this bulletin, to calculate a School Performance Score for all indicators appropriate for school configuration
2. **Non-accountable Alternative School.** There are insufficient data, as determined by this bulletin, to calculate a statistically reliable school performance score for the school, or less than 25 percent of the students in the school are enrolled for a full academic year \*(beginning with the 2011-12 fall accountability release).
  - a. Test summary reports shall be published annually for every non-accountable alternative school.

**C. Alternative Programs**

1. For the purposes of school accountability, alternative programs are those programs that:
  - a. are not housed on a separate campus;
  - b. do not have a site code; and
  - c. educate students who attend the school which the program is housed.
2. All assessment data will be assigned to the school which houses the program.
3. Requests to convert a school to a program must be submitted for approval prior to July 1.

D. Beginning with the 2010-11 fall accountability release, the school performance scores and letter grades of accountable alternative schools will be published with other schools.

1. Accountable alternative schools will be clearly labeled as alternative schools in public releases.
  2. School performance scores for alternative schools will exclude the assessment data for students who are not full academic year (FAY) enrollees. The assessment data for non-FAY students will be routed back to the sending school.
- E. Beginning in 2011-12, assessment for alternative schools will include a new assessment, academic skills assessment (ASA), for students who do not participate in end-of-course tests (EOCT).

1. A system will be used to assign performance levels and points for each level to be used in alternative school

accountability for students in GED and skills certificate programs.

GED/Skills Certificate Options Test	Assessment Points
Basic	150
Approaching Basic	75
Unsatisfactory	0

F. Alternative schools with sufficient data shall also be evaluated in the subgroup component in the same manner as are regular schools.

G. School performance scores and subgroup evaluations for alternative school students shall consist of:

1. the assessment data of all eligible FAY student;
2. the attendance data of all enrollees (K-8 only);
3. the dropout data of all students who have been enrolled for a FAY prior to exiting;
4. Graduation data following cohort rules per Chapter 6.

H. All eligible accountability data that is not included in the school performance score of the alternative school shall be routed to the sending school when the data collection and aggregation processes can produce accurate results except in the following instances.

1. Students transferring from outside the LEA must be enrolled at a non-alternative school for a FAY to be considered a sending school.
2. Accountability data shall not be routed across district lines except as described in Subsection H.

I. All eligible accountability data from an alternative school with insufficient data to be included in accountability shall be routed to the sending schools.

J. The Louisiana School for Math, Science, and the Arts shall be included in accountability according to its configuration, but its assessment data shall also be routed to the sending schools provided the sending schools have the same assessed grades as the routed data.

K. For routing purposes, a sending school is the school the student last attended.

L. In those cases where a particular grade-level assessment score must be routed from an alternative school to a sending school where the grade does not exist, scores shall be included as follows.

1. *i*LEAP results will be aggregated with the *i*LEAP grade closest in number or 1 grade-level lower.
2. LEAP/EOC results will be aggregated with the LEAP/EOC grade closest in number with consideration for subject area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2753 (December 2003), amended 31:423 (February 2005), LR 34:868 (May 2008), LR 35:1472 (August 2009), LR 38:

**§3503. Pre-GED/Skills Option Students**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2753 (December 2003), amended LR 30:2446 (November 2004), LR 32:1028 (June 2006), LR 33:2600 (December 2007), LR 34:868 (May 2008), 35:1473 (August 2009), repealed LR 38:

## §3507. Option Considerations

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2753 (December 2003), amended LR 33:2600 (December 2007), LR 34:868 (May 2008), repealed LR 38:

### Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office, which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed rule? No.

### Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

### Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., March 21, 2012, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Catherine R. Pozniak  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Bulletin 111—The Louisiana School, District, and State Accountability System

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
Proposed changes in Bulletin 111, Chapters 4, 5, and 7 provide detail for removing policy related to Graduation Exit Examination as part of the School Performance Score.  
Proposed changes in Bulletin 111, Chapter 35 provide detail to define alternative schools and alternative programs.  
Proposed changes in Bulletin 111, Chapter 35 provide detail relative to removing policy related to the discontinued Pre-Graduation Exit Examination/Skills Option Program.

The proposed rule changes will result in no cost or savings to state or local governmental units.

- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There will be no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1202#026

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 130—Regulations for the  
Evaluation and Assessment of School Personnel  
(LAC 28:CXLVII.Chapters 1-9)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel*. The proposed policy revisions provide guidelines for incorporating measures of student growth into teacher and administrator evaluations to align the evaluation of school personnel with Act 54 of the 2010 Regular Legislative Session. As required by Act 54, the proposed revisions reflect the recommendations of the superintendent's Advisory Committee on Education Evaluation (ACEE) related to use of the value-added assessment model to measure student growth; use of alternate measures to assess student growth in non-tested grades and subjects; and definitions of effectiveness for teacher and administrator performance. Act 54 of the 2010 Regular Legislative Session required that BESE develop, adopt, and promulgate all rules necessary for the implementation of the law, in accordance with the Administrative Procedure Act. The proposed policy provides the applicable rules. Upon final adoption, this document replaces in its entirety any previously advertised version.

### Title 28

### EDUCATION

#### Part CXLVII. Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel Title Chapter 1. Overview

#### §101. Guidelines of the Program

A. As required by R.S. 17:391.2, et seq., all local educational agencies (LEAs) in Louisiana developed accountability plans to fulfill the requirements as set forth by the laws. Specifically, Act 621 of 1977 established school accountability programs for all certified and other professional personnel. Act 9 of 1977 established a statewide system of evaluation for teachers and principals. Act 605 of 1980 gave the Louisiana Department of Education (LDE) the authority to monitor the LEAs' personnel evaluation

programs. Act 54 of 2010 requires that measures of student growth be incorporated into teachers' and administrators' evaluations and represent 50 percent of their final rating. In addition, Act 54 of 2010 requires that all teachers and administrators receive annual evaluations. In passing these Acts, it was the intent of the legislature to establish within each LEA a uniform system for the evaluation of certified and other professional personnel.

B. The guidelines to strengthen local teacher evaluation programs include the Louisiana Components of Effective Teaching and were entitled "Toward Strengthening and Standardizing Local School Districts' Teacher Evaluation Programs." The guidelines were approved by the Louisiana Board of Elementary and Secondary Education (BESE) in September 1992. These guidelines, along with the requirements of the local accountability legislation, form the basis for the local evaluation programs.

C. BESE also authorized the convening of the Louisiana Components of Effective Teaching (LCET) Panel in spring of 1992. The charge of the panel was to determine and to define the components of effective teaching for Louisiana's teachers. Reviewed and revised in the late 90s and 2002, the components are intended to reflect what actually takes place in the classroom of an effective teacher. The original 35 member panel was composed of a majority of teachers. The resulting *Louisiana Components of Effective Teaching*, a descriptive framework of effective teacher behavior, was intended to be a uniform element that served as evaluation and assessment criteria in the local teacher evaluation programs.

D. In 1994, Act I of the Third Extraordinary Session of the 1994 Louisiana Legislature was passed. Act I amended and reenacted several statutes related to Local Personnel Evaluation. In April 2000, Act 38 of the Extraordinary Session of the 2000 Louisiana Legislature was passed. Act 38 amended, enacted, and repealed portions of the legislation regarding the local personnel evaluation process. While local school districts are expected to maintain the elements of the local personnel evaluation programs currently in place and set forth in this document, Act 38 eliminated the LDE's required monitoring of the local implementation. Monitoring of local personnel evaluation programs is to occur as requested by BESE.

E. In August 2008, BESE approved the Performance Expectations and Indicators for Education Leaders to replace the Standards for School Principals in Louisiana, 1998 as criteria for principal evaluation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2250 (October 2010), amended LR 38:

### **§103. Purposes of Personnel Evaluation [Formerly §105]**

A. The purposes for which personnel evaluation will be used in Louisiana are as follows:

1. to support performance management systems that ensure qualified and effective personnel are employed in instructional and administrative positions;
2. to enhance the quality of instruction and administration in public schools;

3. to provide procedures that are necessary to retain effective teachers and administrators and to strengthen the formal learning environment; and

4. to foster continuous improvement of teaching and learning by providing opportunities for targeted professional growth and development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2250 (October 2010), and amended LR 38:

### **§105. Framework for LEA Personnel Evaluation Programs [Formerly §109]**

A. Each local school board has the responsibility of providing a program for the evaluation of certified and other professional personnel employed within the system. Programs should be appropriate and should meet the needs of the school district.

B. Local Personnel Evaluation Plans defined by the board shall include, at a minimum, the following elements.

1. Job Descriptions. The LEA shall establish job descriptions for every category of teacher and administrator. All job descriptions shall contain the criteria for which the teacher or administrator shall be evaluated.

2. Professional Growth Planning Process. The LEA shall provide guidelines for teachers and administrators to develop a professional growth plan with their evaluators. Such plans must be designed to assist each teacher or administrator in demonstrating effective performance, as defined by this bulletin. Each plan will include objectives as well as the strategies that the teacher or administrator intends to use to attain each objective.

3. Observation/Data Collection Process. The evaluator or evaluators of each teacher and administrator shall conduct a minimum of one formal, announced observation and at least one other informal, unannounced observation of instructional practice per academic year. Each teacher observation must last at least one complete lesson. For each formal observation, evaluators shall conduct a pre-observation conference with their evaluatee during which the teacher or administrator shall provide the evaluator or evaluators with relevant information. For both formal and informal observations, evaluators shall provide evaluatees with feedback following the observation, including areas for commendation as well as areas for improvement. Additional evidence, such as data from periodic visits to the school and/or classroom as well as written materials or artifacts, may be used to inform evaluation.

4. Professional Development and Support. LEAs shall provide multiple opportunities for teachers and administrators to receive feedback, reflect on individual practice, and consider opportunities for improvement throughout the academic year, and shall provide intensive assistance plans to teachers and administrators, according to the requirements set forth in this bulletin.

5. Grievance Process. LEAs shall include in their Local Personnel Evaluation Plans a description of the procedures for resolving conflict and/or grievances relating

to evaluation results in a fair, efficient, effective, and professional manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2251 (October 2010), amended LR 38:

### **Chapter 3. Personnel Evaluation**

#### **§301. Overview of Personnel Evaluation**

A. Personnel evaluation for teachers and administrators shall be composed of two parts. Fifty percent of the evaluation shall be composed of applicable measure(s) of growth in student learning. The remaining 50 percent shall be based upon a qualitative assessment of teacher or administrator performance.

1. For teachers, the 50 percent of the evaluation based upon growth in student learning shall measure the growth of their students according to a pre-determined assessment method, using the value-added model, where available, and alternate measures of student growth according to state guidelines, where value-added data are not available. For administrators, the 50 percent of the evaluation based upon growth in student learning shall incorporate a school-wide measure of growth.

2. The 50 percent of the evaluation that is based on a qualitative measure of teacher and administrator performance shall include a minimum of one formal, announced observation or site visit and at least one other informal, unannounced observation or site visit. This portion of the evaluation may include additional evaluative evidence, such as walk-through observation data and evaluation of written work products.

B. The combination of the applicable measure of growth in student learning and the qualitative assessment of performance shall result in a composite score used to distinguish levels of overall effectiveness for teachers and administrators.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:

#### **§303. Measures of Growth in Student Learning - Value-Added Model**

A. A value-added model shall be used to measure student growth for the purposes of teacher and administrator evaluation, where available.

B. The value-added model shall be applied to grades and subjects that participate in state-wide standardized tests and for which appropriate prior testing data is available. The value-added model shall not be applied for the purposes of evaluation in any cases in which there are fewer than five students with value-added results assigned to an educator.

C. The value-added model shall be a statistical model approved by the board for linking academic gains of students to teachers in grades and subjects for which appropriate data are available.

D. The value-added model shall take into account the following student-level variables:

1. prior achievement data that are available (up to three years);
2. gifted status;

3. section 504 status;
4. attendance;
5. disability status;
6. eligibility for free or reduced price meals;
7. limited English proficiency; and
8. prior discipline history.

E. Classroom composition variables shall also be included in the model.

F. Additional specifications relating to the value-added model shall be adopted by the board, in accordance with R.S. 17:10.1(D).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:

#### **§305. Measures of Growth in Student Learning—Non-Tested Grades and Subjects**

A. The department shall expand the value-added model, as new state assessments become available.

B. For teachers and administrators of non-tested grades and subjects (NTGS), for which there is little or no value-added data available, progress towards pre-determined student learning targets, as measured by state-approved common assessments, where available, shall govern the student growth component of the evaluation. Student learning targets shall include goals which express an expectation of growth in student achievement over a given period of time, as well as common measures for assessing attainment of those goals, such as an identified assessment and/or a body of evidence. The quality of student learning targets as well as the attainment of targets shall be evaluated using a standard rubric provided by the department.

C. A minimum of two student learning targets shall be developed collaboratively between evaluatees in NTGS and their evaluators at the beginning of the academic term and assessed by evaluators at the end of the term. The department shall provide evaluative tools for evaluators to use in assessing the quality of student learning targets.

1. State-approved common assessments shall be used as part of the body of evidence measuring students' attainment of learning targets, where applicable. At the beginning of each academic year, the department shall publish a list of state-approved common assessments to be used in identified non-tested grades and subject areas.

2. Where no state-approved common assessments for NTGS are available, evaluatees and evaluators shall decide upon the appropriate assessment or assessments to measure students' attainment of learning targets. LEAs may define consistent student learning targets across schools and classrooms for teachers with similar assignments.

D. The department shall provide annual updates to LEAs relating to:

1. the expansion of state-standardized testing and the availability of value-added data, as applicable;
2. the expansion of state-approved common assessments to be used to build to bodies of evidence for student learning where the value-added model is not available; and
3. the revision of state-approved tools to be used in evaluating student learning targets.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:

**§307. Observation Tools**

A. LEAs shall utilize an observation tool to conduct a qualitative assessment of teacher and administrator performance, which shall represent the 50 percent of evaluations that is not based on measures of growth in student learning.

B. LEA observation tools shall adhere to the following minimum requirements.

1. The tool for teacher evaluation shall align to the competencies and performance standards contained within the *Louisiana Components of Effective Teaching*, which shall henceforth be called the *Louisiana Teacher Competencies and Performance Standards*. The tool for administrator evaluation shall align to the competencies and performance standards contained within the *Performance Expectations and Indicators for Education Leaders*, which shall henceforth be called the *Louisiana Leader Competencies and Performance Standards*.

a. The *Louisiana Teacher Competencies and Performance Standards* and the *Louisiana Leader Competencies and Performance Standards* may be reviewed as needed by the department in collaboration with educators administering the evaluation system and appropriate third parties to determine the need for modifications and their continuing utility.

b. The board shall approve any changes made to the Louisiana Teacher Competencies and Performance Standards and the Louisiana Leader Competencies and Performance Standards.

2. Observation tools shall provide an overall score between 1.0 and 5.0, where a score of 3.0 indicates that the evaluatee is meeting expectations. Total scores on observation tools may include tenths of points, indicated with a decimal point.

C. The department shall develop and/or identify model observation tools according to these minimum requirements, which may be adopted by LEAs.

D. LEAs which do not intend to use model observation tools developed or identified by the department shall submit proposed alternate tools to the department for evaluation and approval, LEAs shall submit proposed alternate observation tools to the department prior to June 1.

1. With the submission of proposed alternate observation tools, LEAs may request a waiver to use competencies and performance standards other than those provided in the *Louisiana Teacher Competencies and Performance Standards* and the *Louisiana Leader Competencies and Performance Standards*. Such requests shall include:

a. a justification for how the modified competencies and performance standards will support specific performance goals related to educator and student outcomes; and

b. an explanation of how the LEA will ensure the reliability and validity of the alternate observation tool intended to measure the modified competencies and performance standards.

2. The department may request revisions to proposed alternate observation tools to ensure their compliance with the minimum requirements set forth in this bulletin.

3. If requested, revisions to proposed alternate observation tools shall be submitted to the department by the LEA.

4. LEA- proposed alternate observation tools shall be either approved or denied by the department no later than August 1.

5. LEAs which do not submit proposals to use alternate observation tools prior to June 1 and shall use the department's model observation tools for the following academic year.

6. LEAs which secure department approval for use of an alternate observation tools need not submit them for approval in subsequent years, unless the alternate observation tools is revised, the *Louisiana Teacher/Leader Competencies and Performance Standards* are revised, or revisions to this section are approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:

**§309. Standards of Effectiveness**

A. Teachers and administrators shall receive a final composite score on annual evaluations to determine their effectiveness rating for that academic year.

1. The 50 percent of evaluations that is based on student growth will be represented by a sub-score between 1.0 and 5.0.

a. If an educator has both value-added data and other student growth data in non-tested grades and subject areas, the student growth score shall be calculated as a weighted average of the value-added score and NTGS score, based on the number of students included in each score. The department shall provide resources to LEAs relating to this calculation.

2. The 50 percent of evaluations that is based on a qualitative assessment of performance will also be represented by a sub-score between 1.0 and 5.0.

3. The final composite score for teachers and administrators shall be the average of the two sub-scores and shall be represented as a score between 1.0 and 5.0.

B. The composite score ranges defining *Ineffective*, *Effective (Emerging, Proficient, or Accomplished)* and *Highly Effective* performance shall be as follows.

Effectiveness Rating	Composite Score Range
Ineffective	1.0 - 1.9
Effective: Emerging	2.0 - 2.6
Effective: Proficient	2.7 - 3.3
Effective: Accomplished	3.4 - 4.0
Highly Effective	4.1 - 5.0

C. Any educator receiving a rating of *Ineffective* in either the student growth or the qualitative performance component of the evaluation shall receive an overall final rating of *Ineffective*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:

### §311. Evaluators

A. LEAs shall establish and maintain an accountability relationships register to clearly define who shall be the evaluator or evaluators within the ranks of teachers and administrators.

B. Evaluators of teachers shall be school principals, assistant principals, or the evaluatee's respective supervisory level designee.

1. Other designees, such as instructional coaches and master/mentor teachers may conduct observations to help inform the evaluator's assessment of teacher performance. These designees shall be recorded as additional observers within the accountability relationships register.

C. Evaluators of administrators shall be LEA supervisors, Chief Academic Officers, Superintendents, or the evaluatee's respective supervisory level designee.

D. All evaluators shall be certified to serve as evaluators, according to the minimum requirements provided by the department.

1. The department or its contractor shall serve as the sole certifier of evaluators.

2. The evaluator certification process shall include an assessment to ensure inter-rater reliability and accuracy of ratings, based on the use of the teacher or leader observational rubric.

3. Evaluators on record must renew certification to evaluate annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:

### §313. Professional Development

A. LEAs shall provide professional development to all teachers and administrators, based upon their individual areas of improvement, as measured by the evaluation process. Professional development opportunities provided by LEAs shall meet the following criteria.

1. Professional development shall be job-embedded, where appropriate.

2. Professional development shall target identified individualized areas of growth for teachers and administrators, based on the results of the evaluation process, as well as data gathered through informal observations or site visits, and LEAs shall utilize differentiated resources and levels of support accordingly.

3. Professional development shall include follow-up engagement with participants, such as feedback on performance, additional supports, and/or progress-monitoring.

4. Professional development shall include measureable objectives to evaluate its effectiveness, based on improved teacher or administrator practice and growth in student learning.

B. Failure by the LEA to provide regular professional development opportunities to teachers and administrators shall not invalidate any results of the evaluation process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:

### §315. Intensive Assistance

#### [Formerly §329]

A. An intensive assistance plan shall be developed by evaluators and evaluatees when an evaluatee has received an overall rating of *Ineffective* or has consistently demonstrated *Ineffective* performance, as determined by the evaluator, prior to receiving such a rating.

B. An intensive assistance plan shall be developed with the evaluatee within 30 school days of an evaluation resulting in the initiation of the intensive assistance plan.

C. The evaluatee shall be formally re-evaluated within one calendar year of the initiation of the intensive assistance plan.

D. If the evaluatee is determined to be *Ineffective* after a formal evaluation conducted immediately upon completion of the intensive assistance plan or if the intensive assistance plan is not completed in conformity with its provisions, the LEA shall initiate termination proceedings within six months following such unsatisfactory performance.

E. The intensive assistance plan shall be developed collaboratively by the evaluator and the evaluatee and must contain the following information:

1. what the evaluatee needs to do to strengthen his/her performance including a statement of the objective(s) to be accomplished and the expected level(s) of performance according to student growth and/or qualitative measures;

2. an explanation of the assistance/support/resource to be provided or secured by the school district and/or the school administrator;

3. the date that the assistance program shall begin;

4. the date when the assistance program shall be completed;

5. the evaluator's and evaluatee's signatures and date lines (Signatures and dates shall be affixed at the time the assistance is prescribed and again after follow-up comments are completed.);

6. the timeline for achieving the objective and procedures for monitoring the evaluatee's progress (not to exceed one calendar year);

7. an explanation of the provisions for multiple opportunities for the evaluatee to obtain support and feedback on performance (The intensive assistance plans shall be designed in such a manner as to provide the evaluatee with more than one resource to improve.); and

8. the action that will be taken if improvement is not demonstrated.

F. Completed intensive assistance plans and appropriate supporting documents, such as observations, correspondence, and any other information pertinent to the intensive assistance process, shall be filed in the evaluatee's single official file at the central office. The evaluatee shall receive a copy of the signed intensive assistance plan and any supporting documents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2251 (October 2010), amended LR 38:

**§317. Due Process and Grievance Procedures  
[Formerly §333]**

A. The LEA shall establish grievance procedures to address the following components of due process.

1. The evaluatee shall be provided with a copy of his/her evaluation results no later than 15 days after the final evaluation rating is determined and shall be entitled to any documentation related to the evaluation.

2. The evaluatee shall be entitled to provide a written response to the evaluation, to become a permanent attachment to the evaluatee’s single official personnel file.

3. Upon the request of the evaluatee, a meeting between the evaluatee and the evaluator shall be held after the evaluation and prior to the end of the academic year.

4. The evaluatee shall be entitled to grieve to the superintendent or his/her designee, if the conflict in question is not resolved between evaluatee and evaluator. The evaluatee shall be entitled to representation during the grievance procedure.

5. Copies of the evaluation results and any documentation related thereto of any school employee may be retained by the LEA, the board, or the department and, if retained, are confidential, do not constitute a public record, and shall not be released or shown to any person except as provided by law.

B. Failure by the LEA to adhere to the requirements of this section shall be a grievable matter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2252 (October 2010), amended LR 38:

**§319. Staff Development for Personnel Involved in Evaluation [Formerly §335]**

A. LEAs shall provides training on a continuing basis for all staff involved in the evaluation process (i.e., district level administrators and supervisors, principals and assistant principals, and other observers, and classroom teachers). It is recommended that all training concentrate on fostering the elements listed below:

1. a positive, constructive attitude toward the teacher and administrator evaluation process;

2. a knowledge of state laws and LEA policies governing the evaluation process for teachers and administrators, along with the associated procedures for intensive assistance and due process;

3. an understanding of the Louisiana Teacher Competencies and Performance Standards

4. an understanding of the Louisiana Leader Competencies and Performance Standards;

5. an understanding of the measures of growth in student learning, as adopted by the board; and

6. an understanding of the process for calculating a composite score to determine final effectiveness ratings for teachers and administrators and the applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2252 (October 2010), amended LR 38:

**§321. Evaluation Records Guidelines**

A. Copies of evaluation results and any related documentation shall be retained by the LEA,

B. All such files shall be confidential and shall not constitute a public record.

C. Such files shall not be released or shown to any person except:

1. the evaluated employee or his/her designee;

2. authorized school system officers and employees for all personnel matters, including employment application, and for any hearing, which relates to personnel matters, which includes the authorized representative of any school or school system, public or private, to which the employee has made application for employment; and

3. for introduction in evidence or discovery in any court action between the local board and a teacher when:

a. the performance of the teacher is at issue; or

b. the evaluation was an exhibit at a hearing, the result of which is being challenged.

D. Any local board considering an employment application for a person evaluated pursuant to this bulletin shall request such person’s evaluation results as part of the application process, regardless of whether that person is already employed by that school system or not, and shall notify the applicant that evaluation results shall be requested as part of this mandated process. The applicant shall be given the opportunity to apply, review the information received, and provide any response or information the applicant deems applicable.

E. The State Superintendent of Education shall make available to the public the data specified in R.S. 17:3902(B)(5) as may be useful for conducting statistical analyses and evaluations of educational personnel. However, the Superintendent shall not reveal information pertaining to the evaluation report of a particular employee.

F. Public information may include school level student growth data, as specified in R.S. 17:3902(B)(5).

G. Nothing in this section shall be interpreted to prevent de-identified student growth data from public view.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:

**§323. Job Descriptions  
[Formerly §339]**

A. The Local Personnel Evaluation Plan shall contain a copy of the job descriptions currently in use in the LEA. The LEA shall establish a competency-based job description for every category of teacher and administrator pursuant to its evaluation plan. The chart that follows identifies a minimum listing of the categories and titles of personnel for which job descriptions must be developed

Personnel Category	Position or Title
Administration	1. Superintendent
	2. Assistant Superintendent
	3. Director
	4. Supervisor
	5. Coordinator
	6. Principal
	7. Assistant Principal



Personnel Category	Position or Title
	8. Any employee whose position does not require certification but does require a minimal education attainment of a bachelor's degree from an accredited institution of higher learning
	9. Any employee whose position requires certification, but whose title is not given in this list
	10. Any employee who holds a major management position, but who is not required to have a college degree or certification
Instructional Personnel	<ol style="list-style-type: none"> <li>1. Teachers of Regular and Sp. Ed. students</li> <li>2. Special Projects Teachers</li> <li>3. Instructional Coaches and/or Master Teachers</li> </ol>
Support Services	<ol style="list-style-type: none"> <li>1. Guidance Counselors</li> <li>2. Librarians</li> <li>3. Therapists</li> </ol>
	4. Any employee whose position does not require certification but does require a minimal educational attainment of a bachelor's degree from an accredited institution of higher learning
	<ol style="list-style-type: none"> <li>5. Any employee whose position requires certification, but whose title is not given in this list</li> <li>6. Any employee who holds a major management position, but who is not required to have a college degree or certification</li> </ol>

B. The competency-based job description shall:

1. be grounded in the state standards of performance;
2. include job tasks that represent the essential knowledge, skills and responsibilities of an effective teacher or administrator that lead to growth in student achievement;
3. be reviewed regularly to ensure that the description represents the full scope of the teacher's or administrator's responsibilities; and
4. be distributed to all certified and professional personnel prior to employment. If said job description is modified based on the district's annual review, it must be distributed to all certified and professional teachers and leaders prior to the beginning of the next school year.

C. The following components shall be included in each job description developed:

1. position title;
  2. overview of position;
  3. position qualifications shall be at least the minimum requirements as stated in *Bulletin 746—Louisiana Standards for State Certification of School Personnel* (The qualifications shall be established for the position, rather than for the employee);
  4. title of the person to whom the employee reports;
  5. performance standards, including statement on responsibility for growth in student learning (refer to \* below);
  6. salary or hourly pay range;
  7. statement acknowledging receipt of job description;
- and
8. a space for the employee's signature and date.

NOTE: Job descriptions must be reviewed annually. Current signatures must be on file at the central office in the single official file to document the annual review and/or receipt of job descriptions.

\*Job descriptions for instructional personnel must include the *Louisiana Teacher Competencies and Performance Standards*; job descriptions for building-level administrators must include the *Louisiana Leader Competencies and Performance Standards*—as part of the performance responsibilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2252 (October 2010), amended LR 38:

### §325. Extenuating Circumstances

A. For any year in which a school temporarily closes due to natural disasters or any other unexpected events, districts may request invalidation of student achievement growth data with relation to the value-added assessment model by submitting a letter to the State Superintendent of Education. Requests for invalidation of evaluation results shall be made prior to the state's release of annual value-added results and in no instance later than June 1.

B. Evaluation results shall be invalidated for any teacher or administrator with 30 or more excused absences in a given academic year, due to approved extended leave, such as maternity leave, military leave, extended sick leave, or sabbatical leave.

C. For any other extenuating circumstances that significantly compromise an educator's opportunity to impact student learning, districts may request invalidation of student achievement growth data with relation to the value-added assessment model by submitting such requests in a report to the State Superintendent of Education. Requests for invalidation of evaluation results shall be made prior to the state's release of annual value-added results and no later than June 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:

### §327. Statement of Assurance

#### [Formerly §345]

A. A statement of assurance shall be signed by the superintendent and a representative of the governing body of the LEA. The statement of assurance includes a statement that the LEA personnel evaluation programs shall be implemented as written. The original Statement of Assurance shall be signed and dated by the LEA superintendent and by the representative of the governing body of the LEA. The department requests that the LEA submit the statement of assurance prior to the opening of each school year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2253 (October 2010), amended LR 38:

### §329. Charter School Exceptions

A. Charter governing authorities are subject only to §301, §303, §305, §307, §309, §325, §329, and §701 of this bulletin.

B. Each charter governing authority shall terminate employment of any teacher or administrator determined not to meet standards of effectiveness for three consecutive years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:

## **Chapter 7. Reporting and Monitoring**

### **§701. Annual Summary Reporting Format**

A. Each LEA will submit an annual personnel evaluation report of the most recent academic year to the department by July 15th. Information included in the reporting format reflects data deemed necessary in presenting annual reports to the department, as well as to the LEAs. The reporting of such information includes a variety of responses directed toward the collection of data useful to an analysis of the evaluation process from a statewide perspective. Items that are reported by the LEAs on forms provided by the department include, but are not limited to, the following items:

1. individual-level teacher evaluation results, by teacher;
2. the number of certified and other professional personnel, by categories, who were evaluated as performing ineffectively;
3. the number of certified and other professional personnel, by categories, who resigned because of ineffective evaluations or for other reasons related to job performance;
4. the number of certified and other professional personnel, by categories, who were terminated because of not having improved performance within the specified time allotment (Include the reasons for termination.);
5. the number of evaluations, by categories, used to evaluate certified and other professional personnel during the reporting period (Distinguish between the number of evaluations performed for personnel in position 0-3 years as opposed to personnel in position 4 or more years.);
6. the number of certified personnel, by categories, who improved (from ineffective to effective) as a result of the evaluation process (Report the data by distinguishing between personnel in position 0-3 years and personnel in position 4 or more years.);
7. the number of formal grievances filed as a result of ineffective performance ratings or disagreement with evaluation results;
8. the number of formal hearings held because of ineffective performance or disagreement with evaluation results;
9. the number of court cases held because of ineffective job performance (the number reinstated and basic reasons for reinstatement of personnel); and
10. the number of evaluatees who received intensive assistance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2253 (October 2010), amended LR 38:

## **Chapter 9. Appendices**

### **§901. Appendix A. Louisiana Teacher Competencies and Performance Standards**

A. Competency I. Planning. The teacher plans instruction that meets the needs of all students and demonstrates knowledge of content, instructional strategies, and resources.

1. Performance Standard A. The teacher aligns unit and lesson plans with the established curriculum to meet annual achievement goals.

2. Performance Standard B. The teacher designs lesson plans that are appropriately sequenced with content, activities, and resources that align with the lesson objective and support individual student needs.

3. Performance Standard C. The teacher selects or designs rigorous and valid summative and formative assessments to analyze student results and guide instructional decisions.

B. Competency II. Instruction. The teacher provides instruction to maximize student achievement and meet individual learning needs of all students

1. Performance Standard A. The teacher presents accurate and developmentally-appropriate content linked to real-life examples, prior knowledge, and other disciplines.

2. Performance Standard B. The teacher uses a variety of effective instructional strategies, questioning techniques, and academic feedback that lead to mastery of learning objectives and develop students' thinking and problem-solving skills.

3. Performance Standard C. The teacher delivers lessons that are appropriately structured and paced and includes learning activities that meet the needs of all students and lead to student mastery of objectives.

C. Competency III. Environment. The teacher provides a well-managed, student-centered classroom environment that promotes and reinforces student achievement, academic engagement and mutual respect.

1. Performance Standard A. The teacher implements routines, procedures, and structures that promote learning and individual responsibility.

2. Performance Standard B. The teacher creates a physical, intellectual, and emotional environment that promotes high academic expectations and stimulates positive, inclusive, and respectful interactions.

3. Performance Standard C. The teacher creates opportunities for students, families, and others to support accomplishment of learning goals.

D. Competency IV. Professionalism. The teacher contributes to achieving the school's mission, engages in self-reflection and growth opportunities, and creates and sustains partnerships with families, colleagues and communities.

1. Performance Standard A. The teacher engages in self-reflection and growth opportunities to support high levels of learning for all students.

2. Performance Standard B. The teacher collaborates and communicates effectively with families, colleagues, and the community to promote students' academic achievement and to accomplish the school's mission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2254 (October 2010), amended LR 38:

### **§903. Appendix B**

A. Competency I. Ethics and Integrity. Educational leaders ensure the success of all students by complying with legal requirements and by acting with integrity, fairness, and in an ethical manner at all levels and in all situations.

1. Performance Standard A. Demonstrates compliance with all legal and ethical requirements.

2. Performance Standard B. Publicly articulates a personal philosophy.

3. Performance Standard C. Creates a culture of trust by interacting in an honest and respectful manner with all stakeholders.

4. Performance Standard D. Models respect for diversity.

B. Competency II. Instructional Leadership. Educational leaders collaborate with stakeholders and continuously improve teaching and learning practices to ensure achievement and success for all.

1. Performance Standard A. Establishes goals and expectations.

2. Performance Standard B. Plans, coordinates, and evaluates teaching and the curriculum.

3. Performance Standard C. Promotes and participates in teacher learning and development.

4. Performance Standard D. Creates a school environment that develops and nurtures teacher collaboration.

C. Competency III. Strategic Thinking. Education leaders ensure the achievement of all students by guiding all stakeholders in the development and implementation of a shared vision, a strong organizational mission, school-wide goals, and research-based strategies that are focused on high expectations of learning and supported by an analysis of data.

1. Performance Standard A. Engages stakeholders in determining and implementing a shared vision, mission, and goals that are focused on improved student learning and are specific, measurable, achievable, relevant, and timely (SMART).

2. Performance Standard B. Formulates and implements a school improvement plan to increase student achievement that is aligned with the school's vision, mission and goals; is based upon data; and incorporates research-based strategies and action and monitoring steps.

3. Performance Standard C. Monitors the impact of the school-wide strategies on student learning by analyzing data from student results and adult implementation indicators.

D. Competency IV. Resource Management. The leader aligns resources and human capital to maximize student learning to achieve state, district and school-wide goals.

1. Performance Standard A. Manages time, procedures, and policies to maximize instructional time as well as time for professional development opportunities that are aligned with the school's goals.

2. Performance Standard B. Allocates financial resources, to ensure successful teaching and learning.

3. Performance Standard C. Creates a safe, healthy environment to ensure effective teaching and learning.

E. Competency V. Educational Advocacy. Educational leaders ensure the success of all students by staying informed about research in education and by influencing interrelated systems and policies that support students' and teachers' needs.

1. Performance Standard A. Provides opportunities for multiple stakeholder perspectives to be voiced for the purpose of strengthening school programs and services.

2. Performance Standard B. Stays informed about research findings, emerging trends, and initiatives in education in order to improve leadership practices.

3. Performance Standard C. Acts to influence national, state, and district and school policies, practices, and decisions that impact student learning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2256 (October 2010), amended LR 38:

## **§905. Definitions**

A. In order that consistency in terminology be maintained on a statewide basis, the department has established a list of terms and definitions. Careful consideration of each should be given during the training and implementation of personnel evaluation programs. The definitions below must be adopted by all LEA's. If additional terms are necessary in establishing a clear and concise understanding of evaluation procedures, they must be included in the LEA Local Personnel Evaluation Plan.

*Accountability*—shared responsibility for actions relating to the education of children.

*Administrator*—any person whose employment requires professional certification under the rules of the board or who is employed in a professional capacity other than a teacher, including but not limited to directors, principals, and supervisors.

*Beginning Teacher*—any teacher in their first three years of the profession.

*Board*—State Board of Elementary and Secondary Education.

*Certified School Personnel*—those persons whose positions require certification.

*Charter School*—an independent public school that provides a program of elementary and/or secondary education established pursuant to and in accordance with the provisions of the Louisiana Charter School Law to provide a learning environment that will improve student achievement.

*Classroom Visitation*—an informal visit to a classroom of sufficient duration to monitor progress toward achievement of professional growth plan objectives and to provide support or assistance.

*Common assessment*—a state-approved assessment to be used for measuring student growth in grades and subjects where value-added data is not available.

*Components of Effective Teaching*—the elements of teaching performance defined by the board in formal, recognized collaboration with educators and other stakeholders involved in education, to be critical to providing effective classroom instruction, henceforth referred to as the *Louisiana Teacher Competencies and Performance Standards*.

*Competencies*—skills, knowledge, and abilities required to demonstrate a particular level of performance.

*Criteria*—demonstrable levels of performance upon which a judgment may be based.

*Department*—Louisiana Department of Education

*Due Process*—fair and impartial treatment, including notice and an opportunity to be heard.

*Duties*—those actions normally required of a position as assigned and/or described in the position description that are necessary to enable the class, school, or school district to accomplish its objectives.

*Educational Leader*—a person who is certified to serve in any school or district leadership capacity with the exception of Superintendent.

*Evaluation*—process by which a local board monitors continuing performance of its teachers and administrators annually, by considering judgments concerning the professional accomplishments and competencies of a certified employee, as well as other professional personnel, based on a broad knowledge of the area of performance involved, the characteristics of the situation of the individual being evaluated, and the specific standards of performance pre-established for the position.

*Evaluatee*—teacher or administrator undergoing evaluation

*Evaluator*—one who evaluates; the school principal or assistant principal or respective supervisory level designees charged with evaluating teachers or the superintendent or other LEA-level supervisor charged with evaluating administrators.

*Formal Observation*—an announced observation of a teacher in which the evaluator observes the beginning, middle, and end of a lesson, that is preceded by a pre-observation conference and followed by a post-observation conference in which the teacher is provided feedback on his/her performance.

*Formal Site Visit*—an announced site visit by an administrator's evaluator, that is preceded by a pre-visit conference and followed by a post-visit conference in which the administrator is provided feedback on his/her performance.

*Grievance*—a procedure that provides a fair and objective resolution of complaint by an evaluatee that the evaluation is inaccurate due to evaluator bias, omission, or error.

*Intensive Assistance Plan*—the plan that is implemented when it is determined, through the evaluation process, that personnel have not meet the standards of effectiveness. This plan includes the specific steps the teacher or administrator shall take to improve; the assistance, support, and resources to be provided by the LEA; an expected timeline for achieving the objectives and the procedure for monitoring progress, including observations and conferences; and the action to be taken if improvement is not demonstrated.

*Job Description*—a competency-based summary of the position title, qualification, supervisor, supervisory responsibilities, duties, job tasks, and standard performance criteria, including improving student achievement, that specify the level of job skill required. Space shall be provided for signature and date.

*Local Board*—governing authority of the local education agency, parish/city school or local school system.

*Local Education Agency (LEA)*—city, parish, or other local public school system, including charter schools.

*Non-Tested Grades and Subjects (NTGS)*—grades and subjects for which a value-added score is not available for teachers or other certified personnel.

*Objective*—a devised accomplishment that can be verified within a given time, under specifiable conditions, and by evidence of achievement.

*Observation*—the process of gathering facts, noting occurrences, and documenting evidence of performance.

*Performance Expectations*—the elements of effective leadership approved by the board that shall be included as evaluation criteria for all building-level administrators, henceforth referred to as the *Louisiana Leader Competencies and Performance Standards*.

*Performance Standards*—the behaviors and actions upon which performance is evaluated.

*Post-Observation Conference*—a discussion between the evaluatee and evaluator for the purpose of reviewing an observation and sharing commendations, insights, and recommendations for improvement.

*Pre-Observation Conference*—a discussion between the evaluatee and the evaluator which occurs prior to a formal observation; the purposes are to share information about the lesson to be observed and to clarify questions that may occur after reviewing of the lesson plan.

*Professional Growth Plan*—a written plan developed to enhance the skills and performance of an evaluatee. The plan includes specific goal(s), objective(s), action plans, timelines, opportunities for reflection, and evaluation criteria.

*Self-Evaluation/Self-Reflection*—the process of making considered judgments of one's own performance concerning professional accomplishments and competencies as a certified employee or other professional person based upon personal knowledge of the area of performance involved, the characteristics of the given situation, and the specific standards for performance pre-established for the position; to be submitted by the evaluatee to the appropriate evaluator for use in the compilation of the individual's evaluation.

*Standard Certificate*—a credential issued by the state to an individual who has met all requirements for full certification as a teacher.

*Standard of Effectiveness*—adopted by the State Board of Elementary and Secondary Education as the final composite score required for teacher or administrator performance to be considered *effective*.

*Student Learning Target*—a goal which expresses an expectation of growth in student achievement over a given period of time, as measured by an identified assessment and/or body of evidence.

*Teacher*—any person whose employment requires professional certification issued under the rules of the board.

*Teachers of Record*—Educators who are responsible for a portion of a student's learning outcomes within a subject/course.

*Value-Added*—the use of prior achievement history and appropriate demographic variables to estimate typical achievement outcomes through a statistical model for students in specific content domains based on a longitudinal data set derived from students who take state-mandated tests in Louisiana for the purpose of comparing typical and actual achievement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2256 (October 2010), amended LR 38:

**Family Impact Statement**

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? 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.

**Public Comments**

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., March 21, 2012, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Catherine R. Pozniak  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
Bulletin 130: *Regulations for the Evaluation and Assessment of School Personnel* is being revised pursuant to Act 54 of the 2010 Regular Legislative Session. The proposed policy revisions align the evaluation of school personnel with Act 54. Local school districts may incur additional costs related to professional development and/or intensive assistance programs for teachers and administrators based upon their individual needs, as identified by the evaluation program, if they choose to provide resources outside of what may be provided by school and district personnel. Local funds may be used for those expenditures. However, such additional costs are not mandated.

- As required by Act 54 the proposed revisions related to measuring student growth and standards of effectiveness reflect the recommendations of the Advisory Committee on Education Evaluation (ACEE), as required by Act 54. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.
- 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)  
This policy will not generate costs for individuals or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
This policy will require that data from performance evaluations inform employment decisions for public school teachers and administrators.

Beth Scioneaux  
Deputy Superintendent  
1202#027

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 741—Louisiana Handbook for School Administrators—Assessment (LAC 28: CXV.2307)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators: §2307. Assessment*. Each LEA shall require that every child enrolled in Kindergarten through third grade be given a BESE approved literacy screening. The results of this screening shall be used to plan instruction and provide appropriate and timely intervention. For students with significant hearing or visual impairment, nonverbal students, or students with significant cognitive impairment, the LEA shall provide an alternate assessment recommended by the LDE. The results of the screening provide information required by R.S. 17:182 Student reading skills; requirements; reports. The screening is also mandated by the Board of Elementary and Secondary Education (BESE).

**Title 28  
EDUCATION**

**Part CXV. Bulletin 741—Louisiana Handbook for School Administrators**

**Chapter 23. Curriculum and Instruction §2307. Assessment**

A. - B. ...

C. Each LEA shall require that every child enrolled in Kindergarten through third grade be given a BESE approved literacy screening. The results of this screening shall be used to plan instruction and provide appropriate and timely intervention. The results of the screening will also provide information required by RS 17:182 Student reading skills; requirements; reports.

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Bulletin 741—Louisiana Handbook for  
School Administrators—Assessment**

1. For students with significant hearing or visual impairment, nonverbal students, or students with significant cognitive impairment, the LEA shall provide an alternate assessment recommended by the DOE.

2. Each LEA shall report to the DOE screening results by child within the timeframes and according to the guidance established by the DOE.

3. For grades 1 – 3, the school should use the prior year’s latest screening level to begin appropriate intervention until the new screening level is determined.

4. Screening should be used to guide instruction and intervention.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1289 (June 2005), amended LR 38:

**Family Impact Statement**

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

**Small Business Statement**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

**Public Comments**

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., March 21, 2012, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Catherine R. Pozniak  
Executive Director

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Each Local Education Agency shall require that every child enrolled in Kindergarten through third grade be given a Board of Elementary and Secondary Education (BESE) approved literacy screening. For students with significant hearing or visual impairment, nonverbal students, or students with significant cognitive impairment, the Local Education Agency shall provide an alternate assessment recommended by the Department of Education. The cost of the BESE approved literacy screening is approximately \$225,000 per year. This screening is currently being used and state funds are budgeted for this purpose in the Literacy Goal Office. There is no cost for the alternative assessment for students with disabilities.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This policy adoption will have no noted impact on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There are no noted financial costs/benefits to families or students as a result of the policy.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Data indicates that the results of the literacy screening are directly correlated to the iLEAP/LEAP results. Therefore, interventions can take place timely to increase student achievement, eventually resulting in successful educational performance and increased high-school graduation numbers. This in turn results in higher-paying jobs for high-school graduates and students who are more competitive in the job market.

Beth Scioneaux  
Deputy Superintendent  
1202#030

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 741—Louisiana Handbook for School  
Administrators—Certification of Personnel  
(LAC 28: CXV.505)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators: §505. Certification of Personnel*. The proposed policy revision protects traditional certification, respects local control, and retains the traditionally-certified CAO requirement for non-traditional LEA superintendent, while simultaneously removing the arbitrary, outdated population requirement so that all LEAs may benefit from this flexibility.

**Title 28  
EDUCATION**

**Part CXV. Bulletin 741—Louisiana Handbook for School Administrators**

**Chapter 5. Personnel**

**§505. Certification of Personnel**

A. ...

\* \* \*

B. In the event that an LEA in Louisiana, through its locally authorized governing board, chooses to select a superintendent who does not meet the eligibility requirements necessary to obtain certification as a superintendent, such LEA may appoint the candidate, provided that:

1. the district appoints a chief academic officer whose primary and substantial job description shall govern the academics of the district including curriculum and instruction;

2. the chief academic officer possesses a valid state-issued teaching certificate;

3. the chief academic officer also meets all criteria required of a superintendent set forth in existing BESE policy; and

4. the chief academic officer is appointed no later than 120 days after the appointment of the superintendent candidate.

C. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:7.1; R.S. 17:24.10; R.S. 17:81; R.S. 17:491; 17:497.2; R.S. 17:1974.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1265 (June 2005), amended LR 33:2353 (November 2007), amended LR 38:

**Family Impact Statement**

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.

**Small Business Statement**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

**Public Comments**

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., March 21, 2012 to Nina A. Ford,

State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Catherine R. Pozniak  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—Certification of Personnel**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy revision protects traditional certification, respects local control, and retains the traditionally-certified Chief Academic Officer requirement for non-traditional LEA Superintendents, while simultaneously removing the arbitrary, outdated population requirement so that all LEAs may benefit from the hiring flexibility of superintendents. There will be a cost of \$164 associated with publication of the proposed rule change in the *Louisiana Register*.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections at the state or local government level.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Due to the broadened scope of allowable applicants, this policy will give more flexibility to LEAs in the Superintendent hiring process, while also encouraging more competition among applicants.

Beth Scioneaux  
Deputy Superintendent  
1202#028

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 741—Louisiana Handbook for School Administrators—Scheduling and Student Services  
(LAC 28: CXV.907 and 1103)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators: §907. Secondary Class Times and Carnegie Credit and §1103. Compulsory Attendance*. The revisions will set forth policy regarding the newly developed Louisiana Seat Time Waiver (LSTW). There is no federal regulation attached to this action. The Louisiana Seat Time Waiver allows districts additional flexibility to accelerate students by teaching more than one year of content in a single year. The waiver allows districts to maintain varied instructional paces for student in select classes approved by the Louisiana Department of



Education through the waiver process. All graduation requirements and GEE/EOC tests must be completed as stated per Bulletin 741.

**Title 28  
EDUCATION**

**Part CXV. Bulletin 741—Louisiana Handbook for  
School Administrators**

**Chapter 9. Scheduling**

**§907. Secondary—Class Times and Carnegie Credit**

A.1. - D. ...

E. Districts may submit applications for a waiver of the instructional time requirement for Carnegie credit to the DOE. The application for a waiver must contain a brief description of the program and an assurance that all other requirements for Carnegie credit and graduation requirements will be met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:154.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1271 (June 2005), amended LR 38:

**Chapter 11. Student Services**

**§1103. Compulsory Attendance**

A. - G.1.d. ...

e. if instructional time for Carnegie credit has been waived, students still must meet the attendance requirement of 60,120 minutes per year.

G.2. - N. ...

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:112; R.S. 17:221.3-4; R.S. 17:226.1; R.S. 17:233.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1273 (June 2005), amended LR 32:546 (April 2006), LR 32:1030 (June 2006), LR 33:2351 (November 2007), LR 35:641 (April 2009), LR 35:1097 (June 2009), LR 35:1475 (August 2009), LR 36:482 (March 2010), LR 36:1224 (June 2010), LR 37:1126 (April 2011), LR 37:2132 (July 2011), LR 38:

**Family Impact Statement**

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

**Small Business Statement**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small

businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

**Public Comments**

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., March 21, 2012, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Catherine R. Pozniak  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 741—Louisiana Handbook for  
School Administrators**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The Department of Education recommends relevant policy revisions to Bulletin 741: *Louisiana Handbook for School Administrators* as they relate to the Louisiana Seat Time Waiver. There will be no costs to state or local governmental units as a result of this policy change. The Louisiana Department of Education anticipates the costs for the Local Education Agencies to utilize the Louisiana Seat Time Waiver will be similar to the costs incurred within traditional Carnegie obtainment.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1202#029

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Nonpublic Bulletin 741—Louisiana Handbook for  
Nonpublic School Administrators—Health and Safety Rules  
and Regulations for Approved Non-Public School  
Three-Year-Old Programs  
(LAC 28:LXXIX.Chapter 30)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for Nonpublic School Administrators*: Chapter 30, Health and Safety Rules and Regulations for Approved Non-Public School Three-Year-Old Programs. The addition of Chapter 30 provides the rules and regulations to protect the



health and safety of three-year-old children who attend prekindergarten at an approved nonpublic elementary school as required by Act 102 of the 2011 Regular Legislative Session.

**Title 28  
EDUCATION**

**Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana  
Handbook for Nonpublic School Administrators  
Chapter 30. Health and Safety Rules and Regulations  
for Approved Non-Public School Three-  
Year-Old Programs**

**§3001. General Requirements**

A. The school administrator is charged with the responsibility of monitoring and ensuring the three-year-old prekindergarten classrooms adhere to these guidelines.

B. The school administrator shall maintain in force at all times current liability insurance for the operation of a school to ensure medical coverage for children in the event of accident or injury. The school shall have documentation of the accident or injury on file. Documentation shall consist of the insurance policy or current binder that includes the name of the school facility, physical address of the facility, name of the insurance company, policy number, period of coverage, and explanation of the coverage.

C. The school shall have documentation of yearly sanitation inspection and current approval from the Office of Public Health, Sanitarian Services. If food is catered or transported, approval is needed from the health department.

D. The school shall have documentation of yearly safety inspection and current approval from the Office of State Fire Marshal.

E. The school shall have documentation of yearly safety inspection and current approval from the city fire department (if applicable).

F. A daily attendance record for children, must be maintained by the school. Children who leave and return to the school during the day shall be signed in/out. A computerized sign in/out procedure is acceptable if the record accurately reflects the time of arrival and departure as well as the name of the person to whom the child was released.

G. Any visitor to the school shall sign in/out. Records shall be maintained to accurately reflect persons on the school premises at any given time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S.17:24.8; R.S. 17:222(C); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:

**§3003. Policies and Procedures Related to Children**

**A. Rest Time**

1. Children who are three-years of age shall have a daily rest period of at least one hour. Schools that serve children in half-day programs are not required to schedule napping periods for these children.

2. Children shall be under direct supervision at all times including naptime. Children shall never be left alone in any room or outdoors without a staff present. All children sleeping shall be in the sight of the staff.

**B. Discipline**

1. The school shall have written procedures for behavior management appropriate for three-year-olds,

including positive techniques, such as modeling, redirection, positive reinforcement and encouragement. The procedures are provided to and discussed with parents at the time of enrollment.

2. The discipline policy shall:

a. be based on an understanding of each child's individual needs and development;

b. be clear, consistent and developmentally appropriate rules;

c. allow children to solve their own conflicts with appropriate guidance and used to facilitate the development of self-discipline in children;

d. not allow punishment as discipline or guidance;

i. the following punishments are never used: abusive or neglectful treatments of children, including corporal punishment, isolation, verbal abuse, humiliation, and denial of outdoor time, food or basic needs; and punishment of soiling, wetting or not using the toilet, including forcing a child to remain in soiled clothing, to remain on the toilet, or any other unusual or excessive practices for toileting;

e. address children without an IEP who continually cause physical harm to himself/herself or others or continually impede the learning of himself/herself and others because of other challenging behavior.

**C. Abuse and Neglect**

1. As mandated reporters, all school staff shall report any suspected abuse and/or neglect of a child in accordance with R.S. 14:403 to the local child protection agency. This written policy as well as the local child protection agency's telephone number shall be posted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S.17:24.8; R.S. 17:222(C); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:

**§3005. Children's Records**

**A. A record shall be maintained on each child to include:**

1. child's information form (mastercard) listing the child's name, birth date, sex, date of admission, and name and phone number of child's physician, dietary restrictions, and allergies; signed and dated by the parent;

2. parental authorization to secure emergency medical treatment;

3. signed agreements between the school and the parent for each child giving permission to release the child to a third party listed by the parent including any other school facilities or transportation services. A child shall never be released to anyone unless authorized in writing by the parent.

B. The school shall maintain the confidentiality and security of all children's records. Employees of the school shall not disclose or knowingly permit the disclosure of any information concerning the child or his/her family, directly or indirectly, to any unauthorized person.

C. The school shall obtain written, informed consent from the parent prior to releasing any information, recordings and/or photographs from which the child might be identified, except for authorized state and federal agencies.

D. The school shall obtain documentation signed and dated by the parent indicating their awareness of the school utilizing any type of recordings or taping of children

including but not limited to digital recordings, videotaping, audio recordings, web cam, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S.17:24.8; R.S. 17:222(C); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:

### **§3007. Required Staff**

A. There shall be regularly employed staff who are capable of fulfilling job duties of the position to which they are assigned.

B. There shall be provisions for substitute staff who are qualified to fulfill duties of the position to which they are assigned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S.17:24.8; R.S. 17:222(C); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:

### **§3009. Personnel Records**

A. A record for each paid and non-paid staff person, including substitutes and foster grandparents shall be on file at the school. Personnel record shall include:

1. an application and/or a staff information form with the following:

- a. name;
- b. date of birth;
- c. address and telephone number;
- d. previous training/work experience;
- e. educational background; and
- f. employee's starting and termination date.

2. Documentation of a satisfactory criminal record check shall be on file. School administrator shall request this clearance prior to the employment of any school staff. No staff with a criminal conviction of a felony, a plea of guilty or nolo contendere of a felony, or any offense of a violent or sexual nature, or any offense involving a juvenile victim shall be employed in a school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S.17:24.8; R.S. 17:222(C); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:

### **§3011. Required Staff Development and Training**

A Orientation Training

1. Prior to employment and prior to having sole responsibility for a group of children, each staff member, including substitutes and foster grandparents, shall receive orientation training to include the following topics:

- a. school policies and practices including health and safety procedures;
  - b. emergency and evacuation plan;
  - c. supervision of children;
  - d. discipline policy;
  - e. individual needs of the children enrolled;
  - f. detecting and reporting child abuse and neglect;
- and
- g. confidentiality of information regarding children and their families.

### **B. CPR and First Aid**

1. A minimum of three staff (including the teachers of three- and four-year-olds) on the school premises during school hours and accessible to the children at all times shall have documentation of current infant/child/adult certification in CPR. Original cards shall be made available upon request.

2. A minimum of three staff (including the teachers of three- and four-year-olds) on the school premises during school hours and accessible to children shall have documentation of current pediatric first aid certification. Original cards shall be made available upon request.

### **C. Emergency Procedures**

1. The school administrator shall ensure that written procedures for emergencies and evacuation as appropriate for the area in which the class is located such as fire, flood, tornado, hurricane, chemical spill, train derailment, etc. are available.

NOTE: For additional information contact the Office of Emergency Preparedness (Civil Defense) in your area.

### **D. Extracurricular Water Activities**

1. The school staff shall obtain written authorization from the parent for the child to participate in any extracurricular water activity. The statement shall list the child's name, type of water activity, location of water activity, parent's signature and date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S.17:24.8; R.S. 17:222(C); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:

### **§3013. Required Child/Staff Ratios**

A. The class size for prekindergarten three-year-old classes shall not exceed a maximum of 13 children for one qualified teacher. Schools that choose to use the assistance of a full-time paraprofessional may have a maximum of 20 per class.

B. Child/staff ratio plus one additional adult shall be met for all field trips and non-vehicular excursions.

C. When the nature of a special need or the number of children with special needs warrants added care, the school administrator shall add sufficient staff as deemed necessary to compensate for these needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S.17:24.8; R.S. 17:222(C); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:

### **§3015. Food Service and Nutrition**

A. If the school provides meals and snacks, then well-balanced and nourishing meals and snacks shall be provided as specified under state and/or federal regulations.

B. Drinking water shall be available indoors and outdoors to all children. Drinking water shall be offered at least once between meals and snacks to all children.

C. When a child requires a special diet, a written statement from a medical authority shall be on file.

D. Children with food allergies/intolerance shall have a written statement signed by the parent indicating the specific food allergy/intolerance.

E. When a child requires a modified diet for religious reasons, a written statement to that effect from the child's parent shall be on file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:24.8; R.S. 17:222(C); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:

### §3017. Health Service to the Child

A. A school that gives medication assumes additional responsibility and liability for the safety of the children. The staff person(s) administering medication shall be trained in medication administration. The training shall be obtained every two years.

B. No medication of any type, prescription, non-prescription, special medical procedure shall be administered by school staff unless authorized in writing by the parent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:24.8; R.S. 17:222(C); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:

#### 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.

#### Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., March 21, 2012, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Catherine R. Pozniak  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Nonpublic Bulletin 741—Louisiana Handbook for Nonpublic School Administrators— Health and Safety Rules and Regulations for Approved Non-Public School Three-Year-Old Programs

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The addition of Chapter 30 provides the rules and regulations to protect the health and safety of three-year-old children who attend prekindergarten at an approved nonpublic elementary school as required by Act 102 of the 2011 Regular Legislative Session. This change will not result in an increase in costs or savings to state or local governmental units.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Nonpublic schools which choose to offer a prekindergarten program for three-year-olds may experience an increase in costs associated with the hiring of a qualified teacher and the hiring of a paraprofessional to meet the lower pupil teacher ratio. It is not possible to estimate the increased cost because it will depend of the school's salary schedule.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1202#031

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Education Board of Regents

Academic Program Standards (LAC 28:IX.305)

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. 17:1808, that the Board of Regents proposes to amend Chapter 3, Section 305 (F-G) to require licensed educational institutions wishing to offer teacher education or education leadership programs to meet the same program accreditation requirements as Louisiana's institutions to continue offering that program in Louisiana.

#### Title 28

#### EDUCATION

#### Part IX. Regents

#### Chapter 3. Criteria and Requirements for Licensure §305. Academic Program Standards

A. - E. ....

F. For all courses/programs for teachers and educational leaders (e.g., teacher leaders, principals, school/district supervisors, superintendents, etc.), provide evidence of attainment of national accreditation (e.g., National Council for Accreditation of Teacher Education—NCATE; Teacher Education Accreditation Council—TEAC).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1552 (December 1993), amended LR 21:169 (February 1995), LR 38:

#### Family Impact Statement

In accordance with R.S. 17:3141, Title 28 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.

#### Interested Persons Paragraph

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference this proposed regulation by ACT 129. Such comments must be received no later than March 10, 2012, at 4:30 p.m., and should be sent to Dr. Larry Tremblay, Louisiana State Board of Regents, P.O. Box 3677, Baton Rouge, LA 70821-3677 or to fax (225) 342-9318.

Dr. Larry Tremblay  
Interim Deputy Commissioner

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

##### RULE TITLE: Academic Program Standards

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change should have little or no impact (costs/savings) to state governmental units.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will require licensed educational institutions wishing to offer teacher education or education leadership programs to meet the same program accreditation requirements as Louisiana's institutions to continue offering that program in Louisiana. Affected institutions without the appropriate accreditation would incur additional requirements and costs to obtain the program accreditation required by the proposed rule if they want to continue offering the academic program in Louisiana. Affected institutions may pass on additional program accreditation costs to affected students or may choose to cease offering the particular program to students in Louisiana rather than seek program accreditation required by the proposed rule.

The primary economic benefit for students enrolled in these teacher education or education leadership programs is that upon graduation they are eligible to seek certification as teachers or education leaders in Louisiana.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Institutions may choose to discontinue teacher education or education leadership programs rather than seek the program accreditation required by the proposed rule, potentially decreasing supply and competition among post-secondary educational programs in Louisiana. However, individuals obtaining a degree from an accredited program as required by the proposed rule will be qualified to seek certification as teachers or education leaders in Louisiana.

Dr. Larry Tremblay  
Interim Deputy Commissioner  
1202#076

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

#### NOTICE OF INTENT

#### Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs—J.R. Justice Awards  
(LAC 28:IV.2001, 2007 and 2013)

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, and R.S. 17:3048.1).

This rulemaking will amend Sections 2001, 2007, 2013 of LASFAC's Scholarship/Grants rules for the John R. Justice Student Grant Program to provide that LASFAC will set the number of awards and the amount of the grant each year based upon the funding allocated to Louisiana by the United States Department of Justice. (SG12136NI)

#### Title 28

#### EDUCATION

#### Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs Chapter 20. John R. Justice Student Grant Program §2001. General Provisions

A. - C. ...

D. Award Amount

1. For the 2011 calendar year, twelve prosecutors will receive awards of \$5,000 each and six public defenders will receive awards of \$10,000 each. One public defender and two prosecutors will be selected for participation from each of the First, Second, Third, and Fifth Louisiana Circuit Court of Appeal Districts. Two public defenders and four prosecutors will be selected for participation from the Fourth Louisiana Circuit Court of Appeal.

2. Beginning in the 2012 calendar year, the number of awards and the amount of each grant shall be recalculated based on the amount of the federal grant allocated to Louisiana by the United States Department of Justice. Each calendar year's awards shall be allocated so that the total amount awarded to prosecutors is equal to the total amount awarded to public defenders.

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 37:1387 (May 2011), amended LR 38:

**§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 45 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 37:1387 (May 2011), amended LR 38:

**§2013. Responsibilities of LASFAC**

**A. LASFAC shall:**

1. - 2. ...

3. Approve the number of awards and the amount of each grant each year based upon the funding allocated to Louisiana by the United States Department of Justice. LASFAC shall ensure that fifty percent of the funds awarded are allocated for awards to prosecutors and fifty percent of the funds awarded are allocated for awards to public defenders.

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 37:1387 (May 2011), amended LR 38:

**Family Impact Statement**

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in LSA-R.S. 49:972.

**Small Business Statement**

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

**Public Comments**

Interested persons may submit written comments on the proposed changes (SG12136NI) until 4:30 p.m., March 12, 2012, to Melanie Amrhein, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge  
General Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Scholarship/Grant Programs—J.R. Justice Awards**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed changes are required to modify the Scholarship and Grant Program Rules to increase program flexibility in the awarding and distribution of grants to

participants in the federal John R. Justice Student Grant Program. Any increase or decrease in expenditures for this program will be driven by the annual funding allocation by the U. S. Department of Justice and not by any provision found in the current or proposed revision of the Scholarship and Grant Program Rules.

**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)**

Depending on the amount of funding annually allocated by the U. S. Department of Justice to Louisiana for the John R. Justice Student Grant Program, the proposed changes may allow additional eligible lawyers who serve as public defenders or prosecutors to participate in the program and/or allow selected participants to receive lower or higher grant award amounts to reduce student loan debt for one year. In addition, reducing student loan debt for selected participants will have a positive effect on their income over the long term.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule change may enhance the effects of the John R. Justice Student Grant Program to encourage lawyers to continue service as a public defender or prosecutor.

George Badge Eldredge  
General Counsel  
1202#004

Evan Brasseur  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of the Secretary**

2011 Annual Incorporation by Reference of  
Federal Air Quality Regulations  
(LAC 33:III.506, 507, 2160, 3003, 5116,  
5122, 5311 and 5901)(AQ325ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Regulations, LAC 33:III.507, 2160, 3003, 5116, 5311 and 5901 (Log #AQ325ft).

This Rule is identical to federal regulations found in 40 CFR Part 51, Appendix M; 40 CFR Part 60; 40 CFR Part 61; 40 CFR Part 63; 40 CFR Part 68; 40 CFR Part 70.6(a) and 40 CFR Part 96, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule incorporates by reference (IBR) into the Louisiana Administrative Code (LAC), Title 33, Part III, Air, the following federal regulations included in the July 1, 2011 editions of the Code of Federal Regulations (CFR): 40 CFR Parts, 51, Appendix M, 60, 61, 63, 68, 70.6(a) and 96. Any exception to the IBR is explicitly listed in this Rule. This Rule updates the reference to July 1, 2011, for the Standards of Performance for New Stationary Sources, 40 CFR Part

60. It also updates the references to July 1, 2011 for the National Emission Standards for Hazardous Air Pollutants (NESHAP) and for NESHAP for Source Categories, 40 CFR Parts 61 and 63. In order for Louisiana to maintain equivalency with federal regulations, certain regulations in the most current Code of Federal Regulations, July 1, 2011, must be adopted into the Louisiana Administrative Code (LAC). This rulemaking is also necessary to maintain delegation authority granted to Louisiana by the Environmental Protection Agency. The basis and rationale for this Rule are to mirror the federal regulations as they apply to Louisiana's affected sources. 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**

**§506. Clean Air Interstate Rule Requirements**

A. - B.4. ...

C. Annual Sulfur Dioxide. Except as specified in this Section, The federal SO<sub>2</sub> model rule, published in the *Code of Federal Regulation* at 40 CFR Part 96, July 1, 2011, is hereby incorporated by reference, except for Subpart III-CAIR SO<sub>2</sub> OPT-in Units and all references to opt-in units.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:1597 (September 2006), amended LR 33:1622 (August 2007), LR 33:2083 (October 2007), LR 34:978 (June 2008), LR 35:1107 (June 2009), LR 36:2272 (October 2010), repromulgated LR 36:2551 (November 2010), amended LR 37:2989 (October 2011), LR 38:

**§507. Part 70 Operating Permits Program**

A. - B.1. ...

2. No Part 70 source may operate after the time that the owner or operator of such source is required to submit a permit application under Subsection C of this Section, unless an application has been submitted by the submittal deadline and such application provides information addressing all applicable sections of the application form and has been certified as complete in accordance with LAC 33:III.517.B.1. No Part 70 source may operate after the deadline provided for supplying additional information requested by the permitting authority under LAC 33:III.519, unless such additional information has been submitted within the time specified by the permitting authority. Permits issued to the Part 70 source under this Section shall include the elements required by 40 CFR 70.6. The department hereby adopts and incorporates by reference the provisions of 40 CFR 70.6(a), July 1, 2011. Upon issuance of the permit, the Part 70 source shall be operated in compliance with all terms and conditions of the permit. Noncompliance with any federally applicable term or condition of the permit shall constitute a violation of the Clean Air Act and shall be grounds for enforcement action; for permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application.

C. - J.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 20:1375 (December 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:1008 (May 2004), amended by the Office of Environmental Assessment, LR 31:1061 (May 2005), LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 32:808 (May 2006), LR 33:1619 (August 2007), LR 33:2083 (October 2007), LR 33:2630 (December 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2272 (October 2010), LR 37:2990 (October 2011), LR 38:

**Chapter 21. Control of Emission of Organic Compounds**

**Subchapter N. Method 43—Capture Efficiency Test Procedures**

Editor's Note: This Subchapter was moved and renumbered from Chapter 61 (December 1996).

**§2160. Procedures**

A. Except as provided in Subsection C of this Section, the regulations at 40 CFR Part 51, Appendix M, July 1, 2011, are hereby incorporated by reference.

B. - C.2.b.iv. ...

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 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1224 (August 2001), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:809 (May 2006), LR 33:1620 (August 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2272 (October 2010), LR 37:2990 (October 2011), LR 38:

**Chapter 30. Standards of Performance for New Stationary Sources (NSPS)**

**Subchapter A. Incorporation by Reference**

**§3003. Incorporation by Reference of 40 Code of Federal Regulations (CFR) Part 60**

A. Except for 40 CFR Part 60, Subpart AAA, and as modified in this Section, Standards of Performance for New Stationary Sources, published in the *Code of Federal Regulations* at 40 CFR Part 60, July 1, 2011, are hereby incorporated by reference as they apply to the state of Louisiana.

B. - B.10. ...

C. The volumes containing those federal regulations incorporated by reference may be obtained from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402 or their website, [www.gpoaccess.gov/cfr/index.html](http://www.gpoaccess.gov/cfr/index.html).

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 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1239 (July 1999), LR 25:1797 (October 1999), LR 26:1607 (August 2000), LR 26:2460, 2608 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 28:2179 (October 2002), LR 29:316 (March 2003), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 32:809 (May 2006), LR 32:1596 (September 2006), LR 33:1620 (August 2007), LR 33:2092 (October 2007), LR 33:2626 (December 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2273 (October 2010), LR 37:2990 (October 2011), LR 38:

**Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program**

**Subchapter B. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)**

**§5116. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)**

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants, published in the *Code of Federal Regulations* at 40 CFR Part 61, July 1, 2011, and specifically listed in the following table, are hereby incorporated by reference as they apply to sources in the state of Louisiana.

40 CFR Part 61	Subpart/Appendix Heading
	***
[See Prior Text in Subpart A – Appendix C]	

B. - B.2. ...

C. The volumes containing those federal regulations incorporated by reference may be obtained from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402 or their website, [www.gpoaccess.gov/cfr/index.html](http://www.gpoaccess.gov/cfr/index.html).

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 23:61 (January 1997), amended LR 23:1658 (December 1997), LR 24:1278 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1797 (October 1999), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2179 (October 2002), LR 29:699 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2448 (October 2005), LR 32:809 (May 2006), LR 33:1620 (August 2007), LR 33:2094 (October 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2273 (October 2010), LR 37:2990 (October 2011), LR 38:

**Subchapter C. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Major Sources**

**§5122. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Major Sources**

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories, published in the *Code of Federal Regulations* at 40 CFR Part 63, July 1, 2011, are hereby incorporated by reference as they apply to major sources in the state of Louisiana.

B. The volumes containing those federal regulations incorporated by reference may be obtained from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402 or their website, [www.gpoaccess.gov/cfr/index.html](http://www.gpoaccess.gov/cfr/index.html).

C. - C.3. ...

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 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1798 (October 1999), LR 26:690 (April 2000), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 29:1474 (August 2003), LR 30:1010 (May 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2449 (October 2005), LR 31:3115 (December 2005), LR 32:810 (May 2006), LR 33:1620 (August 2007), LR 33:2095 (October 2007), LR 33:2677 (December 2007), LR 34:1392 (July 2008), LR 35:1108 (June 2009), LR 36:2273 (October 2010), LR 37:2991 (October 2011), LR 38:

**Chapter 53. Area Sources of Toxic Air Pollutants**  
**Subchapter B. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Area Sources**

**§5311. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Area Sources**

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories, published in the *Code of Federal Regulations* at 40 CFR Part 63, July 1, 2011, are hereby incorporated by reference as they apply to area sources in the state of Louisiana.

B. The volumes containing those federal regulations incorporated by reference may be obtained from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402 or their website, [www.gpoaccess.gov/cfr/index.html](http://www.gpoaccess.gov/cfr/index.html).

C. ...

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 23:63 (January 1997), amended LR 23:1660 (December 1997), LR 24:1279 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:810 (May 2006), LR 33:1620 (August 2007), LR 33:2096 (October 2007), LR 34:1392 (July 2008), LR 35:1108 (June 2009), LR 36:2274 (October 2010), LR 37:2991 (October 2011), LR 38:

## **Chapter 59. Chemical Accident Prevention and Minimization of Consequences**

### **Subchapter A. General Provisions**

#### **§5901. Incorporation by Reference of Federal Regulations**

A. Except as provided in Subsection C of this Section, the department incorporates by reference 40 CFR Part 68, July 1, 2011.

B. - C.6. ...

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:1124 (November 1996), repromulgated LR 22:1212 (December 1996), amended LR 24:652 (April 1998), LR 25:425 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:70 (January 2000), LR 26:2272 (October 2000), LR 28:463 (March 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), LR 31:1570 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:810 (May 2006), LR 33:1621 (August 2007), LR 34:1392 (July 2008), LR 35:1109 (June 2009), LR 36:2274 (October 2010), LR 37:2991 (October 2011), LR 38:

#### **Family Impact Statement**

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

#### **Public Comments**

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ325ft. Such comments must be received no later than March 28, 2012, at 4:30 p.m., and should be sent to Perry Theriot, Attorney Supervisor, Office of the Secretary, Legal Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to perry.theriot@la.gov. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ325ft. This regulation is available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx).

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 North Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office

Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

#### **Public Hearing**

A public hearing will be held on March 28, 2012, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Perry Theriot at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

Herman Robinson, CPM  
Executive Counsel

1202#043

## **NOTICE OF INTENT**

### **Department of Health and Hospitals Board of Embalmers and Funeral Directors**

Embalmers and Funeral Directors  
(LAC 46:XXXVII.707, 709, 901 and 903)

The Board of Embalmers and Funeral Directors proposes to amend LAC 46:XXXVII, Chapters 7, and 9 pursuant to the authority granted by R.S. 37:840 and in accordance with the provisions of the Administrative Procedure Act. R.S. 40:950 et seq. The board finds it necessary to revise, amend and/or add provisions of the rules, regulations and procedures relative to providing useful guidance and information for the purpose of improving regulatory compliance and to enhance understanding of these changes.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part XXXVII. Embalmers and Funeral Directors**

#### **Chapter 7. License**

#### **§707. Reciprocal License Requirements**

A. - D.1. ...

2. The board recognizes that if a reciprocal is fully employed in this state for a period of five consecutive years his license then becomes a bona fide Louisiana license.

3. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840 and R.S. 37:842.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended LR 11:688 (July 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2821 (December 2004), LR 38:

#### **§709. Continuing Education**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 20:1378 (December 1994), repromulgated LR 21:175 (February 1995), amended by 2004 Regular Session, House Concurrent Resolution No. 10, LR 30:2990 (December 2004), amended by the



Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2822 (December 2004), repromulgated LR 31:1018 (April 2005), repealed LR 38:

## **Chapter 9. Internship**

### **§901. Requirements for Combination License**

A. - A.7. ...

8. The internship must be registered and the intern may receive up to six months maximum credit prior to their matriculation in an accredited college of mortuary science (funeral service).

9. Once the intern begins and successfully completes his/her matriculation at an accredited mortuary school he/she must first pass the national board exam prior to continuing the remainder of the internship.

10. Once the internship has been completed his/her combination license shall be issued.

11. Any internship shall be considered stale/null and void and unavailable for consideration after the passage of 10 years.

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, promulgated LR 5:277 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 15:10 (January 1989), LR 16:769 (September 1990), LR 30:2823 (December 2004), LR 34:2400 (November 2008), LR 38:

### **§903. Requirements for Funeral Director License**

A. - A.2. ...

3. The internship must be completed prior to taking the examination for licensure.

4. The student who matriculates and completes a course of study of mortuary arts at an accredited mortuary school may take the state board exam immediately or anytime thereafter upon completion of the said course and must complete his/her internship prior to being issued a license.

5. The intern must work on a full-time basis, that is, a minimum of 40 hours per week, worked between the hours of 7 a.m. and 10 p.m.

6. Employment at the funeral home must be the intern's principal occupation.

7. The employment of the intern at the funeral home must be verified by the board during any of the required inspections of the intern. Verification of employment will be made by presenting the quarterly returns submitted either to the Internal Revenue Service or the Louisiana Department of Revenue and Taxation, or, alternatively, some other official form used to verify employment which is acceptable to the board.

8. A work schedule must be submitted with the intern's application showing hours to be worked and duties to be performed. Any changes or modifications within the original work schedule must be forwarded to the board's office within 14 days of the change.

9. The internship must be completed prior to taking the examination for licensure.

10. Upon completion of the internship of a funeral director applicant, the intern applicant must appear at the next examination scheduled except when a delayed appearance for good cause, acceptable to the board, is allowed.

11. Any internship shall be considered stale/null and void and unavailable for consideration after the passage of 10 years.

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 March 1974, promulgated LR 5:278 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 15:10 (January 1980), LR 19:744 (June 1993), LR 30:2823 (December 2004), LR 34:2400 (November 2008), LR 38:

### **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? There is a possibility that income may be reduced if an applicant for internship has failed to pass the National Board Exam. Due to the fact that it is impossible to determine what salary is paid to interns as it varies greatly from one funeral establishment to another it is impossible to determine what effect this would have on earnings/budget.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes

### **Public Comments**

Interested persons may submit written comments via the U. S. Mail until 4 p.m., (March 10, 2012), to Louisiana State Board of Embalmers and Funeral Directors, P. O. Box 8757, Metairie, LA 70011.

Kim W. Michel  
Executive Director

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Embalmers and Funeral Directors**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no anticipated increase in expenditures or savings due to these proposed rules except for the publication of the proposed rules estimated at \$500.00 in FY 12.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes/additions will have no effect on revenue collections of state or local governmental groups.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Under the addition to LAC 46XXXVII.903, applicants for a Funeral Director License who have completed a course of study

at an accredited mortuary school will now be permitted to take the state board exam before their year of internship. Whereas, applicants who pursue 30 semester hours at an accredited college or university instead of mortuary school will have to undergo their internship before sitting for the exam. In addition, in Section 901, an applicant for a combination embalming and funeral directing license may complete half of their internship prior to their matriculation at an accredited college of mortuary science, after which they will have to complete the remainder of their internship. However, these proposed additions are not expected to have an economic impact on directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The final change to the Rule in Section 707 no longer requires out-of-state applicants seeking a reciprocal license to be a Louisiana resident. This may aid in their ability to compete and be employed in Louisiana. These proposed changes/additions are not expected to have any other significant effect on competition and/or employment.

Kim W. Michel  
Executive Director  
1202#082

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Inpatient Hospital Services  
Small Rural Hospitals—Upper Payment Limit  
(LAC 50:V.1125 and 1127)**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:V.1125 and §1127 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.

In compliance with Act 327 of the 2007 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the reimbursement methodology governing state fiscal year 2009 Medicaid payments to small rural hospitals for inpatient acute care services and psychiatric services (*Louisiana Register*, Volume 35, Number 5).

Act 883 of the 2010 Regular Session of the Louisiana Legislature directed the department to implement a payment methodology to optimize Medicaid payments to rural hospitals for inpatient and outpatient services. In compliance with the directives of Act 883, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for small rural hospitals to reimburse inpatient hospital services up to the Medicare inpatient upper payment limits (*Louisiana Register*, Volume 36, Number 8). This proposed Rule is being promulgated to continue the provisions of the August 1, 2010 Emergency Rule.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part V. Hospitals**

**Subpart 1. Inpatient Hospital Services**

**Chapter 11. Rural, Non-State Hospitals**

**Subchapter B. Reimbursement Methodology**

**§1125. Small Rural Hospitals**

A. - C. ...

D. Effective for dates of service on or after August 1, 2010, the reimbursement for inpatient acute care services rendered by small rural hospitals shall be up to the Medicare upper payment limits for inpatient hospital services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:955 (May 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

**§1127. Inpatient Psychiatric Hospital Services**

A. - C. ...

D. Effective for dates of service on or after August 1, 2010, the reimbursement paid for psychiatric services rendered by distinct part psychiatric units in small rural hospitals shall be up to the Medicare inpatient upper payment limits.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:955 (May 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

**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.

**Public Comments**

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

**Public Hearing**

A public hearing on this proposed Rule is scheduled for Wednesday, March 28, 2012 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Inpatient Hospital Services—Small  
Rural Hospitals—Upper Payment Limit**

**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 \$8,500,164 for FY 11-12 \$8,500,000 for FY 12-13 and \$8,500,000 for FY 13-14. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 11-12 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 69.34 percent in FY 11-12. The enhanced rate of 69.78 percent for the last nine months of FY 12 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 \$19,223,418 for FY 11-12 \$21,199,511 for FY 12-13 and \$21,199,511 for FY 13-14. It is anticipated that \$164 will be expended in FY 11-12 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 69.34 percent in FY 11-12. The enhanced rate of 69.78 percent for the last nine months of FY 12 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 August 1, 2010 emergency rule which amended the provisions governing the reimbursement methodology for small rural hospitals to reimburse inpatient hospital services up to the Medicare inpatient upper payment limits (2 hospitals qualify for payments). It is anticipated that implementation of this proposed rule will increase programmatic expenditures in the Medicaid Program by approximately \$27,723,418 for FY 11-12, \$29,699,511 for FY 12-13 and \$29,699,511 for FY 13-14.

**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.

Don Gregory  
Medicaid Director  
1202#016

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Inpatient Hospital Services  
State Hospitals  
Supplemental Payments  
(LAC 50:V.551)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:V.551 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the

provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule in June of 1983 that established the reimbursement methodology for inpatient services provided in acute care hospitals (*Louisiana Register*, Volume 9, Number 6). Inpatient hospital services were reimbursed in accordance with the Medicare reimbursement principles utilizing a target rate set based on the cost per discharge for each hospital, except that the base year to be used in determining the target rate was the fiscal year ending on September 29, 1982. In October 1984, the department established separate per diem limitations for neonatal and pediatric intensive care and burn units using the same base period as the target rate per discharge calculation (*Louisiana Register*, Volume 10, Number 10). In October 1992, the department promulgated a Rule which provided that inpatient hospital services to children under one year of age shall be reimbursed as pass-through costs and shall not be subject to per discharge or per diem limits applied to other inpatient hospital services (*Louisiana Register*, Volume 18, Number 10). The department subsequently amended the reimbursement methodology for inpatient hospital services to establish a prospective payment methodology for non-state hospitals (*Louisiana Register*, Volume 20, Number 6). The per discharge and per diem limitations in state acute care hospitals were rebased by a Rule promulgated in December of 2003 (*Louisiana Register*, Volume 29, Number 12). The Bureau subsequently amended the reimbursement methodology for inpatient services provided in state acute hospitals (*Louisiana Register*, Volume 32, Number 2).

The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to provide a supplemental Medicaid payment to state-owned acute care hospitals that meet the qualifying criteria, and to adjust the reimbursement paid to non-qualifying state-owned acute care hospitals (*Louisiana Register*, Volume 36, Number 11). The department amended the provisions of the October 16, 2010 Emergency Rule in order to clarify the provisions governing the reimbursement methodology for those state-owned acute care hospitals that do not meet the qualifying criteria for the supplemental payment (*Louisiana Register*, Volume 37, Number 2). For the purpose of clarity, the January 20, 2011 Emergency Rule also incorporated the provisions of the February 20, 2006 Rule in a codified format for inclusion in the *Louisiana Administrative Code*. This proposed Rule is being promulgated to continue the provisions of the January 20, 2011 Emergency Rule.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE  
Part V. Hospitals**

**Subpart 1. Inpatient Hospital Services**

**Chapter 5. State Hospitals**

**Subchapter B. Reimbursement Methodology**

**§551. Acute Care Hospitals**

A. Inpatient hospital services rendered by state-owned acute care hospitals shall be reimbursed at allowable costs and shall not be subject to per discharge or per diem limits.

B. Effective for dates of service on or after October 16, 2010, a quarterly supplemental payment up to the Medicare

upper payment limits will be issued to qualifying state-owned hospitals for inpatient acute care services rendered.

C. Qualifying Criteria for Supplemental Payment. The state-owned acute care hospitals must be located in DHH Administrative Region 8 (Monroe).

D. Effective for dates of service on or after October 16, 2010, Medicaid rates paid to state-owned acute care hospitals that do not meet the qualifying criteria for the supplemental payment shall be adjusted to 60 percent of allowable Medicaid costs.

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:

#### **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.

#### **Public Comments**

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Wednesday, March 28, 2012 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Inpatient Hospital Services—State Hospitals—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 \$19,505,956 for FY 11-12 \$18,754,149 for FY 12-13 and \$19,316,774 for FY 13-14. It is anticipated that \$410 (\$205 SGF and \$205 FED) will be expended in FY 11-12 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 69.34 percent in FY 11-12. The enhanced rate of 69.78 percent for the last nine months of FY 12 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

\$44,113,993 for FY 11-12 \$46,773,976 for FY 12-13 and \$48,177,195 for FY 13-14. It is anticipated that \$205 will be expended in FY 11-12 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 69.34 percent in FY 11-12. The enhanced rate of 69.78 percent for the last nine months of FY 12 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 January 20, 2011 Emergency Rule, which amended the provisions governing the reimbursement methodology for state-owned acute care hospitals to provide a supplemental Medicaid payment to qualifying hospitals and to adjust the reimbursement paid to non-qualifying state-owned acute care hospitals. It is anticipated that implementation of this proposed rule will increase programmatic expenditures in the Medicaid Program by approximately \$63,619,539 for FY 11-12, \$65,528,125 for FY 12-13 and \$67,493,969 for FY 13-14.

#### **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.

Don Gregory  
Medicaid Director  
1202#017

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

### **NOTICE OF INTENT**

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

Nursing Facilities  
Per Diem Rate Reduction  
(LAC 50:II.20005)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:II.20005 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 amended the provisions governing the reimbursement methodology for nursing facilities to reduce the per diem rates paid to non-state nursing facilities in order to remove the rebased amount and sunset the 2010-2011 nursing facility rate rebasing (*Louisiana Register*, Volume 37, Number 4).

The nursing facility rates were again rebased on July 1, 2011. For SFY 2012-2013, state general funds will be required to continue nursing facility rates at the rebased level. Because of the fiscal crisis facing the state, the state general funds will not be available to sustain the increased rates. Consequently, the department proposes to amend the provisions governing the reimbursement methodology for nursing facilities to reduce the per diem rates paid to non-state nursing facilities. The effect of the reductions will

remove the rebased amount and sunset the 2011-2012 nursing facility rebasing.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part II. Nursing Facilities**

#### **Subpart 5. Reimbursement**

### **Chapter 200. Reimbursement Methodology**

#### **§20005. Rate Determination**

**[Formerly LAC 50:VII.1305]**

A. - H. ...

I. Effective for dates of service on or after July 1, 2012, the per diem rate paid to non-state nursing facilities, excluding the provider fee, shall be reduced by \$32.37 of the rate in effect on June 30, 2012 until such time that the rate is rebased.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1791 (August 2002), amended LR 31:1596 (July 2005), LR 32:2263 (December 2006), LR 33:2203 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:325 (February 2010), repromulgated LR 36:520 (March 2010), amended LR 36:1556 (July 2010), LR 36:1782 (August 2010), LR 36:2566 (November 2010), LR 37:1174 (April 2011), LR 37:2631 (September 2011), LR 38:

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

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

#### **Public Comments**

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Wednesday, March 28, 2012 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein  
Secretary

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Nursing Facilities**

#### **Per Diem Rate Reduction**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of \$57,512,237 for FY 12-13 only. There are no ongoing savings due to the rates being rebased again on July 1, 2013. It is anticipated that \$246 (\$123 SGF and \$123 FED) will be expended in FY 11-12 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 69.34 percent in FY 11-12. The enhanced rate of 69.78 percent for the last nine months of FY 12 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 reduce federal revenue collections by approximately \$143,438,975 for FY 12-13 only. There are no ongoing revenue collections due to the rates being rebased again on July 1, 2013. It is anticipated that \$123 will be expended in FY 11-12 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 69.34 percent in FY 11-12. The enhanced rate of 69.78 percent for the last nine months of FY 12 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 amends the provisions governing the reimbursement methodology for nursing facilities to reduce the per diem rates paid to non-state nursing facilities as a means of removing the FY 12 increase as a result of the July 1, 2011 nursing facility rebasing. It is anticipated that implementation of this proposed rule will reduce program expenditures in the Medicaid Program by approximately \$200,951,212 for FY 12-13 only.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made to nursing facilities. The reduction in payments may adversely impact the financial standing of nursing facilities and could possibly cause a reduction in employment opportunities.

Don Gregory  
Medicaid Director  
1202#018

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

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

Outpatient Hospital Services  
Small Rural Hospitals—Upper Payment Limit  
(LAC 50:V.5311, 5511, 5711, 5911, and 6113)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:V.5311, §5511, §5711, §5911, and §6113 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.

In compliance with Act 327 of the 2007 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the reimbursement methodology governing state fiscal year 2009 Medicaid payments to small rural hospitals for outpatient hospital services (*Louisiana Register*, Volume 35, Number 5).

Act 883 of the 2010 Regular Session of the Louisiana Legislature directed the department to implement a payment methodology to optimize Medicaid payments to rural hospitals for inpatient and outpatient services. In compliance with the directives of Act 883, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for small rural hospitals to reimburse outpatient hospital services up to the Medicare outpatient upper payment limits (*Louisiana Register*, Volume 36, Number 8). This proposed Rule is being promulgated to continue the provisions of the August 1, 2010 Emergency Rule.

#### Title 50

#### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part V. Hospitals

#### Subpart 5. Outpatient Hospitals

#### Chapter 53. Outpatient Surgery

#### Subchapter B. Reimbursement Methodology

#### §5311. Small Rural Hospitals

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

B. Effective for dates of service on or after August 1, 2010, small rural hospitals shall be reimbursed for outpatient hospital surgery services up to the Medicare outpatient upper payment limits.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:956 (May 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

#### Chapter 55. Clinic Services

#### Subchapter B. Reimbursement Methodology

#### §5511. Small Rural Hospitals

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

B. Effective for dates of service on or after August 1, 2010, small rural hospitals shall be reimbursed for outpatient hospital clinic services up to the Medicare outpatient upper payment limits.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:956 (May 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

#### Chapter 57. Laboratory Services

#### Subchapter B. Reimbursement Methodology

#### §5711. Small Rural Hospitals

A. ...

B. Effective for dates of service on or after August 1, 2010, small rural hospitals shall be reimbursed for outpatient clinical diagnostic laboratory services up to the Medicare outpatient upper payment limits.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:956 (May 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

#### Chapter 59. Rehabilitation Services

#### Subchapter B. Reimbursement Methodology

#### §5911. Small Rural Hospitals

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

B. Effective for dates of service on or after August 1, 2010, small rural hospitals shall be reimbursed for rehabilitation services up to the Medicare outpatient upper payment limits.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:956 (May 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

#### Chapter 61. Other Outpatient Hospital Services

#### Subchapter B. Reimbursement Methodology

#### §6113. Small Rural Hospitals

A. - A.2. ...

B. Effective for dates of service on or after August 1, 2010, small rural hospitals shall be reimbursed for services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services, and outpatient hospital facility fees up to the Medicare outpatient upper payment limits.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:956 (May 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

#### 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 upon family functioning, stability and autonomy as described in R.S. 49:972.

#### Public Comments

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

91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

**Public Hearing**

A public hearing on this proposed Rule is scheduled for Wednesday, March 28, 2012 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Outpatient Hospital Services  
Small Rural Hospitals—Upper Payment Limit**

**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 \$2,500,000 for FY 11-12, \$2,500,000 for FY 12-13 and \$2,500,000 for FY 13-14. It is anticipated that \$492 (\$246 SGF and \$246 FED) will be expended in FY 11-12 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 69.34 percent in FY 11-12. The enhanced rate of 69.78 percent for the last nine months of FY 12 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 \$5,654,193 for FY 11-12, \$6,235,150 for FY 12-13 and \$5,235,150 for FY 13-14. It is anticipated that \$246 will be expended in FY 11-12 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 69.34 percent in FY 11-12. The enhanced rate of 69.78 percent for the last nine months of FY 12 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 August 1, 2010 emergency rule which amended the provisions governing the reimbursement methodology for small rural hospitals to reimburse outpatient hospital services up to the Medicare inpatient upper payment limits (2 hospitals qualify for payments). It is anticipated that implementation of this proposed rule will increase programmatic expenditures in the Medicaid Program by approximately \$8,153,947 for FY 11-12, \$8,735,150 for FY 12-13 and \$8,735,150 for FY 13-14.

**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.

Don Gregory  
Medicaid Director  
1202#057

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Substance Abuse and Addiction Treatment Facilities  
Licensing Standards (LAC 48:I.Chapters 73-74)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 48:I.Chapter 73 and to repeal and replace LAC 48:I.Chapter 74 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:1058.1-9. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

In compliance with Act 655 of the 2003 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services amended the licensing standards for substance abuse/addiction treatment facilities to reflect the national accreditation standards for such facilities (*Louisiana Register*; Volume 31, Number 3). The department promulgated an Emergency Rule which amended the provisions of the March 20, 2005 Rule governing the minimum licensing standards for substance abuse/addictive disorders facilities in order to allow for an exemption from the physical space requirements for state- or district-owned or operated facilities which operate in or with a state- or district-owned or operated mental health center or mental health clinic (*Louisiana Register*, Volume 37, Number 11). As a result of the impending Louisiana Behavioral Health Partnership initiative, the department has now determined that it is necessary to repeal and replace the licensing standards for substance abuse/addiction treatment facilities in order to establish licensing provisions that will support the coordinated system of delivery for substance abuse services and to ensure a safer environment for persons who are in need of these services.

**Title 48**

**PUBLIC HEALTH—GENERAL**

**Part I. General Administration**

**Subpart 3. Licensing and Certification**

**Chapter 73. Substance Abuse/Addiction Treatment  
Facilities Licensing Standards**

**Subchapter A. General Provisions**

**§7301. Introduction**

A. The purpose of this Chapter is to:

1. provide for the development, establishment, and enforcement of statewide licensing standards for the care of clients in substance abuse/addiction (SA/A) treatment facilities;
2. ensure the maintenance of these standards; and
3. regulate conditions in these facilities through a program of licensure which shall promote the safe and adequate treatment of clients of SA/A facilities.

B. In addition to the requirements stated herein, all licensed substance abuse/addiction treatment facilities shall comply with the applicable local, state, and federal laws and regulations.

C. A substance abuse/addiction treatment facility license is not required for an individual or group practice of licensed counselors/therapists providing services under the auspices of their individual license(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

### §7303. Definitions

A. For the purposes of this Chapter the following definitions apply.

*Abuse*—the infliction of physical or mental injury or the causing of the deterioration of a consumer by means including, but not limited to sexual abuse or exploitation of funds or other things of value to such an extent that his health or mental or emotional well-being is endangered.

a. Injury may include, but is not limited to physical injury, mental disorientation, or emotional harm, whether it is caused by physical action or verbal statement. Examples include corporal punishment, nutritional or sleep deprivation, efforts to cause fear, the use of any form of communication to threaten, curse, shame or degrade an individual, any coercive, illegal or restrictive actions unjustified by the individual's condition, and any other act or omission classified as abuse by Louisiana law.

*Accredited*—the process of review and acceptance by an accreditation body or any additional Substance Abuse and Mental Health Services Administration (SAMHSA) approved accrediting body such as the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), the Commission on Accreditation of Rehabilitation Facilities (CARF) or the Council on Accreditation (COA).

*Adolescent*—an individual 13 to 17 years of age who has not been emancipated by marriage or judicial decree. For purposes of the residential rehabilitation option, adolescent means an individual that is age 13 to 20 years old.

*ADRA*—the Addictive Disorder Regulatory Authority.

*Adult*—an individual 18 years of age or older, or an individual under the age of 18 who has been emancipated by marriage or judicial decree. For purposes of the residential rehabilitation option, an adult is an individual 21 years of age or older.

*ASAM*—the American Society of Addiction Medicine.

*At Risk*—having a greater potential for the use/abuse of alcohol and other drugs.

*Board*—an entity responsible for licensure/certification for specific professions (e.g., nursing, counselors, social workers, physicians, etc.).

*Child*—an individual under the age of 13. For purposes of the residential rehabilitation option, child means an individual under the age of 21.

*Client*—any person assigned or accepted for treatment services furnished by a licensed facility.

*Certified Addiction Counselor*—pursuant to R.S. 37:3387.1, any person who, by means of his specific knowledge acquired through formal education and practical experience, is qualified to provide addictive disorder counseling services and is certified by the ADRA as a certified addiction counselor.

*Clinical Services*—services including the core functions of assessment, treatment planning, counseling, case management, crisis intervention, and education.

*Clinically Managed Residential Detoxification or Social Detoxification*—a service that is provided in an organized, residential, non-medical setting delivered by an appropriately trained staff that provides safe, 24-hour

medication monitoring observation, and support in a supervised environment for a person served to achieve initial recovery from the effects of alcohol and/or other drugs.

*Compulsive Gambling*—persistent and recurrent maladaptive gambling behavior that disrupts personal, family, community, or vocational pursuits, and is so designated by a court, or diagnosed by a licensed physician, licensed social worker, licensed psychologist, licensed professional counselor, or nurse practitioner who is certified in mental health.

*Core Functions*—the essential and necessary elements required of every SA/A treatment facility, including assessment, case management, education, orientation, consultation with professionals, counseling services, crisis intervention services, intake, referral, reports and record keeping, screening and treatment planning.

*Counselor*—qualified professional (QPS or QP) as described in this document.

*Counselor in Training*—a person currently registered with the Addictive Disorder Regulatory Authority (ADRA) and pursuing a course of training in substance abuse counseling which includes educational hours, practicum hours, and direct, on-site supervision by a facility-employed QPS/QP.

*Department*—the Louisiana Department of Health and Hospitals (DHH).

*Dependent Care Program*—a program that is designed to provide substance abuse treatment to mothers with dependent children who remain with the parent while the parent is in treatment.

*Dependent Child*—any child under the age of 18 that relies on the care of a parent or guardian.

*Diagnosis*—the act of identifying a disease or behavioral health disorder as defined by the current version of the Diagnostic and Statistical Manual (DSM). A diagnosis is determined by a qualified licensed professional (licensed professional counselor, physician, licensed clinical social worker, nurse practitioner, or licensed psychologist) based on comprehensive assessment of physical evidence [if related to diagnosis], signs and symptoms, clinical and psycho-social evidence, and individual/family history.

*Direct Care Staff*—any member of the staff, including an employee or contractor, that provides the services delineated in the comprehensive treatment plan. Food services, maintenance and clerical staff and volunteers are not considered as direct care staff.

*Dispensing*—the interpretation, evaluation, and implementation of a prescription drug order, including the preparation and delivery of a drug or device to a patient or patient's agent in a suitable container appropriately labeled for subsequent administration to, or use by, a patient. Dispense necessarily includes a transfer of possession of a drug or device to the patient or the patient's agent.

*Division of Administrative Law*—the Louisiana Department of State Civil Service, Division of Administrative Law (DAL).

*Exploitation*—act or process to use (either directly or indirectly) the labor or resources of an individual or organization for monetary or personal benefit, profit, or gain.

a. Examples include use of a client's personal resources, such as a credit card, insurance card to bill for inappropriate service, use of the client's food stamps or other



income to purchase food/services used by others, using the client to solicit money or anything of value from the public.

*Facility Administrator*—the individual who is responsible for the day-to-day operations of the facility.

*Health Standards Section*—the Department of Health and Hospitals, Bureau of Health Services Financing, Health Standards Section (HSS).

*Level of Care*—the intensity of services provided by the facility.

*Licensed Addiction Counselor*—pursuant to R.S. 37:3387, any person who, by means of his specific knowledge acquired through formal education and practical experience, is qualified to provide addiction counseling services and is licensed by the ADRA as a licensed addiction counselor (LAC).

*LSUCCC*—the Louisiana Department of Public Safety and Corrections, Louisiana State Uniform Construction Code Council.

*Masters-Prepared*—an individual who has completed a Masters Degree in social work or counseling, but has not met the requirements for licensing by the appropriate state board.

*Medically Monitored Residential Detoxification*—an organized service delivered by medical and nursing professionals, which provided for 24-hour medically supervised evaluation under a defined set of physician-approved policies and physician-monitored procedures or clinical protocols.

*Medication Administration*—the preparation and giving of a legally prescribed individual dose of medication to a client, including the observation and monitoring of a client's response to the medication.

*Minor*—any person under the age of 18.

*Neglect*—the failure to provide the proper or necessary medical care, nutrition, or other care necessary for a client's well-being.

a. Examples include the failure to provide adequate nutrition, clothing or health care, the failure to provide a safe environment free from abuse or danger, the failure to maintain adequate numbers of appropriately trained staff and any other act or omission classified as neglect by Louisiana law.

*Nonprescription Medication*—medication which can be purchased over-the-counter without a licensed practitioner's order.

*OBH*—the Department of Health and Hospitals, Office of Behavioral Health.

*OPH*—the Department of Health and Hospitals, Office of Public Health.

*OSFM*—the Louisiana Department of Public Safety and Corrections, Office of State Fire Marshal.

*Off-Site Operation*—all of the premises on which SA/A services are provided and that are not adjoining the SA/A main building(s) or premise(s). An off-site operation provides the same or less services than the parent facility and is located in the same or adjacent parish.

*On Call*—immediately available for telephone consultation and less than one hour from the ability to be on duty.

*On Duty*—scheduled, present, and awake at the site to perform job duties.

*Outpatient Treatment Program*—a program that provides professionally directed assessment, diagnosis, treatment, and recovery services in an organized non-residential treatment setting. These services include, but are not limited to, individual, group, family counseling, and education on recovery.

*Opioid Treatment Program*—a program engaged in opioid treatment of clients with an opioid agonist treatment medication by a licensed SA/A facility.

*Prescription Medication*—medication that requires an order from a licensed practitioner and that can only be dispensed by a pharmacist on the order of a licensed practitioner or a licensed physician with dispensing authority, and requires labeling in accordance with R.S. 37:1161, et seq.

*QP*—a qualified professional.

*QPS*—a qualified professional supervisor

*Recovery Focused Services*—services such as life skills training, job readiness, self-help meetings, parenting skills training and recreation activities. These services should be coordinated with clinical services.

*Registered Addiction Counselor*—pursuant to R.S. 37:3387.2, any person who, by means of his specific knowledge acquired through formal education and practical experience, is qualified to provide addictive disorder counseling services and is registered by the ADRA as a registered addiction counselor (RAC). The RAC is not permitted to engage in an independent scope of practice and shall maintain a consulting relationship with an LAC.

*Sexual Exploitation*—a pattern, practice, or scheme of conduct that can reasonably be construed as being for the purpose of sexual arousal or gratification, or sexual abuse of any person. An example includes any sexual activity between facility personnel and a client.

*Site/Premises*—a single identifiable geographical location owned, leased, or controlled by a facility where any element of treatment is offered or provided. Multiple buildings may be contained in the license only if they are connected by walk-ways and not separated by public streets, or have different geographical addresses.

*Staff*—individuals who provide services for the facility in exchange for money or other compensation, including employees, contractors and consultants.

*State Opioid Authority*—the agency designated by the governor or other appropriate officials designated by the governor to exercise the responsibility and authority within the state for governing the treatment of opiate addiction with an opioid drug.

*Substance Abuse/Addiction Treatment Facility*—any facility which presents itself to the public as a provider of services related to the treatment of abuse/addiction of controlled dangerous substances, drugs or inhalants, alcohol, problem or compulsive gambling, or a combination of the above.

*Take Home Dose(s)*—an opioid agonist treatment medication dose dispensed by a dispensing physician or pharmacist to clients for unsupervised use for the day(s) the clinic is closed for business, including Sundays and state and federal holidays.

*Treatment*—the application of planned procedures to identify and change patterns of behaviors that are

maladaptive, destructive and/or injurious to health; or to restore appropriate levels of physical, psychological and/or social functioning.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

## **Subchapter B. Licensing**

### **§7307. General Provisions**

A. All SA/A treatment facilities shall be licensed by the Department of Health and Hospitals. It shall be unlawful to operate as a substance abuse/addiction treatment facility without a current valid license issued by the department. The department is the only licensing authority for SA/A facilities in Louisiana.

B. A SA/A facility license authorizes the facility to provide substance abuse and addiction treatment services. Except as provided in the Clinically Managed High Intensity Residential Treatment (ASAM Level III.5) and the Medically Monitored Intensive Residential Treatment (ASAM Level III.7) Programs, providing any service(s) other than substance abuse and addiction treatment services under the authority of a substance abuse license is prohibited.

C. Hospitals, nursing homes, psychiatric rehabilitative treatment facilities, therapeutic group homes, mental health clinics, and federally-owned facilities are exempt from licensure under these standards.

D. A state or district (created under R.S. 29:911-920 or R.S. 28:831(c)) owned or operated substance abuse/addictive disorder facility operating in or with a state or district (created under R.S. 29: 911-920 or R.S. 28:831(c)) owned or operated SA/A facility shall be exempt from the physical space requirements for operating as separate entities. State facilities must comply with all of the provisions of this Chapter, except the following general requirements:

1. licensure fees;
2. budgetary/audit requirements;
3. disclosure of ownership forms;
4. planning and location requirements;
5. governing body regulations; and
6. liability insurance.

E. A SA/A license shall:

1. be issued only to the person or entity named in the license application;
2. be valid only for the SA/A facility to which it is issued and only for the specific geographic address of that SA/A facility approved by the department;
3. enable the facility to operate as a SA/A facility within a specific DHH administrative region;
4. be valid for up to one year from the date of issuance, unless revoked, suspended, or modified prior to that date, or unless a provisional license is issued;
5. expire on the expiration date listed on the license, unless timely renewed by the SA/A facility;
6. not be subject to sale, assignment, donation or other transfer, whether voluntary or involuntary; and
7. be posted in a conspicuous place on the licensed premises at all times.

F. In order for the SA/A facility to be considered operational and retain licensed status, the facility shall:

1. be fully operational for the business of providing substance abuse/addiction prevention and treatment during normal business hours as indicated and approved on the license application or change notification approval;

2. have at least one client who is receiving services;

3. be able to accept referrals during hours of operation as specified on the license application or change notification approval; and

4. have required staff on duty at all times during operational hours to meet the needs of the clients.

G. The licensed SA/A facility shall abide by and adhere to any state and federal law, Rule, policy, procedure, manual or memorandum pertaining to SA/A facilities.

H. A separately licensed SA/A facility shall not use a name which is substantially the same as the name of another SA/A facility. A SA/A facility shall not use a name which is likely to mislead the client or family into believing it is owned, endorsed or operated by the state of Louisiana.

I. Off-Sites. With the approval of HSS, a licensed SA/A facility may have an off-site location.

1. In order to operate an off-site location, the facility must submit:

- a. a request for opening an off-site location;
- b. a completed application;
- c. the applicable fees; and
- d. a current on-site inspection reports from OSFM and OPH.

2. The off-site location may share a name with the primary facility if a geographic indicator is added to the end of the facility name.

3. Each off-site facility shall be licensed as an off-site location under the parent facility's license.

4. Off-site locations must operate in the same or adjacent parish.

5. Residential off-site locations must be approved under the plan review process.

6. Initial surveys are required prior to opening a 24-hour off-site facility.

7. An off-site location must have adequate staff to comply with all of the requirements and who are present during operating hours to meet the needs of the clients.

8. Personnel records and client records may be housed at the parent facility.

9. Clients who do not receive all of the treatment services at an off-site location may receive the services at the parent location or be referred to another facility that provides those services.

J. No new SA/A facility shall accept clients until the SA/A facility has written approval or a license issued by HSS.

K. Plan Review. Construction documents (plans and specifications) are required to be submitted and approved by both the OSFM and the Department of Health and Hospitals as part of the licensing procedure and prior to obtaining a license.

1. Applicable Projects. Construction documents require approval for the following types of projects:

- a. new construction;
- b. any entity that intends to operate and be licensed as a SA/A treatment facility in a physical environment that is not currently licensed as a SA/A treatment facility; and
- c. major alterations.

## 2. Submission of Plans

### a. Submittal Requirements

i. One set of the final construction documents shall be submitted to the OSFM for approval. The fire marshal's approval letter and final inspection shall be sent to the department.

ii. One set of the final construction documents shall be submitted to DHH or its designated plan review entity along with the appropriate review fee and a "plan review application form" for approval.

b. Design Criteria. The project shall be designed in accordance with the following criteria:

i. the latest OSFM adopted edition of *NFPA 101-Life Safety Code*;

ii. the latest LSUCCC adopted edition of the *International Building Code*;

iii. the American with Disabilities Act, Accessibility Guidelines for Buildings and Facilities (ADAAG), current edition;

iv. the current Louisiana Department of Health and Hospitals' Licensing Standards for Substance Abuse/Addiction Facilities; and

v. the latest OPH adopted edition of the *Louisiana State Plumbing Code*.

### c. Construction Document Preparation.

i. Construction documents submitted to the department or its designated plan review entity must be prepared only by a Louisiana licensed architect or licensed engineer as governed by the licensing laws of the state for the type of work to be performed.

ii. Construction documents submitted shall be of an architectural or engineering nature and thoroughly illustrate the project that is accurately drawn, dimensioned, and contain noted plans, details, schedules and specifications. At a minimum the following shall be submitted:

(a). site plans;

(b). floor plan(s), including architectural, mechanical, plumbing, electrical, fire protection, and if required by code, sprinkler and fire alarm plans;

(c). building elevations;

(d). room finish, door, and window schedules;

(e). details pertaining to ADA requirements; and

(f). specifications for materials.

L. Waivers. The secretary of the department may, within his/her sole discretion, grant waivers to building and construction guidelines which are not part of or otherwise required under the provisions of the State Sanitary Code. In order to request a waiver, the facility must submit a waiver request in writing to HSS.

#### 1. The facility must demonstrate:

a. how patient safety and quality of care offered is not comprised by the waiver;

b. the undue hardship imposed on the facility if the waiver is not granted; and

c. their ability to completely fulfill all of the other requirements of service.

2. The department shall make a written determination of the waiver request.

3. Waivers are not transferable in an ownership change and shall be subject to review or revocation upon any change in circumstances related to the waiver.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

### §7309. Initial Licensure Application Process

A. An initial application for licensing as a SA/A facility shall be obtained from the department. A completed initial license application packet for a SA/A facility shall be submitted to and approved by the department prior to an applicant providing SA/A services.

B. The initial licensing application packet shall include:

1. a completed SA/A licensure application and the non-refundable licensing fee as established by statute;

2. a copy of the approval letter of the architectural facility plans for the SA/A facility from OFSM and any other office/entity designated by the department to review and approve the facility's architectural plans, if the facility must go through plan review;

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

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

5. a copy of a statewide criminal background check, including sex offender registry status, on all owners and managing employees;

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

a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$50,000;

b. general and professional liability insurance of at least \$500,000; and

c. worker's compensation insurance;

7. an organizational chart and names, including position titles, of key administrative personnel and the governing body;

8. a legible floor sketch or drawing of the premises to be licensed;

9. a letter of intent as to the type of SA/A facility operated by the licensee and the types of services or specializations that will be provided by the SA/A facility (i.e. 24-hour facility, outpatient facility, opioid treatment program); and

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

C. Any person or entity convicted of a felony or that has entered a guilty plea or a plea of nolo contendere to a felony is prohibited from being the SA/A facility owner, medical director, qualified professional supervisor (QPS) or any managing employee of a SA/A facility.

D. If the initial licensing packet is incomplete, the applicant shall be notified of the missing information and shall have 90 days from receipt of the notification to submit the additional requested information.

1. If the additional requested information is not submitted to the department within 90 days, the application shall be closed.

2. If an initial licensing application is closed, an applicant who is still interested in operating a SA/A facility must submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process, subject to any facility need review approval.

E. Applicants must be in compliance with all of the appropriate federal, state, departmental or local statutes, laws, ordinances, rules, regulations and fees before the SA/A facility will be issued an initial license to operate.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

### **§7311. Types of Licenses**

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

1. Full Initial License. The department shall issue a full license to the SA/A facility when the initial licensing survey finds that the facility is compliant with all licensing laws and regulations, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, or suspended.

2. Provisional Initial License. The department may issue a provisional initial license to the SA/A facility when the initial licensing survey finds that the SA/A facility is noncompliant with any licensing laws or regulations or any other required statutes, laws, ordinances, Rules, regulations or fees, but the department determines that the noncompliance does not present a threat to the health, safety or welfare of the clients.

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

4. Provisional License. The department may issue a provisional license to an existing licensed SA/A facility for a period not to exceed six months.

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

b. A provisional license may be issued for the following reasons:

i. the existing SA/A facility has more than five deficient practices or deficiencies cited during any one survey;

ii. the existing SA/A facility has more than three validated complaints in a 12 month period;

iii. the existing SA/A facility has been issued a deficiency that involved placing a client at risk for serious harm or death;

iv. the existing SA/A facility has failed to correct deficient practices within 60 days of being cited for such deficient practices or at the time of a follow-up survey; or

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

c. When the department issues a provisional license to an existing licensed SA/A facility, the facility shall submit a plan of correction to the department for approval, and the facility shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional

license. The department shall conduct a follow-up survey, either on-site or by desk review, of the SA/A facility prior to the expiration of the provisional license.

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

ii. If the follow-up survey determines that all non-compliance or deficiencies have not been corrected, or if new deficiencies that are a threat to the health, safety or welfare of a client are cited on the follow-up survey, the provisional license shall expire and the facility shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee, subject to any facility need review approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

### **§7313. Changes in Licensee Information or Personnel**

A. Any change regarding the SA/A 's entity name, "doing business as" name, mailing address, telephone number or any combination thereof, shall be reported in writing to the department within five days of the change. Any change regarding the SA/A facility name or "doing business as" name requires a change to the facility license and shall require a \$25 fee for the issuance of an amended license.

B. Any change regarding the SA/A facility's key administrative personnel shall be reported in writing to the department within five days of the change.

1. Key administrative personnel include the:

- a. medical director;
- b. QPS; and
- c. facility administrator.

2. The SA/A facility's notice to the department shall include the individual's:

- a. name;
- b. hire date; and
- c. qualifications.

C. A change of ownership (CHOW) of a SA/A facility shall be reported in writing to the department at least five days prior to the change. Within five days following the change, the new owner shall submit the legal CHOW document, all documents required for a new license, and the applicable licensing fee. Once all of the application requirements are completed and approved by the department, a new license shall be issued to the new owner, except in the following circumstances.

1. A SA/A facility that is under license revocation may not undergo a CHOW.

2. If the CHOW results in a change of geographic address, an on-site survey shall be required prior to issuance of the new license.

D. A SA/A facility that intends to change the physical address of its geographic location is required to have plan review approval, Office of State Fire Marshal approval and Office of Public Health approval, compliance with other applicable licensing requirements, and an on-site licensing survey prior to relocation of the facility. Because the license of a SA/A facility is valid only for the geographic location of

that facility, and is not transferrable or assignable, the SA/A facility must submit a new licensing application.

1. A written notice of intent to relocate must be submitted to HSS when the plan review request is submitted for approval.

2. The change in the SA/A facility's physical address results in a new anniversary date and the full licensing fee must be paid.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

#### **§7315. Renewal of License**

A. In order to renew a license, the SA/A facility must submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the current license. The license renewal application packet shall include:

1. the license renewal application;
2. a current State Fire Marshal report,
3. a current Office of Public Health inspection report;
5. the non-refundable license renewal fee;
6. any other documentation required by the department; and

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

- a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$50,000;
- b. general and professional liability insurance of at least \$500,000; and
- c. worker's compensation insurance.

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

C. Failure to submit a completed license renewal application packet prior to the expiration of the current license shall result in the voluntary non-renewal of the SA/A license.

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

E. If an existing licensed SA/A facility has been issued a notice of license revocation or suspension, and the facility's license is due for annual renewal, the department shall deny the license renewal application and shall not issue a renewal license.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

#### **§7317. Deemed Status**

A. If a licensed SA/A facility becomes accredited by the Joint Commission on Accreditation of Healthcare Organizations, the Commission on Accreditation of Rehabilitation Facilities, or the Council on Accreditation, or if a SA/A facility that provides an opioid treatment program becomes accredited by an organization approved by SAMSHA, the SA/A facility may request deemed status from the department. The department may accept accreditation in lieu of an on-site licensing survey provided that:

1. the accreditation is obtained through an organization approved by the department;

2. all services provided under the SA/A license must be accredited; and

3. the facility forwards the accrediting body's findings to the Health Standards Section within 30 days of its accreditation.

B. If approved, accreditation will be accepted as evidence of satisfactory compliance with all of the provisions of these requirements.

C. Occurrence of any of the following may be grounds for the department to rescind deemed status and subject the SA/A facility to a licensing survey by the department:

1. any valid complaint within the preceding 12 months;
2. addition of services;
3. a change of ownership in the preceding 12-month period;
4. issuance of a provisional license in the preceding 12-month period;
5. violations of licensing standards or professional standards of practice that were identified in the preceding 12-month period which placed clients at risk for harm;
6. inappropriate treatment or service resulting in death or serious injury; or
7. change in the facility's geographic location.

D. A SA/A facility with deemed status is responsible for complying with all of the provisions of this Rule and is subject to all of the provisions of this Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

#### **§7319. Licensing Surveys**

A. Prior to the initial license being issued, an initial on-site licensing survey shall be conducted to ensure compliance with the licensing laws and standards. A SA/A facility shall not provide services to any client until the initial licensing survey has been performed and the facility found in compliance with the licensing standards. The initial licensing survey shall be an announced survey.

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

C. A follow-up survey may be conducted for any survey where deficiencies have been cited to ensure correction of the deficient practices. The department shall issue written notice to the provider of the results of the follow-up survey.

D. An acceptable plan of correction may be required for any survey where deficiencies have been cited.

E. The department may issue appropriate sanctions for noncompliance, deficiencies and violations of law, Rules and regulations. Sanctions include, but are not limited to:

1. civil monetary penalties;
2. directed plans of correction; and
3. license revocation or denial of license renewal.

F. Surveyors and staff on behalf of the department shall be:

1. given access to all areas of the facility and all relevant files during any licensing survey or other survey; and

2. allowed to interview any facility staff, client or other persons as necessary to conduct the survey.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

### **§7321. Complaint Surveys**

A. The department shall conduct complaint surveys in accordance with R.S. 40:2009.13, et seq. on any SA/A facility, including those with deemed status.

B. Complaint surveys shall be unannounced surveys.

C. An acceptable plan of correction may be required by the department for any complaint survey where deficiencies have been cited. If the department determines other action, such as license revocation is appropriate, a plan of correction may not be required and the facility will be notified of such action.

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

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

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

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

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

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

complainant shall be notified in writing of the results of the administrative reconsideration.

J. Except for the right to an administrative appeal provided in R.S. 40:2009.16 A, the administrative reconsideration shall constitute final action by the department regarding the complaint survey or investigation, and there shall be no right to an administrative appeal.

1. To request an administrative appeal pursuant to R.S. 40:2009.16, the written request for the appeal shall be submitted to the Division of Administrative Law (DAL) and must be received within 30 calendar days of the receipt of the results of the administrative reconsideration.

2. The administrative law judge shall not have the authority to overturn or delete deficiencies or violations and shall not have the authority to add deficiencies or violations.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

### **§7323. Statement of Deficiencies**

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

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

2. any complaint survey's statement of deficiencies issued after the most recent annual survey.

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

C. Unless otherwise provided in statute or in these licensing provisions, a facility shall have the right to an administrative reconsideration of any deficiencies cited as a result of a survey or investigation.

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

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

3. If a timely request for an administrative reconsideration is received, the department shall schedule and conduct the administrative reconsideration.

4. Except as provided for complaint surveys pursuant to R.S. 40:2009.13 et seq., and as provided in these licensing provisions for license denials, revocations and non-renewals, the decision of the administrative reconsideration team shall be the final administrative decision regarding the deficiencies. There is no administrative appeal right of such deficiencies.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

### **§7325. Cessation of Business**

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

1. give 30 days advance written notice to:
  - a. HSS; and
  - b. the parent(s) or legal guardian or legal representative of each client, if applicable;
2. notify the department of the location where the records will be stored and the contact person for the records; and
3. provide for an orderly discharge and transition of all clients admitted to the facility.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

**§7327. Denial of License, Revocation of License, or Denial of License Renewal**

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

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

B. Denial of an Initial License

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

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

C. Voluntary Non-Renewal of a License

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

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

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

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

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

1. failure to be in compliance with the SA/A licensing laws, rules and regulations or with other required statutes, laws, ordinances, rules, or regulations;
2. failure to comply with the terms and provisions of a settlement agreement or education letter with or from the department, the Attorney General's office, any regulatory agency, or any law enforcement agency;
3. cruelty or indifference to the welfare of the clients;
4. misappropriation or conversion of the property of the clients;
5. permitting, aiding or abetting the unlawful, illicit or unauthorized use of drugs or alcohol within the facility of a program;
6. documented information of past or present conduct or practices of facility personnel which are detrimental to the welfare of the clients, including but not limited to illegal activities, coercion or falsification of records;
7. failure to protect a client from a harmful act of an employee or other client including, but not limited to:
  - a. mental or physical abuse, neglect, exploitation or extortion;
  - b. any action posing a threat to a client's health and safety;
  - c. coercion;
  - d. threat or intimidation;
  - e. harassment; or
  - f. criminal activity;
8. failure to notify the proper authorities, as required by federal or state law or regulations, of all suspected cases of the acts outlined in §7327.D.4;
9. knowingly making a false statement in any of the following areas, including but not limited to:
  - a. application for initial license or renewal of license;
  - b. data forms;
  - c. clinical records, client records or facility records;
  - d. matters under investigation by the department or the Office of the Attorney General; or
  - e. information submitted for reimbursement from any payment source;
10. knowingly making a false statement or providing false, forged or altered information or documentation to the department or to law enforcement agencies;
11. the use of false, fraudulent or misleading advertising;
12. the facility, an owner, officer, member, manager, administrator, medical director, managing employee, or QPS has pled guilty or nolo contendere to a felony, or has been convicted of a felony, as documented by a certified copy of the record of the court;
13. failure to comply with all reporting requirements in a timely manner, as required by the department;
14. failure to allow or refusal to allow the department to conduct an investigation or survey or to interview facility staff or clients;
15. interference with the survey process, including but not limited to, harassment, intimidation, or threats against the survey staff;

16. failure to allow or refusal to allow access to facility or client records by authorized departmental personnel;

17. bribery, harassment, intimidation or solicitation of any client designed to cause that client to use or retain the services of any particular SA/A facility;

18. cessation of business or non-operational status;

19. failure to repay an identified overpayment to the department or failure to enter into a payment agreement to repay such overpayment;

20. failure to timely pay outstanding fees, fines, sanctions or other debts owed to the department; or

21. failure to maintain accreditation, if accreditation is a federal or state requirement for participation in the program.

E. In the event a SA/A license is revoked, renewal is denied (other than for cessation of business or non-operational status) or the license is surrendered in lieu of an adverse action, any owner, officer, member, manager, director or administrator of such SA/A facility is prohibited from owning, managing, directing or operating another SA/A facility for a period of two years from the date of the final disposition of the revocation, denial action or surrender.

F. The denial of the license renewal application shall not affect in any manner the license revocation, suspension, or termination.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38: §7329. **Notice and Appeal of License Denial, License**

#### **Revocation, or License Non-Renewal**

A. Notice of a license denial, license revocation, or license non-renewal (i.e. denial of license renewal) shall be given to the facility in writing.

B. The SA/A facility has a right to an administrative reconsideration of the license denial, license revocation or license non-renewal. There is no right to an administrative reconsideration of a voluntary non-renewal or surrender of a license by the facility.

1. The SA/A facility shall request the administrative reconsideration within 10 calendar days of the receipt of the notice of the license denial, license revocation, or license non-renewal. The request for administrative reconsideration shall be in writing and shall be forwarded to the Health Standards Section.

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

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

4. The facility has the right to appear in person at the administrative reconsideration and may be represented by counsel.

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

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

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

C. The SA/A facility has a right to an administrative appeal of the license denial, license revocation, or license non-renewal. There is no right to an administrative appeal of a voluntary non-renewal or surrender of a license by the facility.

1. The administrative appeal must be requested within 30 calendar days of the receipt of the results of the administrative reconsideration.

a. The SA/A facility may forego its rights to an administrative reconsideration and request an administrative appeal. The appeal must be requested within 30 calendar days of the receipt of the notice of the license denial, license revocation, or license non-renewal.

2. The request for administrative appeal shall be in writing and shall be submitted to the secretary of the department. The request shall include any documentation that demonstrates that the determination was made in error and shall include the basis and specific reasons for the appeal.

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

a. If the department determines that the health and safety of a client or the community may reasonably be at risk, the imposition of the license revocation or license non-renewal may be immediate and may be enforced during the pendency of the administrative appeal. If the department makes such a determination, the facility will be notified in writing.

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

D. If an existing licensed SA/A facility has been issued a notice of license revocation, and the facility's license is due for annual renewal, the department shall deny the license renewal application. The denial of the license renewal application does not affect, in any manner, the license revocation.

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 or its successor shall conduct the hearing within 90 days of the docketing of the administrative appeal. One extension, not to exceed 90 days, may be granted by the Division of Administrative Law or its successor if good cause is shown.

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

2. If the final DAL decision is to affirm the license non-renewal or license revocation, the facility shall discharge any and all clients receiving services according to the provisions of this Chapter.

a. Within 10 days of the final DAL decision, the facility must notify HSS, in writing, of the secure and confidential location where the client records will be stored.

F. There is no right to an administrative reconsideration or an administrative appeal of the issuance of a provisional



initial license to a new SA/A facility, or the issuance of a provisional license to an existing SA/A facility. The issuance of a provisional license is not considered to be a denial of license, denial of license renewal or revocation.

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

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

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

3. The facility shall submit a written request for administrative reconsideration within five days of receipt of the department's notice of the results of the follow-up.

a. The facility may forego its right to an administrative reconsideration.

4. The facility shall submit a written request to the Division of Administrative Law or its successor for an administrative appeal within 15 calendar days of receipt of the department's notice of the results of the follow-up survey.

H. A facility with a provisional initial license or an existing facility with a provisional license that expires under the provisions of this Chapter shall cease providing services and discharge clients unless the Division of Administrative Law or successor entity issues a stay of the expiration.

1. The stay may be granted by the Division of Administrative Law upon application by the facility at the time the administrative appeal is filed and only after a contradictory hearing and only upon a showing that there is no potential harm to the clients being served by the facility.

I. If a timely administrative appeal has been filed by a facility with a provisional initial license that has expired, or by an existing facility whose provisional license has expired under the provisions of this Chapter, the Division of Administrative Law or successor entity shall conduct the hearing within 90 days of the docketing of the administrative appeal. One extension, not to exceed 90 days, may be granted by the DAL if good cause is shown.

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

2. If the final DAL decision is to uphold the deficiencies and affirm the expiration of the provisional license, the facility shall discharge any and all clients receiving services.

a. Within 10 days of the final DAL decision, the facility must notify HSS in writing of the secure and confidential location where the client records will be stored.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

## **Subchapter C. Administration and Organization**

### **§7337. General Provisions**

A. Purpose and Organizational Structure. The purpose of the SA/A facility shall be clearly defined in a statement maintained by the facility. The statement shall include:

1. the program philosophy;
2. the program goals and objectives;
3. the ages, sex and characteristics of clients accepted for care;
4. the geographical area served;
5. the types of services provided;
6. the description of admission policies;
7. the needs, problems, situations or patterns best addressed by the provider's program; and
8. an organizational chart of the provider which clearly delineates the line of authority.

B. The SA/A facility shall provide supervision and services that:

1. conform to the department's rules and regulations;
2. meet the needs of the clients as identified and addressed in their treatment plans;
3. provide for the full protection of clients' rights; and
4. promote the social, physical, and mental well-being of clients.

C. The SA/A facility shall make any required information or records and any information reasonably related to the assessment of compliance with these requirements available to the department.

D. The SA/A facility shall allow designated representatives of the department, in performance of their mandated duties, to:

1. inspect all aspects of the SA/A facility's operations which directly or indirectly impact clients; and
2. conduct interviews with any staff member or client of the provider.

E. The SA/A facility shall make available, upon request, the legal ownership documents.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

### **§7339. Governing Body**

A. A SA/A facility shall have an identifiable governing body with responsibility for and authority over the policies and operations of the facility.

1. A SA/A facility shall have documents identifying all members of the governing body, their addresses, their terms of membership, officers of the governing body and terms of office of any officers.

2. The governing body shall be comprised of three or more persons and shall hold formal meetings at least twice a year. If the SA/A facility is owned by one person, the governing body may be comprised of one person.

3. There shall be written minutes of all formal meetings of the governing body and by-laws specifying frequency of meetings and quorum requirements.

B. The governing body of a SA/A facility shall:

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

2. ensure that the facility is adequately funded and fiscally sound;

3. review and approve the facility's annual budget;

4. designate qualified persons to act as medical director and QPS, and delegate sufficient authority to these persons to manage the facility;

5. formulate and annually review, in consultation with the QPS and medical director, written policies concerning the facility's philosophy, goals, current services, personnel practices, job descriptions and fiscal management;

6. annually evaluate the medical director's and QPS's performances;

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

8. inform the department, or its designee, prior to initiating any substantial changes in the services provided by the provider; and

9. ensure statewide criminal background checks on all direct care staff.

C. A SA/A facility provider shall maintain the following documents:

1. minutes of formal meetings and by-laws of the governing body;

2. documentation of the provider's authority to operate under state law;

3. all leases, contracts and purchases-of-service agreements to which the provider is a party;

4. insurance policies;

5. annual budgets and audit reports;

6. a master list of all the community resources used by the provider; and

7. documentation of ownership of the facility.

D. The governing body of a SA/A facility shall ensure the following with regards to formal written agreements with professionals or other entities to provide services which may or may not be directly offered by facility staff:

1. a written agreement is required for contract services;

2. every written agreement is reviewed annually;

3. the facility retains full responsibility for all services provided by the contract until the client is discharged from the SA/A facility; and

4. all services provided by contract shall meet the requirements of all laws, rules and regulations applicable to a SA/A facility, and be provided only by qualified providers and personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

#### **§7341. Policies and Procedures**

A. Each SA/A facility shall establish and implement facility-specific written policies in the following areas:

1. protection of the health, safety, and wellbeing of clients;

2. providing optimum treatment in order for clients to achieve recovery;

3. access to care without over-utilization of services;

4. uniform screening for proper patient placement and quality assessment, diagnosis, evaluation, and referral to appropriate level of care;

5. operational capability and compliance;

6. delivery of services that are cost-effective and in conformity with current standards of practice;

7. confidentiality of client records and security of files;

8. publicity and marketing, including the prohibition of illegal or coercive inducement, solicitation and kickbacks;

9. client rights;

10. grievance procedures;

11. emergency preparedness;

12. abuse and neglect;

13. incidents and accidents, including medical emergencies;

14. universal precautions;

15. documentation of services;

16. admission and discharge procedures; and

17. behavior management.

B. A SA/A facility shall have written personnel policies, which must be implemented and followed, that include:

1. a plan for recruitment, screening, orientation, ongoing training, development, supervision and performance evaluation of staff members, whether directly employed, contract, or volunteer;

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

3. policies that shall, at a minimum, be consistent with Office of Public Health guidelines, to indicate whether, when, and how staff have a health assessment;

4. an employee grievance procedure;

5. abuse reporting procedures that require all employees to report any incidents of abuse or mistreatment, whether that abuse or mistreatment is done by another staff member, a family member, a client, or any other person;

6. a nondiscrimination policy;

7. a policy that requires all employees to report any signs or symptoms of a communicable disease or personal illness to their supervisor or the QPS as possible to prevent the disease or illness from spreading to other clients or personnel; and

8. procedures to assure that only qualified personnel are providing care within the scope of the core functions of substance abuse treatment.

C. A SA/A facility shall comply with all federal and state laws, rules and regulations in the development and implementation of its policies and procedures.

D. A SA/A facility shall have a written policy that governs research or non-traditional treatment approaches, including a provision that requires approval of research or non-traditional treatment approaches in accordance with federal and state guidelines.

E. Domestic Animals. If the facility decides to allow domestic animals, the facility shall develop and implement a policy regarding domestic animals which shall include, at a minimum, a requirement that all animals shall be:

1. properly vaccinated; and

2. managed in a way consistent with the goals of the program and the needs of the client, including those with allergies.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

### §7343. Personnel Records

A. A SA/A facility shall have a personnel file for each staff member who provides services for the SA/A facility in the facility. Each record shall contain:

1. the application for employment and/or resume;
2. reference letters from former employer(s) and personal references or written documentation based on telephone contact with such references;
3. any required medical examinations or health screens;
4. evidence of current applicable professional credentials/certifications according to state law or regulations;
5. annual performance evaluations;
6. personnel actions, other appropriate materials, reports and notes relating to the individual's employment;
7. the employee's starting and termination dates;
8. actual hours of work;
9. proof of orientation/training/in-services;
10. results of criminal background checks on all direct care staff; and
11. job descriptions and performance expectations.

B. The staff member shall have reasonable access to his/her file and shall be allowed to add any written statement that he/she wishes to make to the file at any time.

C. A SA/A facility shall retain the staff member's personnel file for at least three years after the staff member's termination of employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

### Subchapter D. Provider Responsibilities

#### §7347. General Provisions

A. Required Facility Reporting. The facility shall report the following incidents in writing to HSS within 24 hours of discovery:

1. fire and/or natural disasters;
2. any substantial disruption of program operation;
3. any death or serious injury of a client that may potentially be related to program activities or who at the time of his/her death or serious injury was residing in the facility; or
4. allegations of client abuse, neglect and exploitation.

B. Referrals. The facility shall report violations of laws, rules, and professional and ethical codes of conduct by facility personnel and volunteers to the appropriate professional board or licensing authority. The facility shall maintain records and have written policies governing staff conduct and reporting procedures.

C. Criminal History Investigation. The SA/A facility shall arrange for a criminal history investigation for any applicant for employment, contractor, volunteer and other person who will provide services to the clients prior to that person working at the facility.

D. The SA/A facility shall check the Louisiana State Nurse Aide Registry and the Louisiana Direct Service Worker Registry to ensure that each member of its direct care staff does not have a finding placed against him/her on either registry.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

#### §7349. Staffing Requirements

A. There shall be a single organized professional staff that has the overall responsibility for the quality of all clinical care provided to clients and for the ethical conduct and professional practices of its members, as well as for accounting therefore to the governing body. The manner in which the professional staff is organized shall be consistent with the facility's documented staff organization and policies and shall pertain to the setting where the facility is located. The organization of the professional staff and its policies shall be approved by the facility's governing body.

B. The staff of a SA/A facility shall have the appropriate qualifications to provide the services required by its clients' treatment plans. Each member of the direct care staff shall not practice beyond the scope of his/her license, certification, or training.

C. The facility shall ensure that an adequate number of qualified staff members are present with the clients as necessary to ensure the health, safety, and well-being of clients. Staff coverage shall be maintained in consideration of the time of day, the size and nature of the facility, the ages and needs of the clients, and shall assure the continual safety, protection, direct care, and supervision of clients.

D. At least one employee on duty at each facility shall be certified in cardiopulmonary resuscitation and airway obstruction treatment and have training in dealing with out-of-hospital accidents and medical emergencies until emergency medical personnel and equipment can arrive at the facility.

E. Orientation.

1. All Staff shall receive orientation prior to being assigned to provide direct client care without supervision.

2. The content of the orientation provided to all employees at the time of employment shall include the following:

- a. confidentiality;
- b. grievance process;
- c. fire and disaster plans;
- d. emergency medical procedures;
- e. organizational structure and reporting relationships;
- f. program philosophy;
- g. personnel policy and procedure;
- h. detecting and mandatory reporting of client abuse, neglect, or misappropriation;
- i. detecting signs of illness or dysfunction that warrant medical or nursing intervention;
- j. basic skills required to meet the health needs and problems of the client;
- k. crisis intervention and the use of nonphysical intervention skills such as de-escalation, mediation conflict resolution, active listening, and verbal and observational methods to prevent emergency safety situations;
- l. client's rights;
- m. duties and responsibilities of each employee;
- n. standards of conduct required by the facility;
- o. information on the disease process and expected behaviors of clients;
- p. maintaining a clean, health and safe environment;

- q. universal precautions; and
- r. overview of the Louisiana licensing standards for substance abuse facilities.

F. In-Service Training. All staff shall receive training according to the facility policy at least annually and as deemed necessary depending on the needs of the clients. The facility shall maintain documentation of all of the training provided to its staff. The in-services shall serve as a refresher for subjects covered in orientation. The facility shall meet the following requirements for training.

- 1. Training shall be provided only by staff who are qualified by education, training, and experience.
- 2. Staff training shall include training exercises in which staff members successfully demonstrate in practice the techniques they have learned for managing emergency safety situations.
- 3. Staff shall be trained and demonstrate competency before participating in an emergency safety intervention.
- 4. All training programs and materials used by the facility shall be available for review by HSS.

G. Staff Evaluation. The facility shall complete an annual performance evaluation of all staff members. For any person who interacts with clients, the provider's performance evaluation procedures shall address the quality and nature of a staff member's relationships with clients.

H. Prohibitions

- 1. The facility is prohibited from knowingly employing a person who:
  - a. has entered a plea of guilty or nolo contendere, no contest, or has been convicted of:
    - i. any criminal activity involving violence against a person;
    - ii. child abuse or neglect;
    - iii. possession, sale, or distribution of illegal drugs;
    - iv. sexual misconduct and/or any crimes that requires the person to register pursuant to the Sex Offenders Registration Act; or
    - v. gross irresponsibility or disregard for the safety of others; or
  - b. has a finding placed on the Louisiana State Nurse Aide Registry or the Louisiana Direct Service Worker Registry.

I. The SA/A facility shall abide by the staffing requirements for the ASAM level of the admitted client.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

**§7351. Personnel Qualifications and Responsibilities**

A. Professional Staffing Standards. The following are the minimum staffing requirements for all treatment programs and do not restrict any facility from utilizing additional staff. Specific programs may have additional staffing requirements.

- 1. Medical Director
  - a. The medical director shall have a current, valid, unrestricted license to practice medicine in Louisiana.
  - b. The medical director is responsible for the following:
    - i. ensuring that the necessary services are provided to meet the needs of the clients;

- ii. providing oversight for facility policy/procedure and staff regarding the medical needs of the clients being served in accordance with the current standards of medical practice; and
- iii. directing the specific course of medical treatment for all clients.

c. The medical director may assume the additional responsibilities in this §7351.A.1.c.i-iv or they may be designated to a licensed physician, nurse practitioner, or physician's assistant:

- i. writing the admission/discharge orders, when required;
- ii. writing/approving all prescription medication orders;
- iii. writing and providing education regarding the protocols for administering all medications on-site, including non-prescription medications; and
- iv. providing consultative and on-call coverage to assure the health and safety of the clients in the facility.

2. Facility Administrator. Every facility shall have a facility administrator.

a. Qualifications. The administrator shall have a bachelor's degree from an accredited college or university or one year of job experience that demonstrates adequate knowledge, experience, and expertise in business management.

b. Responsibilities. The administrator is responsible for the on-site day-to-day operations of the facility and supervision of the overall facility's operation commensurate with the authority conferred by the governing body. The facility administrator shall not perform any programmatic duties and/or make clinical decisions unless licensed to do so.

3. Qualified Professional Supervisor (QPS). Every facility, except Opioid Treatment Programs, shall have at least one qualified professional supervisor who shall be on duty as needed and on call at all times.

a. Qualifications. The QPS shall be one of the following professionals who are currently registered with their respective Louisiana board or licensing authority:

- i. a licensed psychologist;
- ii. a licensed clinical social worker;
- iii. a licensed professional counselor;
- iv. a licensed addiction counselor;
- v. a licensed physician (M.D.); or
- vi. an advanced practice registered nurse (APRN).

b. Responsibilities. The QPS shall:

- i. provide direct individual care utilizing the 12 core functions of addiction counseling and/or specific functions related to professional license;
- ii. serve as resource person for other professionals counseling persons with addictive disorders;
- iii. attend and participate in care conferences, treatment planning activities, and discharge planning relative to the primary caseload of the supervisor;
- iv. provide on-site and direct professional supervision of activities such as individual/group counseling, or educational presentations and other activities as appropriate;
- v. provide oversight and supervision of such activities as recreation, art/music, or vocational education, to assure compliance with accepted standards of practice;

vi. function as the client advocate in all of the treatment decisions affecting the client;

vii. assure that the facility adheres to the Rules and regulations regarding all substance addiction treatment, e.g., group size, caseload, referrals, etc.;

viii. provide only those services which are appropriate to their profession and within their respective board's delineated scope of practice; and

ix. assist the medical director and governing body with the development and implementation of policies and procedures.

4. Qualified Professional (QP). Every facility shall have at least one QP on duty 40 hours per week who is currently licensed/certified by the appropriate Louisiana board. The facility shall have enough QPs to meet the needs of its clients.

a. Qualifications. A QP shall be one of the following:

- i. addiction counselor (LAC/CAC/RAC);
- ii. licensed clinical social worker (LCSW);
- iii. licensed professional counselor (LPC);
- iv. licensed psychologist;
- v. licensed physician (MD);
- vi. APRN or registered nurse (RN);
- vii. licensed marriage and family therapist

(LMFT);

viii. masters-prepared social worker; or

ix. masters-prepared counselor under the supervision of a licensed physician (MD), licensed psychologist, licensed professional counselor (LPC), licensed clinical social worker (LCSW) or licensed addiction counselor (LAC).

b. Responsibilities. The QP shall:

i. provide direct care to clients utilizing the 12 core functions of substance abuse counseling and may serve as primary counselor to a specified caseload;

ii. serve as resource person for other professionals and paraprofessionals in their specific area of expertise;

iii. attend and participate in individual care conferences, treatment planning activities, and discharge planning;

iv. provide on-site and direct professional supervision of any paraprofessional or inexperienced professional;

v. function as the client's advocate in all treatment decisions affecting the client;

vi. prepare and write notes/other documents related to recovery, e.g. assessment, progress notes, treatment plans, etc.; and

vii. provide only those services that are appropriate to their profession, and within their respective boards delineated scope of practice.

5. Nursing Staff. When a SA/A facility administers medications to its clients, the facility shall have a nursing staff to provide nursing services. All nurses shall have a current, valid license to practice in the state of Louisiana. There shall be an adequate number of registered nurses and licensed practical nurses to provide the nursing care necessary to meet the needs of the clients. The nursing staff is responsible for administration of medicines and/or treatments, and for overseeing the general physical health of the clients.

6. Direct Care Techs. All residential SA/A facilities shall have direct care techs to support the interdisciplinary team and ensure the safety of the clients through observation and documentation of client behavior. The facility shall ensure that there are enough direct care techs to support the needs of its clients. Outpatient SA/A facilities may use direct care techs as needed. Residential facilities shall have at least one Level 2 or Level 3 direct care tech on duty at all times. Residential facilities shall have a minimum ratio of one Level 2 or Level 3 direct care tech to five Level 1 direct care techs.

a. Qualifications

i. Level 1, no experience or training is required.

ii. Level 2, must have one year of experience in psychiatric patient care or in providing care, guidance or training to persons with developmental impairments, physical disabilities or chemical dependencies.

iii. Level 3, must have 18 months of experience in psychiatric patient care or in providing care, guidance or training to persons with developmental impairments.

iv. Staff members may substitute college training for one year of the required experience if they possess at least six semester hours in education, psychology, counseling, social work, sociology, child guidance, or nursing.

v. A Mental Health Aide Diploma from a vocational technical college with an approved curriculum from the Louisiana State Board of Elementary and Secondary Education will substitute for six months of the required experience.

b. Responsibilities

i. Direct care techs shall ensure a safe environment for clients, exercise therapeutic communication skills, attempt to de-escalate distressed patients, observe and document client behavior, assist with therapeutic and recreational activities, monitor patients' physical well-being and provide input regarding patient progress to the interdisciplinary team.

ii. The Level 2 or 3 tech on duty when there is no professional staff on duty shall supervise the activities of the facility during this time. This person shall have adequate orientation and skills to assess situations related to relapse and to provide access to appropriate medical care when needed.

B. Other Staff

1. Counselors in Training

a. Counselors in training shall have the following qualifications:

i. current registration with the appropriate Louisiana board when required, and in good standing at all times;

ii. actively pursuing professional level preparations at all times; and

iii. designated in writing by the facility, and performing in accordance with a written training plan under the auspices of the facility.

b. Responsibilities. Duties include:

i. providing client care utilizing the standards developed by the professional board, and only under the direct supervision of the appropriate QP or QPS; and

ii. providing only those services in which the student has been properly trained and deemed competent to perform by the supervising QP or QPS.

2. Professional Staff. The SA/A facility shall hire professional staff, such as pharmacists, dietitians, physicians, nurses, social workers, teachers, counselors, or psychologists, as necessary to meet the needs of its clients. The facility shall ensure the following:

a. that the staff has a current unencumbered license/registration with the appropriate Louisiana board or licensing authority;

b. that the staff does not practice outside of the scope of his/her professional license; and

c. that the staff attends the appropriate orientation and training at the SA/A facility.

3. Volunteers

a. If a SA/A facility utilizes volunteers, the volunteers shall be:

i. appropriately screened and supervised to protect clients and staff;

ii. oriented to the facility, job duties, and other pertinent information;

iii. appropriately trained to meet requirements of the duties assigned;

iv. given a written job description or written agreement; and

v. identified as volunteers.

b. A volunteer's duties may include:

i. direct care activities only when qualified facility personnel are present;

ii. errands;

iii. recreational activities;

iv. individual assistance to support services; and

iv. other appropriately assigned duties.

C. Qualifying Experience. Any experience used to qualify for any position must be counted by using one year equals 12 months of full-time work.

D. Multiple Positions. A person may hold more than one position within the facility if that person is qualified to function in both capacities, and the required hours for each job are separate and apart for each position. At no time will any professional staff be considered full time at two facilities.

E. Credential Verification. Facility administration is responsible for assuring that all credentials are from accredited institutions, legal, and verified to deter the fraudulent use of credentials.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

**§7353. Client Records**

A. Client Record Standards. The facility is required to maintain a clinical record according to current professional standards for each client.

1. The facility shall develop and implement policies and procedures regarding the confidentiality of records, the maintenance of records, the safeguarding and storage of records.

2. Safeguards shall be in place to prevent unauthorized access, loss, and destruction of records.

3. Records shall be maintained at the facility where the client is currently active and for six months after

discharge. Records may then be transferred to a centralized location for maintenance in accordance with standard practice and state and federal laws.

4. Records shall be kept confidential.

5. A medical records person or professional designated by the facility shall be responsible for client records.

B. Contents. The client record shall accurately document the treatment provided and the individual response in accordance with professional standards of practice at all times. This record shall contain all of the pertinent past and current medical, psychological, social and other therapeutic information.

1. At a minimum, client records shall contain:

a. the initial assessment;

b. admission diagnosis;

c. referral information;

d. the following client information/data:

i. name;

ii. race;

iii. sex;

iv. birth date;

v. address;

vi. telephone number;

vii. social security number;

viii. school/employer; and

ix. next of kin/emergency contact;

e. screening information;

f. medical limitations, such as major illnesses, allergies;

g. attendance/participation in services/activities;

h. the treatment plan (the original treatment plan plus any updates or revisions);

i. lab work (diagnostic laboratory and other pertinent information, when indicated);

j. legible written progress notes or equivalent documentation and reports of the services delivered for each client;

k. the client incident report as applicable; and

l. other pertinent information related to the client, as appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

**§7355. Client Funds and Assets**

A. The SA/A facility shall develop and implement written policies and procedures governing the maintenance and protection of client funds. These policies and procedures shall have provisions which include, but are not limited to, the following:

1. the amount of money each client can have;

2. criteria by which clients can access their money;

3. procedure for disbursement of funds; and

4. staff who can access such funds.

B. If the SA/A facility manages a client's personal funds, the facility must furnish a written statement to the client and/or his/her legal or responsible representative listing the client's rights regarding personal funds.

C. If a client chooses to entrust funds with the facility, the SA/A facility shall obtain written authorization from the client and/or his/her legal or responsible representative for the safekeeping and management of the funds.

D. The SA/A facility shall:

1. provide each client with an account statement upon request with a receipt listing the amount of money the facility is holding in trust for the client;
2. maintain a current balance sheet containing all financial transactions to include the signatures of staff and the client for each transaction;
3. provide a list or account statement regarding personal funds upon request of the client; and
4. not commingle the clients' funds with the provider's operating account.

E. If the SA/A facility is managing funds for a client and he/she is discharged, any remaining funds shall be refunded to the client or his/her legal or responsible representative within five business days of notification of discharge. Upon death of the client, any remaining funds shall be refunded to the client's legal or responsible representative within five business days of the client's death.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

### **§7357. Quality Improvement Plan**

A. A SA/A facility shall have a quality improvement (QI) plan which assures that the overall function of the clinic is in compliance with federal, state, and local laws, and is meeting the needs of the citizens of the area, as well as attaining the goals and objectives developed from the mission statement established by the facility. The plan puts systems in place to effectively identify issues for which quality monitoring, remediation and improvement activities are necessary. The QI plan shall focus on improving individual outcomes and individual satisfaction. The QI plan includes plans of action to correct identified issues including monitoring the effect of implemented changes and making needed revisions to the action plan.

B. The QI plan shall include:

1. a process for obtaining input annually from the client/guardian/authorized representatives and family members, as applicable. This process shall include, but not be limited to:
  - a. satisfaction surveys done by mail or telephone;
  - b. focus groups; and
  - c. other processes for receiving input regarding the quality of services received;
2. a 10 percent sample review of client case records on a quarterly bases to assure that:
  - a. individual treatment plans are up to date;
  - b. records are complete and current; and
  - c. the treatment plans have been developed and implemented as ordered;
3. a process for identifying on a quarterly basis the risk factors that affect or may affect the health, safety and/or the clients of the SA/A facility receiving services which includes, but is not limited to:
  - a. review and resolution of complaints;
  - b. review and resolution of incidents; and
  - c. incidents of abuse, neglect and exploitation;
4. a process to review and resolve individual client issues that are identified;
5. a process to review and develop action plans to resolve all system wide issues identified as a result of the processes above;

6. a process to immediately correct problems that are identified through the program that actually or potentially affect the health and safety of the clients; and

7. a process of improvement (identification of individual care and service components, application of performance measures and continuous use of a method of data collection and evaluation) to identify or trigger further opportunities for improvement.

C. The QI program shall use an annual internal evaluation procedure to collect necessary data to formulate a plan and hold quarterly meetings of staff committee (at least three individuals):

1. to assess and choose which QIP activities are necessary and set goals for the quarter;
2. to evaluate the activities of the previous quarter; and
3. to implement immediately any changes that would protect the clients from potential harm or injury.

D. The QI program outcomes shall be documented and reported to the medical director for action, as necessary, for any identified systemic problems.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

### **Subchapter E. Admission, Transfer and Discharge**

#### **§7361. Admission Requirements**

A. A SA/A facility shall not refuse admission to any client on the grounds of race, national origin, ethnicity or disability.

B. A SA/A facility shall admit only those clients whose needs, pursuant to the initial admission assessment, can be fully met by the facility.

C. Admission Requirements. Upon admission, the facility shall conduct an initial admission assessment to determine the client's diagnosis. The client's diagnosis must be of a specific abuse/addictive disorder disease by the medical director or other qualified licensed professional (including, but not limited to, physician, APRN certified in mental health, licensed social worker, licensed professional counselor, qualified addictions counselor, psychiatrist or licensed psychologist) as currently defined in the Diagnostic and Statistical Manual of Mental Disorders (DSM).

1. There shall be an initial admission assessment which shall contain the following:

- a. a screening to determine eligibility and appropriateness (proper patient placement) for admission and referral; the screening shall be conducted within 24 hours;
- b. a biopscho-social evaluation in which QP or QPS shall document a biopscho-social history that provides a thorough understanding of the client's history and present status including the following (exclusions: detox programs are not required to complete a psycho-social evaluation):
  - i. circumstances leading to admission;
  - ii. alcohol and other drug use, past and present (including amount, frequency, route of administration, and time/date of last use);
  - iii. past psychiatric and addictive disorders treatment;
  - iv. significant medical history and current health status;
  - v. family and social history;

- vi. current living situation;
  - vii. relationships with family of origin, nuclear family, and significant others;
  - viii. education and vocational training;
  - ix. employment history (including military) and current status;
  - x. legal history and current legal status;
  - xi. emotional state and behavioral functioning, past and present; and
  - xii. strengths, weaknesses, and needs;
- c. physical examination or appropriate referral within 72 hours when one is indicated by the M.D., nursing assessment or screening process;
- d. laboratory examinations or appropriate referral as required to prevent spread of contagious/communicable disease, or as indicated by physical examination or nursing assessment, including drug screening when history is inconclusive or unreliable; and
- f. appropriate assignment to level of care with referral to other appropriate services as indicated.
- i. Clients shall have access to HIV counseling and testing services directly or through referral. Such counseling and testing shall be voluntary, anonymous/confidential, and not limited by ability to pay.
- ii. The program shall make testing for tuberculosis and sexually transmitted diseases available to all clients unless the program has access to test results obtained during the past year. The services may be provided directly or through referral as long as appropriate follow-up referral/care is also provided.

2. Additional Requirements. Additional admission requirements shall be:

- a. availability of appropriate physical accommodations;
- b. legal authority or voluntary admission;
- c. availability of professionals to provide services needed as indicated by the initial assessment and diagnosis; and
- d. written documentation that client/family consents to treatment and understands the diagnosis and level of care.

3. Client/Family Orientation. Each facility shall provide orientation, confidentially and efficiently, primarily by a qualified professional, concerning:

- a. visitation;
- b. family involvement;
- c. safety;
- d. authorization to provide treatment;
- e. potential problems;
- f. projected duration of treatment;
- g. consequences of non-compliance;
- h. treatment methodology; and
- i. all pertinent information, including fees and consequences of non-payment of fees.

D. Re-Admissions. Each facility shall have written readmission policies which address criteria, length of stay, authorization to make exceptions, and crisis intervention.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

**§7363. Transfer and Discharge Requirements**

A. Discharge Criteria. Each program shall develop and follow appropriate written criteria to decide when/how

clients will be discharged or transferred to another level of care.

1. Indicators. The criteria shall utilize indicators to determine:

- a. if the person has achieved the goals designated in his or her individualized treatment plan, thus resolving the problem(s) that justified admission to the present level of care;
- b. the need for referral or transfer to another level of care or facility; and
- c. when the client should be discharged before completing the program.

2. Discharge Plan. Each client shall have a written specific plan to provide reasonable protection of continuity of services that shall include:

- a. client transfer or referral/assignment to outside resources, continuing care appointments, and crisis intervention assistance;
- b. documented attempts to involve family or an alternate support system in the discharge planning process;
- c. planning before the client's scheduled discharge;
- d. individual goals or activities to sustain recovery; and
- e. signature of the client or consenting person/guardian.

3. Discharge Summary. When a client is being transferred to another level of care or another treatment facility, two working days are allowed for completion. For other discharges five working days are allowed for completion. The summary must be written, client specific, and include:

- a. needs and problems identified at the time of admission (may be attached);
- b. services provided;
- c. assessment of the client's progress towards goals;
- d. circumstances of discharge; and
- e. evidence that continuity of care recommended following discharge.

4. Request for Discharge. When such a request is received, the facility shall:

- a. not hold a voluntary client against the consenter/guardian's will;
- b. have written procedures for handling discharges and discharge requests that comply with applicable statutes;
- c. not try to keep a client in treatment by coercion, intimidation, or misrepresentation; and
- d. not say or do anything to influence the client's decision that is not justified by the client's condition.

B. Transfer Process. If a transfer is warranted, there shall be a written transfer agreement between the two facilities to provide continuum of care which may be based on the compilation of client data rather than completing additional medical history/examination/physician orders, psycho-social assessment, treatment plan, discharge summary and other pertinent information upon admission to inpatient or outpatient care.

1. Sender Requirements. The sending facility shall:

- a. request and receive approval from receiving facility prior to transfer;
- b. notify the receiving facility (in writing) prior to the arrival of the client of any significant medical conditions, psychiatric conditions, complications, or any other pertinent



information that will be needed to care for the client prior to their arrival; and

c. transfer all client information within two working days of transfer;

2. Receiver Requirements. The receiving facility shall:

a. provide the client with orientation to the facility; and

b. update all of the information received in the transfer.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

## **Subchapter F. Services**

### **§7367. General Provisions**

A. Treatment Protocols. All services shall be delivered according to a written plan and a posted activity schedule. The treatment program shall:

1. be age and culturally appropriate for the population served;

2. demonstrate effective communication and coordination;

3. provide utilization of services at the appropriate level of care;

4. be an environment that enhances the positive self-image of clients and preserves their human dignity;

5. administer/dispense medication safely and legally, only when prescribed or approved by the staff medical doctor or a qualified licensed medical professional;

6. require professional participation in all required components of the treatment program;

7. assure that the hours of scheduled treatment activity meet the requirements of the program license; and

8. utilize the 12 core functions of substance abuse counseling and other current standards of practice.

#### **B. Toxicology Services**

1. Each SA/A facility shall have an on-site or written agreement for toxicology services with a laboratory with appropriate Clinical Laboratories Improvement Amendments (CLIA) certification for testing.

2. If specimen collection is performed on-site, the facility shall have written protocols for collection of specimens in accordance with current standards of practice, and have written approval by the testing laboratory.

3. The minimal set of substances required to be screened for toxicology are subject to annual approval by OBH.

4. If toxicology services are provided pursuant to a written agreement, the facility retains responsibility for the service.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

### **§7369. Core Functions of the Facility**

A. Clinical Core Functions. Each facility shall have a written plan of professional services including a plan to furnish the following 12 core functions of treatment:

1. Assessment. A counselor/program identifies and evaluates a client's strengths, weaknesses, problems, and needs for the development of the treatment plan. Assessment includes the collection of data from the client and/or family/others that is sufficient to formulate an individualized

and client-specific treatment plan or referral to appropriate level of care. Any assessment leading to a diagnosis shall be performed by a professional qualified to diagnose.

2. Case Management. Services, agencies, resources, or people are brought together within a planned framework of action toward the achievement of established goals. Case management may involve liaison activities and collateral contracts with other providers/facilities.

3. Client Education. Information provided to individuals and groups concerning alcoholism and other drug abuse, positive lifestyle changes, and the available services and resources. Educational group size is not restricted and may be offered as an outreach program. This program shall:

a. follow a course outline that identifies lecture topics, activity schedule, and major points to be discussed;

b. include benefits of participation in appropriate self-help groups; and

c. not identify the activity as a counseling session.

4. Client Orientation. The client is informed regarding the:

a. general nature and goals of the program;

b. rules governing individual conduct and infractions that can lead to disciplinary action or discharge from the program;

c. availability of services;

d. costs; and

e. client's rights.

5. Consultation with Professionals. A functional relationship with counselors and other credentialed health care professionals is provided as required to assure comprehensive quality care for the client including, but not limited to treatment of children, adolescents, or clients/family members who have complex problems or who are dually diagnosed with abuse/addiction disorder and mental illness.

6. Counseling (Individual/Group) Services. The provision of appropriate supports to the client by those professionals qualified to provide therapeutic services.

a. Special skills are used to assist clients, families, or groups in achieving objectives through:

i. exploration of a problem and its ramifications;

ii. examination of attitudes and feelings;

iii. consideration of alternative solutions; and

iv. decision making and problem solving.

b. A counseling session (individual, group, or family) is a documented interaction between qualified professional personnel and the client or the client and significant others.

c. All counseling groups shall be homogenous and no more than 12 clients.

d. Counseling sessions shall last at least 30 minutes.

7. Crisis Intervention Services. The provision of appropriate assistance during emergencies, including 24-hour telephone coverage by a qualified counselor to provide telephone assistance to prevent relapse, to provide referral to other services, and to provide support during related crises.

a. A facility may have a written contract with another facility to provide coverage only if the caller is automatically transferred or given directions to reach professional assistance, or receive a call from a professional within a 30 minute time frame.

8. Intake. The gathering of information about a prospective client and the giving of information to a prospective client about the treatment facility and the facility's treatment program and services.

9. Referral. Services that are appropriate for the client, but are not provided by the facility, are identified and the client/family is assisted to optimally utilize the available support systems and community resources.

a. The facility shall provide the appropriate resource information about local agencies to the client/family upon need/request and the procedures to access such agencies/services including, but not limited to:

- i. vocational services;
- ii. community services; and
- iii. organizations to support recovery such as transitional living services, transportation, and vocational services.

b. Additionally, the facility will be expected to:

- i. provide access to appropriate health care and mental health services;
- ii. refer pregnant clients who are not receiving prenatal care to an appropriate health care provider and monitor follow-through; and
- iii. refer clients to ancillary services necessary to meet treatment goals.

10. Reports and Record Keeping. Results of the assessment and treatment planning are recorded, as well as written reports, progress notes, client data, discharge summaries, and other client related documentation are recorded in the client's record.

a. In accordance with current professional standards of practice, progress notes shall:

- i. document implementation of the treatment plan and the results;
- ii. document services provided to the client. (This may be done by filing a copy of the program schedule in the client record and documenting the client's level of participation in the progress notes.);
- iii. be completed weekly by the QPS/QP to document progress toward stated treatment plan goals, unless the client is seen on a less frequent basis in accordance with the treatment plan; and
- iv. be verified and co-signed by QPS/QP where appropriate.

11. Screening. The determination of whether a client meets the program's admission criteria. Screening uses information such as the client's reason for admission, medical and substance abuse history, and other needed information to determine the client's need for treatment and/or appropriateness of admission.

12. Treatment Planning. The treatment plan is a written list of the client's problems and needs based on admission information and updated as indicated by progress or lack of progress. Additionally, the plan shall:

- a. contain input from the counselor and the client within 72 hours after admission, then information from other disciplines added as the client is evaluated and treated;
- b. be developed in collaboration with the client;
- c. be reviewed and revised as required, or more frequently as indicated by individual needs;
- d. contain individual-specific, measurable goals that are clearly stated in behavioral terms;

f. contain realistic and specific expected achievement dates;

g. contain information on how the facility will provide strategies/activities to help the client achieve the goals;

h. be followed consistently by all staff members; and

i. contain complete, pertinent information related to the mental, physical, and social needs of the client.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

### **§7371. Medications**

A. All SA/A facilities that store and/or dispense scheduled narcotics shall have a site-specific Louisiana controlled substance license and a United States Drug Enforcement Administration controlled substance registration for the facility in accordance with the Louisiana Uniform Controlled Dangerous Substance Act and Title 21 of the *United States Code*.

B. The facility shall have written policies and procedures that govern the safe administration and handling of all prescription and nonprescription medications.

C. The provider shall have a written policy governing the self-administration of all medications. Such policy shall include provisions regarding the age limitations for self-administration, multi-disciplinary team recommendations, and parental consent, if applicable. Those clients that have been assessed to be able to safely self-administer medications shall be monitored by qualified staff to ensure medication is taken as prescribed in the comprehensive treatment plan.

D. The provider shall ensure that medications are either self-administered or administered by qualified persons according to state law.

E. The provider shall have a written policy for handling medication taken from the facility by clients on pass.

F. The provider shall ensure that any medication given to a client for therapeutic and medical purposes is in accordance with the written order of a physician.

1. There shall be no standing orders for prescription medications.

2. There shall be standing orders, signed by the physician, for nonprescription drugs with directions from the physician indicating when he/she is to be contacted. Standing orders shall be updated annually by the physician.

3. Copies of all written orders shall be kept in the client's file.

G. All SA/A facilities shall develop and implement procedures for all discontinued and/or expired medications and containers with worn, illegible or missing labels.

H. All medications shall be stored under the proper conditions of sanitation, temperature, light, moisture, ventilation, segregation, and security.

1. Medications used externally and medications taken internally shall be stored on separate shelves or in separate cabinets.

2. All medications, including those that are refrigerated, shall be kept under lock and key.

I. The SA/A facility using psychotropic medications shall have written policies and procedures concerning the use of psychotropic medications including:

1. when used, that there is medical monitoring to identify specific target symptoms;

2. procedures to ensure that medications are used as ordered by the physician for therapeutic purposes and in accordance with accepted clinical practice;

3. procedures to ensure that medications are used only when there are demonstrable benefits to the client and unobtainable through less restrictive measures;

4. procedures to ensure continual physician review of medications and discontinuation of medications when there are no demonstrable benefits to the client;

5. an ongoing program to inform clients, staff, and where appropriate, the client's parent(s) or legal guardian(s) on the potential benefits and negative side-effects of medications and to involve clients, and where appropriate, their parent(s) or legal guardian(s) in decisions concerning medication; and

6. training of staff to ensure the recognition of the potential side effects of the medication.

J. Current and accurate written records shall be maintained on the receipt and disposition of all scheduled drugs. An annual inventory, at the same time each year, shall be conducted for all Schedule I, II, III, IV and V drugs.

K. Medications are to be administered only upon written orders, electromechanical facsimile or oral orders from a physician or other legally authorized prescriber, taken by a licensed nurse.

L. All drug containers shall be labeled to show at least the client's full name, the chemical or generic drug's name, strength, quantity and date dispensed unless a unit dose system is utilized. Appropriate accessory and cautionary statements, as well as the expiration date, shall be included.

M. Medications and biologicals that require refrigeration shall be stored separately from food, beverages, blood, and laboratory specimens.

N. Drug administration errors, adverse drug reactions, and incompatibilities shall be immediately reported to the medical director. An entry shall be made in the client's record.

O. Abuses and losses of controlled substances shall be reported to the individual responsible for pharmaceutical services, the clinical director, the Louisiana Board of Pharmacy, DHH Controlled Dangerous Substances Program and to the Regional Drug Enforcement Administration (DEA) office, as appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

### **Subchapter G. Client Protections**

#### **§7375. Client Rights**

A. A SA/A facility must develop and implement policies to protect its client's rights and to respond to questions and grievances pertaining to these rights. A SA/A facility and its staff shall not violate a client's rights.

B. A minor client shall be granted the rights established in the Louisiana Children's Code and the following rights:

1. the right to be informed of the client's rights and responsibilities in advance of furnishing or discontinuing client care;

2. the right to have a family member, chosen representative, and/or his or her own physician notified promptly of admission to the SA/A facility;

3. the right to receive treatment and medical services without discrimination based on race, age, religion, national origin, sex, sexual preferences, handicap, diagnosis, ability to pay or source of payment;

4. the right to be treated with consideration, respect and recognition of their individuality, including the need for privacy in treatment;

5. the right to receive, as soon as possible, the services of a translator or interpreter, if needed, to facilitate communication between the client and the health care personnel;

6. the right to participate in the development and implementation of his/her treatment plan;

7. the right to make informed decisions regarding his/her care by the client or in the case of a minor, the client's parent, guardian or responsible party, whichever is applicable in accordance with appropriate laws and regulations;

8. the right to be informed of his/her health status, and be involved in care planning and treatment;

9. the right to be included in experimental research only when he/she gives informed, written consent to such participation, or when a guardian provides such consent for an incompetent client or a minor client in accordance with appropriate laws and regulations;

10. the right to refuse to participate in experimental research, including the investigations of new drugs and medical devices;

11. the right to consult and communicate freely and privately with his/her parent(s) or legal guardian(s), if permitted in the treatment plan;

12. the right to consult freely and privately with legal counsel;

13. the right to make complaints without fear of reprisal;

14. the right to communicate via a telephone, as allowed by the treatment plan;

15. the right to send and receive mail as allowed by the treatment plan;

16. the right to possess and use personal money and belongings, including personal clothing, subject to rules and restrictions imposed by the SA/A facility;

17. the right to visit or be visited by family and friends subject only to reasonable rules and to any specific restrictions in the client's treatment plan (reasons for any special restrictions shall be recorded in the client's treatment plan);

18. the right to have the individual client's medical records, including all computerized medical information, kept confidential;

19. the right to be free from all forms of abuse and harassment;

20. the right to receive care in a safe setting;

21. the right to be informed in writing about the policies and procedures for initiation, review, and resolution of client complaints;

22. the right to have access to appropriate educational services consistent with the client's abilities and needs, taking into account his/her age and level of functioning;

23. the right to indoor and outdoor recreational and leisure opportunities;

24. the right to attend religious services in accordance with his/her faith. Clients shall not be forced to attend religious services; and

25. the right to choose a provider, the right to be discharged from his current provider and be transferred to another provider, and the right to discontinue services altogether unless prohibited by court order.

B. Adult Bill of Rights. Adults have the right to:

1. a humane environment with reasonable protection from harm and appropriate privacy for personal needs;

2. be free from abuse, neglect, and exploitation;

3. be treated with dignity and respect;

4. have their needs met in an appropriate treatment setting in the least restrictive environment;

5. be given a copy of the program's rules and regulations before admission;

6. be told before admission about:

a. the illnesses, conditions, and identified behavioral problems to be treated;

b. the proposed treatment;

c. the risks, benefits, and side effects of all proposed treatment and medications;

d. the probable health and mental health consequences of refusing treatment; and

e. other available treatments which may be appropriate;

7. accept or refuse treatment after clinical recommendations are given, unless admitted involuntarily;

8. change of mind at any time (unless specifically restricted by law);

9. participate in the development of an individualized treatment plan;

10. meet with staff to review and update the treatment plan on a regular basis, or as therapeutically indicated;

11. refuse to take part in research;

12. refuse unnecessary and/or excessive medication;

13. not to be restrained in a locked room unless a danger to self or others;

14. have personal information kept confidential and to be informed when the information can be released without their permission;

15. be informed in advance of all estimated charges and any limitations on the length of services;

16. receive an explanation of treatment or rights while in treatment;

17. leave the facility within four hours of requesting release (if the client consented to treatment), unless a physician determines client poses a threat of harm to self and others;

18. make a complaint or grievance and receive a response in no more than 30 days;

19. file a complaint directly to the department at any time;

20. have rights explained in understandable terms and questions answered about rights, within 24 hours of being admitted; and

21. communicate with people outside the facility.

a. This includes the right to have visitors, to make telephone calls, and to send and receive sealed mail (if applicable to the level of care). This right may be restricted on an individual basis by the medical director or QPS in charge of the program if it is necessary for treatment or for

security, but even then the client may contact an attorney or the department at any reasonable time.

C. All clients have the right to obtain a copy of these rights, including the address and telephone number of the department, at any time.

D. A copy of the clients' right shall be posted in the facility and accessible to all clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

### **§7377. Grievances**

A. The provider shall develop and implement a written grievance procedure for clients designed to allow clients to make complaints without fear of retaliation. The procedure shall include, but not be limited to:

1. a time line for responding to grievances;

2. a method of responding to grievances;

3. a procedure for filing a grievance; and

4. staff responsibilities for handling grievances.

B. The provider shall have documentation reflecting that the client and the client's parent(s) or legal guardian(s), if applicable, are aware of and understand the grievance procedure.

C. The provider shall maintain documentation reflecting the resolution of the grievance in the client's record.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

## **Subchapter H. Physical Environment**

### **§7381. Interior Spaces**

A. Furnishings

1. The provider shall have comfortable customary furniture as appropriate for all living and treatment areas. Furniture for the use of clients shall be appropriately designed to suit the size and capabilities of the clients.

2. The provider shall promptly replace or repair broken, run-down or defective furnishings and equipment.

B. The SA/A facility shall have a designated space to store records and other confidential information that is appropriately located so as to not be in a common area.

C. Bathrooms. A facility shall have wash basins with hot and cold water, flush toilets, and bath or shower facilities with hot and cold water according to client care needs. All bathrooms shall have the following:

1. a hot water source which shall have a scald control mechanism in place;

2. toilets which shall have seats and be located to allow access without disturbing other individuals during treatment sessions;

3. an adequate supply of toilet paper, towels, and soap;

4. doors to allow for individual privacy;

5. external emergency release mechanism;

6. safety mirrors attached to the walls at convenient heights and other furnishings necessary to meet the clients' basic hygiene needs; and

7. functional toilets, wash basins, and other plumbing or sanitary facilities shall be maintained in good operating condition and shall be kept free of any materials that might clog or otherwise impair their operation.

D. Administrative and Counseling Area

1. The provider shall provide a space that is distinct from client's living areas to serve as an administrative office for records, secretarial work and bookkeeping.

2. The provider shall have designated spaces to allow for private and group discussions and counseling sessions between individual clients and staff, excluding bedrooms and common living areas.

#### E. Doors and Windows

1. The provider shall provide insect screens for all windows that can be opened. The screens shall be in good repair and readily removable in emergencies.

2. Outside doors, windows and other features of the structure necessary for safety and comfort of individuals shall be secured for safety within 24 hours after they are found to be in a state of disrepair. Total repair should be put into effect as soon as possible.

#### F. Storage

1. The provider shall ensure that there are sufficient and appropriate storage facilities.

2. The provider shall have securely locked storage space for all potentially harmful materials. Keys to such storage spaces shall only be available to authorized staff members.

#### G. Electrical Systems

1. The facility shall ensure that all electrical equipment, wiring, switches, sockets and outlets are maintained in good order and in safe condition.

2. The facility shall have adequate lighting to provide a safe environment and ensure that any room, corridor or stairway within a facility shall be well lit.

#### H. Heating, Ventilation, and Air Conditioning

1. Occupied parts of the building shall be air conditioned and temperature should remain between 65 degrees and 85 degrees Fahrenheit.

2. The provider shall take all reasonable precautions to ensure that heating elements, including exposed hot water pipes, are insulated and installed in a manner that ensures the safety of all clients.

3. The provider shall not use open flame heating equipment or portable electrical heaters.

4. All gas heating units and water heaters must be vented adequately to carry the products of combustion to the outside atmosphere. Vents must be constructed and maintained to provide a continuous draft to the outside atmosphere in accordance with the recommended procedures of the American Gas Association Testing Laboratories, Inc.

5. All heating units must be provided with a sufficient supply of outside air so as to support combustion without depletion of the air in the occupied room.

#### I. Finishes and Surfaces

1. Lead-based paint or materials containing asbestos shall not be used.

2. Floor coverings must promote cleanliness, must not present unusual problems for the handicapped and have flame-spread and smoke development ratings appropriate to the use area (e.g.; client's room versus exit corridor).

3. All variances in floors shall be easily identified by markings, etc. to prevent falls.

J. Smoking shall be prohibited in the interior of the SA/A facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

### §7383. Exterior Spaces

A. The provider shall maintain all areas of the facility that are accessible to the clients in good repair and free from any reasonably foreseeable hazard to health or safety. All of the structures on the grounds and the grounds of the facility shall be maintained in an acceptable manner and in good repair.

1. Garbage and rubbish stored outside shall be secured in noncombustible, covered containers and shall be removed on a regular basis.

2. Trash collection receptacles and incinerators shall be separate from recreation/play areas and located as to avoid being a nuisance.

3. Areas determined unsafe, including steep grades, open pits, swimming pools, high voltage boosters or high speed roads shall be fenced or have natural barriers to protect clients.

4. Fences that are in place shall be in good repair.

5. The provider shall ensure that exterior areas are well lit at night.

6. The SA/A facility shall have appropriate signage indicating the legal or trade name and address of the facility, the facility's hours of operation, and its telephone numbers.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

### §7385. Equipment

A. Equipment shall be clean and in good repair for the safety and well-being of the clients.

B. Therapeutic, diagnostic and other client care equipment shall be maintained and serviced in accordance with the manufacturer's recommendations.

C. Methods for cleaning, sanitizing, handling and storing of all supplies and equipment shall be such as to prevent the transmission of infection.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

### Subchapter I. Safety and Emergency Preparedness

#### §7387. General Safety Provisions

A. The SA/A facility shall provide additional supervision to provide for the safety of all individuals when appropriate.

B. A facility shall not maintain any firearms or chemical weapons at any time and shall prohibit weapons of any kind on-site.

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

D. Adequate supervision/training shall be provided where potentially harmful materials such as cleaning solvents and/or detergents are used.

E. A facility shall ensure that a first aid kit is available in the facility and in all of the vehicles used to transport clients.

F. Medication shall be locked in a secure storage area or cabinet.

G. Fire drills shall be performed at least once per quarter.

H. Required Inspections. The facility shall pass all required inspections and keep a current file of reports and other documentation needed to demonstrate compliance with applicable laws and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

#### **§7389. Infection Control**

A. The facility shall protect staff, clients, and visitors from the potential/actual harm of infectious disease by utilizing the following policies and procedures:

1. provide education and implementation on universal precautions;

2. implementing an infection control program. The facility shall report, evaluate, and maintain documentation pertaining to the spread of infectious disease, including data collection and analysis, corrective actions, and assignment of responsibility to a designated medical staff person; and

3. strict adherence to all sanitation requirements.

B. The facility shall establish and maintain a clean and neat environment by the implementation of the following housekeeping policies and procedures.

1. Supplies/equipment shall be available to staff/clients.

2. Consistent and constant monitoring and cleaning of all areas of the facility shall be practiced.

3. The facility may contract for services necessary to maintain a clean and neat environment.

4. Directions shall be posted for sanitizing both kitchen and bathroom areas.

C. Each SA/A facility shall have an effective pest control plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

#### **§74105. Emergency Preparedness**

A. A disaster or emergency may be a local, community-wide, regional or statewide event. Disasters or emergencies may include, but are not limited to:

1. tornados;
2. fires;
3. floods;
4. hurricanes;
5. power outages;
6. chemical spills;
7. biohazards;
8. train wrecks; or
9. declared health crisis.

B. Continuity of Operations. The provider shall have a written emergency preparedness plan to maintain continuity of the agency's operations in preparation for, during, and after an emergency or disaster. The plan shall be designed to manage the consequences of all hazards, declared disasters, or other emergencies that disrupt the provider's ability to render care and treatment, or threatens the lives or safety of the clients.

C. The provider shall follow and execute its emergency preparedness plan in the event of the occurrence of a declared disaster or other emergency. If the SA/A facility is a residential facility, the plan shall include, at a minimum:

1. provisions for the evacuation of each client and delivery of essential services to each client, whether the client is in a shelter or other location;

2. provisions for the management of staff, including provisions for adequate, qualified staff as well as for distribution and assignment of responsibilities and functions;

3. provisions for back-up staff;

4. the method that the provider will utilize in notifying the client's family or caregiver if the client is evacuated to another location either by the provider or with the assistance or knowledge of the provider. The notification shall include:

a. the date and approximate time that the facility or client is evacuating;

b. the place or location to which the client(s) is evacuating which includes the name, address, and telephone number; and

c. a telephone number that the family or responsible representative may call for information regarding the provider's evacuation;

5. provisions for ensuring that supplies, medications, clothing and a copy of the service plan are sent with the client, if the client is evacuated;

6. the procedure or methods that will be used to ensure that identification accompanies the client. The identification shall include the following information:

a. current and active diagnosis;

b. medication, including dosage and times administered;

c. allergies;

d. special dietary needs or restrictions; and

e. next of kin, including contact information;

7. the posting of exit diagrams, which will enable clients to clear the building safely and in a timely manner at all times; and

8. the posting of emergency numbers by all phones.

D. If the state, parish or local Office of Homeland Security and Emergency Preparedness (OHSEP) orders a mandatory evacuation of the parish or the area in which the agency is serving, the facility shall ensure that all clients are evacuated according to the facility's emergency preparedness plan.

E. The provider shall not abandon a client during a disaster or emergency. The provider shall not evacuate a client to a shelter without ensuring staff and supplies remain with the client at the shelter, in accordance with the client's treatment plan.

F. Emergency Plan Review and Summary. The provider shall review and update its emergency preparedness plan at least annually.

G. The provider shall cooperate with the department and with the local or parish OHSEP in the event of an emergency or disaster and shall provide information as requested.

H. The provider shall monitor weather warnings and watches as well as evacuation orders from local and state emergency preparedness officials.

I. All SA/A facility employees shall be trained in emergency or disaster preparedness. Training shall include orientation, ongoing training, and participation in planned drills for all personnel.

J. Upon request by the department, the SA/A facility shall submit a copy of its emergency preparedness plan and a

written summary attesting how the plan was followed and executed. The summary shall contain, at a minimum:

1. pertinent plan provisions and how the plan was followed and executed;
2. plan provisions that were not followed;
3. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;
4. contingency arrangements made for those plan provisions not followed; and
5. a list of all injuries and deaths of clients that occurred during execution of the plan, evacuation or temporary relocation, including the date, time, causes, and circumstances of the injuries and deaths.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

**§7391. Inactivation of License due to a Declared Disaster or Emergency**

A. A SA/A facility licensed in a parish which is the subject of an executive order or proclamation of emergency, or disaster issued in accordance with R.S. 29:724 or R.S. 29:766, may seek to inactivate its license for a period not to exceed one year, provided that the following conditions are met:

1. the licensed facility shall submit written notification to the Health Standards Section within 60 days of the date of the executive order or proclamation of emergency or disaster that:

- a. the SA/A facility has experienced an interruption in the provisions of services as a result of events that are the subject of such executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766;
- b. the licensed SA/A facility intends to resume operation as a SA/A facility in the same service area;
- c. includes an attestation that the emergency or disaster is the sole casual factor in the interruption of the provision of services;
- d. includes an attestation that all of the clients have been properly discharged or transferred to another provider; and
- e. provides a list of clients and the location of all discharged or transferred clients;

2. the licensed SA/A facility resumes operating as a SA/A facility provider in the same service area within one year of the issuance of an executive order or proclamation of emergency or disaster in accordance with R.S. 29:724 or R.S. 29:766;

3. the licensed SA/A facility continues to pay all fees and cost due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties; and

4. the licensed SA/A facility continues to submit required documentation and information to the department.

B. Upon receiving a completed written request to inactivate a SA/A facility license, the department shall issue a notice of inactivation of license to the SA/A facility provider.

C. Upon completion of repairs, renovations, rebuilding or replacement, a SA/A facility which has received a notice

of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met.

1. The SA/A facility shall submit a written license reinstatement request to the licensing agency of the department 60 days prior to the anticipated date of reopening.

a. The license reinstatement request shall inform the department of the anticipated date of opening and shall request scheduling of a licensing survey.

b. The license reinstatement request shall include a completed licensing application with the appropriate licensing fees.

2. The provider resumes operating as a SA/A facility in the same service area within one year.

D. Upon receiving a completed written request to reinstate a SA/A facility license, the department shall conduct a licensing survey. If the SA/A facility meets the requirements for licensure and the requirements under this Section, the department shall issue a notice of reinstatement of the SA/A facility license.

1. The licensed capacity of the reinstated license shall not exceed the licensed capacity of the SA/A facility at the time of the request to inactivate the license.

E. No change of ownership in the SA/A facility shall occur until such SA/A facility has completed repairs, renovations, rebuilding or replacement construction, and has resumed operations as a SA/A facility.

F. The provisions of this Section shall not apply to a SA/A facility which has voluntarily surrendered its license and ceased operation.

G. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the SA/A facility license and any applicable facility need review approval for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

**Subchapter J. Additional Requirements for Children/Adolescent Programs**

**§7395. General Provisions**

A. In addition to the requirements applicable to all SA/A facilities, programs that treat children and/or adolescents must meet the following requirements.

B. The SA/A facility that treats children and/or adolescents shall meet the following:

1. program lectures, and written materials shall be age-appropriate and commensurate with their level of education, skills and experience;

2. the program shall involve the adolescent's family or an alternate support system in the process or document why this is not appropriate;

3. staff shall not provide, distribute, or facilitate access to tobacco products;

4. staff shall not use tobacco products in the presence of adolescent clients; and

5. staff shall prohibit adolescent clients from using tobacco products on the program site or during structured program activities.

B. Criminal Background Checks. Prior to hire or employment, a criminal background check must be

conducted on all staff in the manner required by R.S. 15:587.1. The SA/A facility shall have and implement a written policy and procedure for obtaining a criminal background check on persons as required in R.S. 15:587.1.

C. Staffing. The following staffing requirements are standards and do not restrict the facility from utilizing additional employees.

1. The facility shall ensure that only qualified professional staff plan, supervise, educate, counsel, or train adolescents with behavioral, mental health, and substance use disorders.

2. All direct care employees shall have training in adolescent development, family systems, adolescent psychopathology and mental health, substance use in adolescents, and adolescent socialization issues.

3. All direct care employees and volunteers shall be trained and competent to use personal and physical restraint.

D. Special Considerations

1. Facilities shall address the special needs of adolescents and comply with all applicable standards, laws, and protocols to protect their rights.

2. Adults and adolescents may be mixed for specific groups or activities when therapeutically indicated.

3. The facility shall obtain consent for admission and authorization to obtain medical treatment from parent or guardian prior to the time of admission for all clients under the age of majority.

4. Adolescent intensive outpatient programs offer comprehensive coordinated and defined services varying in level of intensity, but must be a minimum of six contact hours per week at a minimum of three days per week.

E. Persons aged 16 and above may voluntarily seek and receive substance abuse services without parental consent.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

### **Subchapter K. Additional Requirements for Community-Based Residential Programs**

#### **§7399. General Provisions**

A. In addition to the requirements applicable to all SA/A facilities, the residential substance abuse/addiction treatment facility must abide by this Subchapter as applicable to its program(s).

B. House Rules and Regulations. A provider shall have a clearly written list of rules and regulations governing conduct for clients in care and shall document that these rules and regulations are made available to each staff member, client and, where appropriate, the client's parent(s) or legal guardian(s). A copy of the house rules shall be given to clients and, where appropriate, the client's parent(s) or legal guardian(s) upon admission and shall be posted and accessible to all employees and clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

### **Chapter 74. Substance Abuse/Addiction Treatment Facilities Licensing Standards**

#### **Subchapter K. Additional Requirements for Community-Based Residential Programs**

##### **§7401. Physical Environment**

A. The provider shall ensure that there is evidence of routine maintenance and cleaning programs in all areas of the facility.

B. Each facility shall contain a space for the free and informal use of the clients. This space shall be constructed and equipped in a manner in keeping with the programmatic goals of the facility.

C. There shall be allotted leisure space adequate for the capacity that is accessible to the clients and excludes halls, closets, bathrooms, bedrooms, staff or staff's quarters, laundry areas, storage areas, and office areas. Each living unit of any residential facility shall contain a space for the free and informal use of clients. This space shall be constructed and equipped to meet programmatic goals.

D. Client Bedrooms

1. Single rooms must contain at least 80 square feet and multi-bedrooms shall contain at least 60 square feet per bed, exclusive of fixed cabinets, fixtures, and equipment. Rooms shall have at least a 7 1/2 foot ceiling height over the required area. In a room with varying ceiling height, only portions of the room with a ceiling height of at least 7 1/2 feet are allowed in determining usable space.

2. Each client bedroom shall not contain more than four beds.

a. Exception. If a SA/A facility is licensed as a SA/A facility at the time this Rule is promulgated and has more than four clients per bedroom, then the SA/A facility may have bedroom space that allows more than four clients per bedroom provided that the bedroom space had been approved by DHH. This exception applies only to the currently licensed physical location.

3. There shall be at least 3 feet between beds.

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

5. There shall be a door for privacy to each individual bedroom. The doors shall not be equipped with locks or any other device that would prohibit the door from being opened from either side.

6. There shall be a window in each bedroom that leads directly to the outside of the building. All windows located in bedrooms shall be covered.

7. The provider shall ensure that sheets, pillow, bedspread and blankets are provided for each client. All linens must be in good repair and systematically removed from use when no longer usable. Clean sheets, pillow, bedspread and blanket shall be provided by the facility as needed or when requested by the client unless the request is unreasonable.

8. Each client shall have his/her own dresser or other adequate storage space for private use and designated space for hanging clothing in proximity to the bedroom occupied by the client.



9. No client over the age of five years shall occupy a bedroom with a member of the opposite sex who is not in the client's immediate family.

10. Residential facilities shall have separate bedrooms and bathrooms for adults and adolescents and for males and females.

11. Adults and adolescents shall not be housed in the same area/wing.

12. The provider shall ensure that the age of client sharing bedroom space is not greater than four years in difference unless contraindicated based on diagnosis, the treatment plan or the behavioral health assessment of the client.

13. Each client shall have his/her own bed. A client's bed shall be longer than the client is tall, no less than 30 inches wide, of solid construction and shall have a clean, comfortable, nontoxic fire retardant mattress.

14. The beds shall be of solid construction, appropriate to the size and age of the client.

15. Mobile homes shall not be used for client sleeping areas.

16. Bunk beds shall not be used in medically monitored residential detoxification (medically supported detox), clinically managed residential detoxification (social detox), and clinically managed high intensity residential program (ASAM Level III.5). However, bunk beds may be used in less intensive levels of care.

17. There shall be enough room above the uppermost mattress of any bed to allow the occupant to sit up.

18. After discharge of a client, the bed, mattress, cover, bedside furniture and equipment shall be properly cleaned. Mattresses, blankets and pillows assigned to clients shall be in a sanitary condition. The mattress, blankets and pillows used for a client with an infection shall be sanitized in an acceptable manner before they are assigned to another client.

#### E. Dining Areas

1. The facility shall have dining areas that permit clients, staff and guests to eat together in small groups.

2. A facility shall have dining areas that are clean, well lit, ventilated and attractively furnished.

#### F. Bathrooms

1. Each bathroom shall be properly equipped with toilet paper, towels, soap and other items required for personal hygiene unless clients are individually given such items. Items required for personal hygiene shall be provided in facilities unless clients are already in possession of such items.

2. Tubs and showers shall have slip proof surfaces and curtains or other safe enclosures.

3. A facility shall have toilets and baths or showers that allow for individual privacy unless the clients in care require assistance.

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

5. A SA/A facility shall have at least one separate toilet, lavatory, and bathing facility for the staff.

6. In a multi-level home, there shall be at least one toilet bowl with accessories, lavatory basin and bathing facility reserved for client use on each client floor.

7. The SA/A facility shall have at least one sink, one tub or shower and one toilet for every eight clients.

8. Bathroom shall be located so that they open into a hallway, common area, or directly into the bedroom. If the bathroom only opens directly into a bedroom, it shall be for the use of the occupants of that bedroom only.

9. Bathrooms shall contain shatterproof mirrors secured to the walls at convenient heights and other furnishings necessary to meet the clients' basic hygienic needs.

#### G. Kitchens

1. Kitchens used for meal preparations shall be appropriately sized and shall have the equipment necessary for the preparation, serving, storage and clean-up of all meals regularly served to all of the clients and staff. If clients prepare meals, additional equipment and space is required. All equipment shall be maintained in proper working order.

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

3. There shall be trash containers in the kitchen and dining area. Trash containers in kitchens and dining area shall be covered and made of metal or United Laboratories-approved plastic.

H. Laundry. The provider shall have a laundry space complete with washer and dryer.

I. Staff Quarters. The provider utilizing live-in staff shall provide adequate, separate living space with a private bathroom for these staff.

J. Clients who are children or adolescents shall have access to safe, suitable outdoor recreational space and age appropriate equipment. Recreation/playground equipment shall be so located, installed and maintained as to ensure the safety of the clients.

K. The provider shall ensure that all closets, bedrooms and bathrooms are equipped with doors that can be readily opened from both sides.

L. Windows or vents shall be arranged and located so that they can be opened from the inside to permit venting of combustion products and to permit occupants direct access to fresh air in emergencies. The operation of windows shall be restricted to inhibit possible escape or suicide. If the facility has an approved engineered smoke control system, the windows may be fixed. Where glass fragments pose a hazard to certain clients, safety glazing and/or other appropriate security features shall be used. The windows shall be covered for privacy, and the coverings shall pose no safety hazard for the clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

#### §7403. Food and Diet

A. All dietary services shall be provided on-site under the direction of a Louisiana licensed and registered dietitian.

B. The SA/A facility shall provide:

1. meal break after five consecutive hours or less of scheduled activities;

2. an OPH approved kitchen with continuous conditions/procedures to maintain all foods at temperatures and under conditions to assure safe, sanitary handling;

3. nutritious meals of adequate quality and quantity to meet the needs of each client, including religious and dietary restrictions;

4. at least three meals daily, with no more than 14 hours between any two meals; and

5. at least an evening snack.

C. The dietitian shall:

1. approve menus and provide written guidelines for substitutions in advance;

2. provide staff in-service training as needed to assure quality meal service;

3. provide information to professional staff regarding dietary needs of clients; and

4. be available for consultation when necessary.

D. The SA/A facility shall:

1. serve meals in a relaxed atmosphere that promotes utilization of newly learned skills in socialization and communication;

2. maintain sanitation of dishes;

3. ensure that all dishes, cups and glasses used by individuals are free from chips, cracks or other defects; and

4. ensure that animals are not permitted in food storage, preparation, and dining areas.

E. If the SA/A facility has a program that allows menu planning and preparation by clients, the facility retains responsibility to assure that meal preparation/service with client participation meets all requirements listed above and to supervise adequately to ensure compliance.

1. The program shall define duties in writing and have written instructions posted or easily accessible to clients.

2. If menu planning and independent meal preparation are part of the client's treatment program, a licensed dietitian shall:

a. approve the individual training curriculum; and

b. provide training or approve a training program for staff that instruct and supervise clients in meal preparation.

F. Meal preparation/service may be provided by contract service. However, facility is responsible for ensuring that all standards above are met.

G. Food and waste shall be stored, handled, and removed in a way that will not spread disease, cause odor, or provide a breeding place for pests.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

#### **§7405. Transportation**

A. A community-based residential SA/A facility shall arrange for or provide transportation necessary for implementing the client's treatment plan.

B. Any vehicle used to transport clients, whether such vehicle is operated by a staff member or any other person acting on behalf of the facility, shall be:

1. properly licensed and inspected in accordance with state law;

2. maintained in a safe condition;

3. operated at a temperature that does not compromise the health, safety, or needs of the client; and

4. operated in conformity with all of the applicable motor vehicle laws.

C. The facility shall have documentation of current liability insurance coverage for all owned and non-owned vehicles used to transport clients. The personal liability insurance of a facility's employee shall not be substituted for the required coverage.

D. Any staff member of the facility, or other person acting on behalf of the facility, who is operating a vehicle for the purpose of transporting clients shall be properly licensed to operate that class of vehicle in accordance with state law.

E. Upon hire, the facility shall conduct a driving history record of each employee, and annually thereafter.

F. The facility shall not allow the number of persons in any vehicle used to transport clients to exceed the number of available seats with seatbelts in the vehicle.

G. The facility shall ascertain the nature of any need or problem of a client which might cause difficulties during transportation. This information shall be communicated to agency staff responsible for transporting clients.

H. The following additional arrangements are required for transporting non-ambulatory clients and those who cannot otherwise be transferred to and from the vehicle:

1. a ramp device to permit entry and exit of a client from the vehicle shall be provided for vehicles. A mechanical lift may be utilized, provided that a ramp is also available in case of emergency, unless the mechanical lift has a manual override;

2. wheelchairs used in transit shall be securely fastened inside the vehicle utilizing approved wheelchair fasteners;

3. the arrangement of the wheelchairs shall not impede access to the exit door of the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

#### **§7407. Residential Rehabilitation Option for Adolescent/Children**

A. Staffing. Residential facilities participating in the residential rehabilitation option shall have a minimum ratio of qualified professional to clients of 1:8 during waking hours. A minimum of two staff persons shall be present at all times. A qualified professional supervisor shall be on call at all times. Program sponsored activities away from the facility require a minimum staff to client ratio of 1:5 with a minimum of two adults at all times.

1. Clients shall be under direct supervision at all times.

2. On-site, staff shall be readily available at all times, preferably within eyesight or hearing distance. If clients are not within eyesight, staff shall conduct visual checks at least once every hour, including bed checks.

3. Off-site, clients shall be within eyesight at all times.

B. Educational Resources. For facilities with school age children as clients, the facility shall provide a Department of Education-approved opportunity for clients to maintain grade level and continuity of education during any treatment lasting longer than 14 days unless the treatment occurs during school vacation.

C. Family Communications. The facility shall allow regular communication between an adolescent client and the client's family and shall not arbitrarily restrict any

communications without clear, written, individualized clinical justification documented in the client record.

D. Criminal Background Checks. Prior to employment, a criminal background check must be conducted on all staff in the manner required by RS 15:587.1 and 46:51.2.

1. The SA/A facility shall have a written policy and procedure for obtaining a criminal background check on persons as required in R.S. 15:587.1 and 46:51.2.

2. No person, having any supervisory or other interaction with clients, shall be hired until such person has submitted his or her fingerprints to the Louisiana Bureau of Criminal Identification and Information, and it has been determined that such person has not been convicted of or pled nolo contendere to a crime listed in R.S. 15:587.1(C). This shall include any employee or non-employee, including independent contractors, consultants, students, volunteers, trainees, or any other associated person, who performs paid or unpaid work with or for the SA/A facility.

3. Contractors hired to perform work which does not involve any contact with clients shall not be required to have a criminal background check if accompanied at all times by a staff person if clients are present in the facility.

4. Any employee who is convicted of or has pled nolo contendere to any crime listed in R.S. 15:587.1(C) shall not continue employment after such conviction or nolo contendere plea.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

#### **§7409. Mothers with Dependent Children Program (Dependent Care Program)**

##### **A. Treatment Services**

1. Weekly individual and group counseling or family therapy shall be conducted by QPs with appropriate experience.

2. Parenting classes shall be provided weekly. Attendance is required.

3. The program shall address the specialized needs of the parent.

4. Education, counseling, and rehabilitation services for the parent shall address:

- a. the effects of chemical dependency on a woman's health and pregnancy;
- b. parenting skills; and
- c. health and nutrition.

5. The program shall have a procedure to regularly assess parent-child interactions. Any identified needs shall be addressed in treatment.

6. The program shall address the specialized needs and services for the dependent child and develop an individualized plan of care; to include goals, objectives and target dates.

7. Education, counseling, and rehabilitation services for the children shall address:

- a. the emotional and social effects of living with a chemically dependent care-giver;
- b. early screening and intervention of high risk behavior, i.e. substance abuse, gambling, violence, academic failure, delinquency behavior, mental health issues (i.e. depression, anxiety, suicidal ideations), and when indicated provide or make appropriate referrals for services;

- c. screening for developmental delays; and
- d. health and nutrition.

8. Program staff shall provide access to family planning services.

##### **B. Staffing**

1. Qualified trained professionals shall provide constant supervision appropriate to the age of each child. The program shall provide or arrange for child care with a qualified provider while the parent participates in treatment activities. Before supervising children independently, the staff shall have infant CPR certification and at least eight hours training in the following areas:

- a. chemical dependency and its impact on the family;
- b. child development and age-appropriate activities;
- c. child health and safety;
- d. universal precautions;
- e. appropriate child supervision techniques; and
- f. signs of child abuse.

2. Every children's program shall have an employee or consultant who is available to provide staff training, evaluate effectiveness of direct care staff, and plan activities, etc. for at least one hour per week per child. This employee shall meet the following educational requirements:

- a. 90 clock hours of education and training in child development and/or early childhood education; and
- b. one year of documented experience providing services to children.

3. When staff are responsible for children, the staff-to-child ratio shall not exceed 1:3 for infants (18 months and younger) and 1:6 for toddlers and children. Clients shall not supervise another parent's children without written consent from the legal guardian and staff approval.

##### **C. Special Considerations**

1. Staff shall not allow anyone except the legal guardian or a person authorized by the legal guardian to take a child away from the facility. If an individual shows documentation of legal custody, staff shall record the person's identification before releasing the child.

2. The facility shall have written policy/procedures regarding parent abuse and/or neglect of a child.

3. Children under the age of 18 months are prohibited from sleeping in bed with mothers. Bassinets and cribs must be used for infants (zero to 18 months). Each child over the age of 18 months must be provided with his/her own bed.

4. The program shall ensure that children are directly supervised by parents or qualified providers at all times.

5. The program shall have a written policy and a current schedule showing who is responsible for the children at all times.

6. The daily activity schedule shall include a variety of structured and unstructured age-appropriate activities.

7. The program shall provide a variety of age-appropriate equipment, toys, and learning materials.

8. School age children shall have access to school and medical care, as indicated.

9. Standards protecting the health, safety, and welfare of clients also apply to their children.

10. Behavior management shall be fair, reasonable, consistent, and related to the child's behavior. Physical discipline is prohibited.

#### D. Safety Practices

1. The facility's evacuation procedures shall include provisions for children as approved by the fire marshal.
2. The program shall not allow children to use:
  - a. climbing equipment or swings on or near concrete or asphalt;
  - b. toys that explode or shoot things;
  - c. other sharp or dangerous items; or
  - d. toys and equipment in disrepair.
3. The program shall have safeguards to prevent children from using toys that are dangerous because they are not age-appropriate.
4. The program site shall meet the additional physical plant requirements as required for children.

#### E. Health Practices

1. The program shall have procedures for isolating parents and children who have communicable diseases and providing them with appropriate care and supervision.
2. The program shall keep current immunization records for each child at the program site.
3. The program shall obtain consent to obtain emergency medical care for each child at admission.
4. Each child shall have an assessment by a medical doctor and/or nurse practitioner within 96 hours of admission. Copies of an assessment performed up to seven days before admission are deemed to meet this requirement.
5. The program shall provide potty chairs for small children and sanitize them after each use.
6. The program shall provide age-appropriate bathing facilities. Infants shall not be bathed in sinks.
7. Staff, volunteers, and parents shall use universal precautions when caring for children other than their own.
8. The program shall ensure that children are clean and appropriately dressed.
9. Staff shall check all diapers frequently, change without delay, and dispose of the diapers in a sealed container and sanitize the changing area.
10. The program shall provide an adequate diet for childhood growth and development, including two snacks per day.
11. Children's medication shall be given according to the label by the parent or a licensed health professional. The facility shall obtain written consent from the parent to administer the medication, as required. The facility shall assume full responsibility for the proper administration and documentation of medication.

F. Prior to employment, a criminal background check must be conducted on all staff in the manner required by RS 15:587.1. The SA/A facility shall have and implement a written policy and procedure for obtaining a criminal background check on persons as required in R.S. 15:587.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

#### **§7411. Clinically Managed Low Intensity Residential Treatment Program (ASAM Level III.1)**

A. The Clinically Managed Low Intensity Residential Treatment Program is designed to provide treatment directed toward applying recovery skills, preventing relapse, improving emotional functioning, promoting personal responsibility and reintegrating the client into the worlds of

work, education and family life. Services that are available include individual, group and family therapy, medication management, and medication education. Mutual/self-help meetings usually are available on-site. This program does not include sober houses, boarding houses or group homes where treatment services are not provided (Example: halfway house).

B. Admission Guidelines. The SA/A facility shall admit only clients diagnosed with ASAM Level III.1 in its Clinically Managed Low Intensity Residential Treatment Program. Clients must meet the following criteria.

1. Acute Intoxication and/or Withdrawal Potential. No risk or minimal/stable withdrawal risk.
2. Biomedical Conditions and Complications. None are stable. If present, the participant must be receiving medical monitoring.
3. Emotional, Behavioral or Cognitive Conditions and Complications. None are minimal. If present, conditions must be stable and not too distracting to the participant's recovery.
4. Readiness to Change. Participant should be open to recovery, but in need of a structured, therapeutic environment.
5. Relapse, Continued Use, or Continued Problem Potential. Participant understands the risk of relapse, but lacks relapse prevention skills or requires a structured environment.
6. Recovery Environment. Environment is dangerous, but recovery is achievable within a 24-hour structure.

#### C. Assessment/Treatment Plan Review

1. The SA/A facility shall complete a comprehensive biopsychosocial assessment which substantiates appropriate client placement within seven days of admission. The assessment must be reviewed and signed by a counselor. The following sections must be completed prior to seven days of admission:

- a. medical;
- b. psychological; and
- c. alcohol drug.

2. The treatment plan is reviewed in collaboration with the client every 90 days and documented accordingly.

3. Discharge/transfer planning beginning at admission.

D. Treatment. The Program shall offer at least five hours per week of a combination of low-intensity clinical and recovery focused services

#### E. Staffing Patterns

1. QPS. Should be available for clinical supervision and by telephone for consultation.

2. QP. A counselor must be on-duty when majority of clients are awake and on-site. Caseload shall not exceed 1:25.

3. Adult Staffing Patterns. At least two direct care techs on first, second, and third shift.

4. Adolescent Staffing Patterns. 1:5 ratio of direct care techs during the first two shifts and 1:10 ratio during the third shift.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

**§7413. Clinically Managed Medium-Intensity Residential Treatment (ASAM Level III.3) (Adult Only)**

A. The Clinically Managed Medium-Intensity Residential Treatment Program offers at least 20 hours per week of a combination of medium-intensity clinical and recovery focused services to adults only. Frequently referred to as extended or long-term care, Level III.3 programs provide a structured recovery environment in combination with medium-intensity clinical services to support recovery from substance-related disorders.

B. Admission Guidelines. The SA/A facility shall admit only clients diagnosed with ASAM Level III.1 in its Clinically Managed Medium Intensity Residential Treatment Program. In addition, the adult clients must meet the following criteria.

1. Acute Intoxication and/or Withdrawal Potential. No risk or minimal risk of withdrawal.

2. Biomedical Conditions and Complications. None or stable. If present, the participant must be receiving medical monitoring.

3. Emotional, Behavioral or Cognitive Conditions and Complications. Mild to moderate severity; need structure to focus on recovery, if stable, a dual diagnosis capable program is appropriate. If not, a dual diagnosis enhanced program is required. Treatment should be designed to respond to the client's cognitive deficits.

4. Readiness to Change. Has little awareness and needs intervention to engage and stay in treatment, or there is high severity in this dimension.

5. Relapse, Continued Use or Continued Problem Potential. Has little awareness and needs intervention available to prevent continued use, with imminent dangerous consequences, because of cognitive deficits.

6. Recovery Environment. Environment is dangerous, but recovery is achievable within a 24-hour structure.

C. Screening/Assessment/Treatment Plan Review

1. A comprehensive biopsychosocial assessment must be completed within seven days which substantiate appropriate patient placement. The assessment must be reviewed and signed by a QP. The following sections must be completed prior to seven days of admission:

- a. medical;
- b. psychological; and
- c. alcohol/drug.

2. The treatment plan is reviewed in collaboration with the client as needed or at a minimum of every 90 days and documented accordingly.

3. Discharge/transfer planning beginning at admission.

D. Staffing

1. There shall be a QPS available by telephone for consultation at all times.

2. There shall be a QP on duty when a majority of the clients area are awake and on-site. Caseload shall not exceed 1:25.

3. Physician M.D. Medical Director. Shall be available 24 hours on-call.

4. Nurse (Nurse Practitioner/RN or LPN). Shall be at least one full time employee with 24 hour on-call availability.

5. Direct Care Tech. At least two shall be on duty for each shift.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

**§7415. Clinically Managed High Intensity Residential Treatment (ASAM LEVEL III.5)**

A. The Clinically Managed High-Intensity Residential Treatment Program (ASAM Level III.5) is designed to treat persons who have significant social and psychological problems.

1. Programs are characterized by their reliance on the treatment community as a therapeutic agent. Treatment goals are to promote abstinence from substance use and antisocial behavior and to effect a global change in participants' lifestyles, attitudes and values. Clients typically have multiple deficits, which may include substance-related disorders, criminal activity, psychological problems, impaired functioning, and disaffiliation from mainstream values.

NOTE: In the prior licensing Rule, this level program was referred to as a Therapeutic Community or Residential Treatment Center.

B. Admission Guidelines. The SA/A facility shall admit only clients with ASAM Level III.5 into its Clinically Managed High Intensity Residential Treatment Program. These clients shall meet the following criteria.

1. Acute Intoxication and/or Withdrawal Potential. No risk or minimal risk of withdrawal.

2. Biomedical Conditions and Complications. None are stable, or receiving concurrent medical monitoring.

3. Emotional, Behavioral or Cognitive Conditions and Complications. Demonstrates repeated inability to control impulses or a personality disorder requires structure to shape behavior. Other functional deficits require a 24-hour setting to teach coping skills. A dual diagnosis enhanced setting is required for SPMI Severely and Persistently Mentally Ill patients.

4. Readiness to Change. Has marked difficulty with, or opposition to treatment, with dangerous consequences; or there is high severity in this dimension but not in others. The client, therefore, needs a Level I motivational enhancement program.

5. Relapse, Continued Use or Continued Problem Potential. Has no recognition of the skills needed to prevent continued use, with imminently dangerous consequences.

6. Recovery Environment. Environment is dangerous and client lacks skills to cope outside of a highly structured 24-hour setting.

C. Screening/Assessment/Treatment Plan Review.

1. A comprehensive biopsychosocial assessment shall be completed within seven days which shall substantiate appropriate patient placement. The assessment must be reviewed and signed by a QP. The following sections must be completed prior to seven days of admission:

- a. medical;
- b. psychological; and
- c. alcohol/drug.

2. The treatment plan shall be reviewed in collaboration with the client as needed, or at a minimum of every 30 days and documented accordingly.

3. Discharge/transfer planning shall begin at admission.

#### D. Staffing

1. There shall be a QPS shall be available by telephone for consultation at all times. There shall be at least one QP on duty at least 40 hours per week.

##### 2. Adult Staffing Patterns

a. Physician M.D., Medical Director. Shall be on duty at least 10 hours per week.

b. Primary Care Physician. Shall be on duty at least 10 hrs/week for histories and physicals at admission and medication management.

c. Psychologist. Shall be available when needed.

d. Nurse (Nurse Practitioner (NP)/RN or LPN). One full time equivalent nurse practitioner/RN and one nurse shall be required for first shift with one nurse on call, two nurses required for the second shift, and one nurse required for third shift. An RN supervisor or NP shall be on call at all times if not on duty at the SA/A facility.

e. QPS and QP. One clinician shall be on duty per 12 clients.

f. Direct Care Tech. At least two shall be on duty for each shift

##### 3. Adolescent Staffing Patterns

a. Physician M.D., Medical Director. Shall be on duty 10 hours per week.

b. Primary Care Physician. Shall be on duty 10 hrs/week for histories and physicals at admission and medication management.

c. Psychologist. Shall be on duty at least 20 hours/week.

d. Nurse (Nurse Practitioner/RN or LPN). One full time equivalent Nurse Practitioner/RN with LPN required for first shift with one backup LPN, two LPNs on second shift, and one RN/LPN required for third shift, and an RN sup or NP on call

e. QPS and QP. One clinician per eight clients.

f. Direct Care Tech. A 1:5 ratio during the first and second shifts, 1:10 ratio during the night shift.

g. Occupational Therapist. One full time equivalent shall be on duty.

E. Physical Environment. The facility shall conduct a risk assessment of each client in the Clinically Managed High Intensity Residential Treatment Program and the physical environment of the facility in order to ensure the safety and well-being of all clients admitted to the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

### **§7417. Medically Monitored Intensive Residential Treatment (Adults only) (ASAM Level III.7)**

A. The Medically Monitored Intensive Residential Treatment Program provides 24 hours of structured treatment activities per week including, but not limited to, psychiatric and substance abuse assessments, diagnosis treatment and rehabilitative and rehabilitative services to clients with co-occurring psychiatric and substance disorders whose disorders are of sufficient severity to require a residential level of care. It also provides a planned regiment of 24-hour professionally directed evaluation, observation, and medical monitoring of addiction and mental health

treatment in a residential setting. They feature permanent facilities, including residential beds, and function under a defined set of policies, procedures and clinical protocols. This program is appropriate for patients whose subacute biomedical and emotional, behavior, or cognitive problems are so severe that they require co-occurring capable or enhanced residential treatment, but who do not need the full resources of an acute care general hospital. In addition to meeting integrated service criteria, individual treatment providers must have experience and preferably licensure and/or certification in the treatment of addictive disorders and mental health.

B. Admission Guidelines. Clients in this level of care may have co-occurring addiction and mental health disorders that meet the stability criteria for placement in a dual diagnosis capable program, or difficulties with mood, behavior or cognition related to a substance use or mental disorder, or emotional behavioral or cognitive symptoms that are troublesome, but do not meet the DSM criteria for mental disorder. The SA/A facility shall admit only clients with ASAM Level III.7 into its Medically Monitored Intensive Residential Treatment Program. These clients shall meet the following criteria:

1. Acute Intoxication and/or Withdrawal Potential. No risk or minimal/stable withdrawal risk.

2. Biomedical Conditions and Complications. Moderate to severe conditions (which require 24-hour nursing and medical monitoring or active treatment, but not the full resource of an acute care hospital).

3. Emotional, Behavioral or Cognitive Conditions and Complications. Moderate to severe conditions and complications (such as diagnosable co-morbid Axis I disorders or symptoms). These symptoms may not be severe enough to meet diagnostic criteria, but interfere or distract from recovery efforts (for example anxiety/hypomanic, or depression and/or cognitive symptoms (which may include compulsive behaviors, suicidal or homicidal ideation with a recent history of attempts but no specific plan, or hallucinations and delusions without acute risk to self or others) are interfering with abstinence, recovery, and stability to such a degree that the client needs a structured 24-hour, medically monitored (but not medically managed) environment to address recovery efforts.

4. Readiness to Change. Participant is in need of intensive motivating strategies, activities and processes available only in a 24-hour structured medically monitored setting (but not medically managed.)

5. Relapse, Continued Use or Continued Problem Potential. Participant is experiencing an escalation of relapse behaviors and/or acute psychiatric crisis and/or reemergence of acute symptoms and is in need of 24-hour monitoring and structured support.

6. Recovery Environment. The client's environment or current living arrangement is characterized by a high risk of initiation or repetition of physical, sexual or emotional abuse, or substance use so endemic that the patient is assessed as unable to achieve or maintain recovery at a less intensive level or care.

#### C. Screening/Assessment/Treatment Plan Review

1. A comprehensive biopsychosocial assessment completed within seven days which substantiate appropriate patient placement. The assessment must be reviewed and

signed by a QP. The following sections must be completed prior to seven days of admission:

- a. medical;
- b. psychological; and
- c. alcohol/drug.

2. The treatment plan shall be reviewed/updated in collaboration with the client as needed, or at a minimum of every 30 days, and documented accordingly.

3. Discharge/transfer planning beginning at admission.

#### D. Staffing

1. There shall be a QPS available by telephone for consultation at all times. There shall be at least one QP on duty at least 40 hours per week. There shall be one QPS/QP per six clients.

2. Physician M.D., Medical Director. Shall be available 0.5 full time equivalent or 20 hours/week and shall be on 24-hour on-call availability.

3. A primary care physician shall be on duty 15 hrs/week with 24-hour on-call availability.

4. A psychologist shall be available as needed.

5. Nurse (Nurse Practitioner/RN or LPN). One full time equivalent Nurse Practitioner/RN and one nurse required for first shift with one nurse on call, two nurses required for the second shift and one nurse required for the third shift, and an RN supervisor or NP on call at all times if there is not one on duty at the facility.

6. Direct Care Tech. Shall be on duty, at least two on duty for each shift.

7. Occupational Therapist. Shall be on duty 0.5 full time equivalent.

#### E. Physical Environment

1. The facility shall conduct a risk assessment of each client in the Medically Monitored Intensive Residential Treatment and the physical environment of the facility in order to ensure the safety and well-being of all clients admitted to the facility.

2. Emergency Power. Facilities with capacity greater than 50 clients shall have a reliable, adequately sized emergency power system. The emergency power system is powered by a generator set or battery system, where permitted, to provide power during an interruption of normal electrical service.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

### **§7419. Clinically Managed Residential Detoxification (Social Detoxification) (ASAM LEVEL III.2D)**

A. Admission Guidelines. Social detoxification is appropriate for clients who are able to participate in the daily residential activities and is often used as a less restrictive, non-medical alternative to inpatient detoxification. The program provides care to patients whose withdrawal signs and symptoms are non-severe but require 24-hour inpatient care to address biomedical and recovery environment conditions/complications. Twenty-four hour observation, monitoring and treatment shall be provided. However, the full resources of an acute care general hospital or a medically supported program are not necessary. The facility shall only admit clients that have been diagnosed with ASAM Level III.2D to this program.

B. Emergency Admissions. If a client is admitted under emergency circumstances, the admission process may be delayed only until the client can be interviewed, but no longer than 24 hours unless seen by a physician. Facilities are required to orient direct care employees to monitor, observe and recognize early symptoms of serious illness and to access emergency services promptly.

#### C. Screening/Treatment Plan Review

1. Medical Clearance/Screening. Medical screening shall be performed upon arrival by staff with current cardiopulmonary resuscitation (CPR) and first aid training with telephone access to RN or physician for instructions for the care of the client. Clients who require medication management shall be transferred to a medically monitored or medical detoxification program until stabilized.

2. Stabilization/Treatment Plan. The facility must develop and implement an individualized stabilization/treatment plan in collaboration with the client.

a. The stabilization/treatment plan shall be reviewed and signed by the QP and the client and shall be filed in the client's record within 24 hours of admission with updates as needed.

b. The program shall document the client's response to and/or participation in scheduled activities. Notes shall include:

i. the client's physical condition, including vital signs;

ii. the client's mood and behavior;

iii. individual statements about the client's condition and needs;

iv. information about the client's progress or lack of progress in relation to stabilization goals; and

v. additional notes shall be documented as needed.

c. The facility shall begin discharge/transfer planning at admission.

#### D. Staffing

1. QPS or QP—one clinician per 25 clients. There must be a QP on duty during the first and second shifts. There must be a QPS available for clinical supervision and by telephone for consultation. The qualified professionals provide a planned regimen of 24-hour, professionally directed evaluation, care, and treatment services for clients.

2. Direct Care Tech—shall be on duty, one full time equivalent per shift.

3. An interdisciplinary team of appropriately trained clinicians such as physicians, nurses, counselors, social workers, and psychologists is available to assess and treat the client and to obtain and interpret information regarding the patient's needs. The number and disciplines of team members shall be appropriate to the range and severity of the client's problems.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

### **§7421. Medically Managed Residential Detoxification (Medical Detoxification) (ASAM LEVEL III.7D)(Adults Only)**

A. Admission Guidelines. A medically managed residential detoxification program provides care to patients whose withdrawal signs and symptoms are sufficiently

severe to require 24-hour inpatient care. It sometimes is provided as a “step-down” service from a specialty unit of an acute care general or psychiatric hospital. Twenty-four hour observation, monitoring and treatment shall be provided. The full resources of an acute care general hospital or a medically managed intensive inpatient treatment program are not necessary. The facility shall only admit clients that have been diagnosed with ASAM Level III.7D into this program.

B. Emergency Admissions. If a client is admitted under emergency circumstances, the admission process may be delayed only until the client can be interviewed, but no longer than 24 hours unless seen by a physician. Facilities are required to orient direct care employees to monitor, observe and recognize early symptoms of serious illness and to access emergency services promptly.

C. Screening/Assessments/Treatment Plan Review

1. Approval of admission by a physician. A physical examination by a physician, physician assistant or nurse practitioner must be conducted within 24 hours of admission in addition to appropriate laboratory and toxicology tests. A physical examination conducted within 24 hours prior to admission may be used if reviewed and approved by the admitting physician.

2. Stabilization/Treatment Plan

a. This individualized treatment plan should be developed in collaboration with the client, including problem identification in American Society of Addiction Medicine (ASAM) Dimensions 2-6. A QP shall identify the client's short term needs based on the detoxification history, the medical history, and the physical examination, if available and prepare a plan of action until the client becomes physically stable. The plan shall be reviewed and signed by the physician and the client, and shall be filed in the client's record within 24 hours of admission with updates as needed.

b. The program shall implement the stabilization/treatment plan and document the client's response to and/or participation in scheduled activities. Notes shall include:

- i. the client's physical condition, including vital signs;
- ii. the client's mood and behavior;
- iii. statements about the client's condition and needs;
- iv. information about the client's progress or lack of progress in relation to detoxification/treatment goals; and
- v. additional notes shall be documented as needed.

c. Daily assessment of client's progress shall be documented accordingly.

D. Staffing

1. Pharmacist or Dispensing Physician. Any facility that dispenses prescription medication on-site shall employ or contract with a pharmacist or dispensing physician to assure that any prescription medication dispensed on-site shall meet the requirements of R.S. 37:1161 et seq.

a. Qualifications. The pharmacist or dispensing physician shall have a current, valid license to practice in the state of Louisiana.

b. Responsibilities. The facility shall have a written agreement with a licensed pharmacist or licensed physician to:

- i. provide on-site services;
- ii. consult with the facility as needed;
- iii. evaluate the facility's medication policy and procedures for dispensing medications;
- iv. reconcile inventories of medications that were dispensed and/or administered at least every 30 days; and
- v. maintain medication records for at least three years.

2. Physician, Medical Director. There shall be a physician available one-fourth hour per client per week. There shall be at least one physician available 24 hours a day by telephone. A physician assistant, nurse practitioner, or advanced practice nurse licensed as physician extenders may perform duties designated by a physician. A physician shall be available to assess the client within 24 hours of admission (or earlier, if medically necessary), and is available to provide on-site monitoring of care and further evaluation on a daily basis.

3. Nurse (Nurse Practitioner/RN or LPN). One full time equivalent Nurse Practitioner/RN with nurse is required for the first shift with one on call nurse, two nurses on the second shift, and one nurse required for the third shift and an RN supervisor or NP on call if no RN supervisor or NP is on duty. The nursing staff shall conduct nursing assessments on clients at admission. Appropriately licensed nursing staff shall be available at all times to monitor the client's progress and administer medications in accordance with physician orders. The level of nursing care is at a ratio of a minimum of one nurse per every 15 clients. Additional nursing staff may be required due to the needs of the clients.

4. QPS or QP. One clinician per 10 clients shall be available 40 hours per week. There shall be a QP on duty during the first and second shifts. The qualified professionals provide a planned regimen of 24-hour, professionally directed evaluation, care, and treatment services for clients and their families. There shall be a QPS available for clinical supervision and by telephone for consultation.

5. Direct Care Tech. Two shall be on the first and second shifts and three on the third shift.

6. An interdisciplinary team of appropriately trained clinicians such as physicians, nurses, counselors, social workers, and psychologists shall be available to assess and treat the client and to obtain and interpret information regarding the patient's needs. The number and disciplines of team members are appropriate to the range and severity of the client's problems.

E. Toxicology/Drug Screening. The physician may waive drug screening if and when a client signs a list of drugs being abused and understands that his/her dishonesty could result in severe medical reactions during detoxification process.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:



## **Subchapter L. Additional Requirements for Outpatient Programs (ASAM Level I and II)**

### **§7425. Outpatient Treatment Program (ASAM Level I)**

A. An outpatient program offers comprehensive, coordinated, and defined services that may vary in level of intensity and consists of nine contact hours or less per week.

B. Admission Guidelines. The facility shall only admit clients diagnosed with ASAM Level I disorder into this program. The facility shall ensure that clients in its outpatient program meet the following criteria:

1. Acute Intoxication and/or Withdrawal Potential. No signs or symptoms of acute intoxication or withdrawal, or client's withdrawal can be safely managed in an outpatient setting.

2. Biomedical Conditions and Complications. None or the client is sufficiently stable to permit participation in outpatient treatment.

3. Behavioral or Cognitive Conditions and Complications—none or minimal. If present, symptoms are mild, stable, and do not interfere with the patient's ability to participate in treatment.

4. Readiness to Change. Participant should be open to recovery, but requires monitoring and motivating strategies to engage in treatment and to progress through the stages of change, but not in need of a structured milieu program.

5. Relapse, Continued Use or Continued Problem Potential. Participant is able to achieve abstinence and related recovery goals, with support and scheduled therapeutic contact to assist with issues that include but not limited to ambivalence about preoccupation of alcohol use or other drug use, cravings, peer pressure, and lifestyle and attitude changes.

6. Recovery Environment. Environment is sufficiently supportive that outpatient treatment is feasible or the client does not have an adequate, primary or social support system, but has demonstrated motivation and willingness to obtain such a support system.

#### **C. Assessment/Treatment Plan Review**

1. Comprehensive biopsychosocial assessment completed within 72 hours of admission which substantiates appropriate patient placement. The assessment must be reviewed and signed by a QPS or QP.

2. The treatment plan is reviewed/updated in collaboration with the client as needed or at a minimum of every 90 days.

3. Discharge/transfer planning shall begin at admission.

#### **D. Staffing**

1. A QPS must be available on site for supervision as needed, and available by phone for crisis intervention.

2. A QP must be available (defined as on-site, or available by phone) at all times for crisis intervention and on-site when clinical services are being provided.

3. There shall be a minimum ratio of one counselor to 50 clients. Caseload size is based on needs of the active clients to ensure effective, individualized treatment and rehabilitation. For this standard, active is defined as being treated at least every 90 days.

4. Counseling groups shall not exceed 12 clients. Educational group size is not restricted.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

### **§7427. Intensive Outpatient Treatment Programs (ASAM Level II)**

A. An Intensive Outpatient Treatment Program offers comprehensive, coordinated, and defined services that may vary in level of intensity but must be a minimum of nine contact hours per week for adults, six hours per week for adolescents, for a minimum of three days per week. This level consists of a scheduled series of face-to-face sessions appropriate to the client's plan of care.

B. Admission Guidelines. The client must be diagnosed with ASAM Level II disorder. The facility shall ensure that clients in its intensive outpatient treatment program meet the following criteria:

1. Acute Intoxication and/or Withdrawal Potential. No signs or symptoms of withdrawal, or client's withdrawal can be safely managed in an intensive outpatient setting.

2. Biomedical Conditions and Complications. None or sufficiently stable to permit participation in outpatient treatment.

3. Emotional, Behavioral or Cognitive Conditions and Complications—none to moderate. If present, client must be admitted to either a Dual Diagnosis Capable or Dual Diagnosis Enhanced Program, depending on the client's level of function, stability and degree of impairment.

4. Readiness to Change. Participant requires structured therapy and a programmatic milieu to promote treatment progress and recovery. The participant's perspective inhibits their ability to make behavioral changes without repeated, structured and clinically directed motivational interventions.

5. Relapse, Continued Use or Continued Problem Potential. Participant is experiencing an intensification of symptoms related to substance use and their level of functioning is deteriorating despite modification of the treatment plan.

6. Recovery Environment. Insufficiently supportive environment and lacks the resources or skills necessary to maintain an adequate level of functioning without services in Intensive Outpatient Treatment.

#### **C. Assessment/Treatment Plan Review.**

1. Comprehensive biopsychosocial assessment shall be completed within 72 hours of admission which shall substantiate appropriate patient placement. The assessment must be reviewed and signed by a QPS or QP.

2. The treatment plan is reviewed/updated in collaboration with the client as needed, or at minimum of every 30 days.

3. Discharge/transfer planning shall begin at admission.

#### **D. Staffing**

1. A QP must be available (defined as on site or available by phone) at all times for crisis intervention and on site when clinical services are being provided.

2. There shall be a minimum ratio of one counselor to 25 clients. Caseload size is based on needs of the active clients to ensure effective, individualized treatment and rehabilitation. For this standard, active is defined as being treated at least every 90 days.

3. Counseling groups shall not exceed 12 clients. Educational group size is not restricted.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38: **Subchapter M. Additional Requirements for Opioid Treatment Programs**

#### §7431. General Provisions

A. Opioid addiction treatment programs detoxify chronic opiate addicts from opiates and opiate derivatives and maintain the chronic opiate addict utilizing a synthetic narcotic until the client can achieve recovery through a spectrum of counseling and other supportive/rehabilitative services. The goal of all opiate addiction treatment is complete abstinence by client from all addictive substances, other than those prescribed through the treatment plan.

B. Each facility is required to independently meet the requirements of the protocols established by OBH/the State Opioid Authority.

C. Each opioid treatment program shall report the death of a client enrolled in their clinic to the SOA and HSS within 48 hours of the client's death. As soon as available, documentation on the cause and/or circumstances shall be submitted to SOA and HSS. Opioid treatment programs should adhere to all protocols established by DHH/OBH on the death of a patient.

D. Each opioid treatment program shall update the Louisiana Methadone Central Registry daily and as needed.

E. Each program shall also comply with the requirements of 42 CFR Part 8 unless the comparable state requirement is more stringent.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

#### §7433. Treatment

##### A. Client Admission Criteria

1. The facility shall verify that the client:

a. is at least 18 years old, unless the client has parental consent; and

b. meets the federal requirements, including exceptions, regarding determination that the client is currently addicted to opiates and has been addicted to opiates for at least one year prior to admission.

2. Physician Verification. The physician shall diagnose the client based upon:

a. referring medical history and diagnosis of chronic opiate addiction, as currently defined in the Diagnostic and Statistical Manual for Mental Disorders (DSM);

b. physical examination; and

c. documented history of opiate addiction.

##### B. Treatment Phases/Specific Requirements

1. Initial Treatment. Intensive assessment and intervention phase lasting from three to seven days in duration. Services to be provided are:

a. admission verification by physician that treatment is medically necessary as determined by physical examination and medical diagnosis (prior to administering of any medication);

b. individual counseling;

c. initial treatment plan including entail dose of medication and plan for treatment of critical health or social issues; and

d. client orientation.

2. Early Stabilization. This phase is the first consecutive 90 days of treatment. Beginning on the third to seventh day of treatment (following initial treatment) through 90 days duration, the following shall be provided:

a. weekly monitoring by a nurse of the client's response to medication;

b. at least four individual counseling sessions;

c. development of treatment plan within 30 days with input by all disciplines, client, and significant others; and

d. random monthly drug/alcohol screens.

3. Maintenance Treatment. This phase follows the end of early stabilization and lasts for an indefinite period of time. Services to be provided are:

a. Random monthly drug screens until the client has negative drugs-of-abuse screens for 90 consecutive days. Thereafter, at least eight random drug abuse tests per year shall be performed, as well as random testing for alcohol when indicated;

i. Clients who are allowed six days of therapeutic privilege doses shall be tested every month;

b. continuous evaluation by the nurse of the client's use of medication/treatment from other sources;

c. documented reviews of the treatment plan every 90 days in the first two years of treatment by the treatment team; and

d. documentation of response to treatment in a progress note at least every 30 days.

4. Withdrawal. Medically supervised withdrawal from synthetic narcotic with continuing care. This service is provided if and when appropriate. Services to be provided are:

a. decreasing the dose of the synthetic narcotic to accomplish gradual, but complete withdrawal, as medically tolerated by the client;

b. counseling of the type and quantity determined by the indicators and the reason for the medically supervised withdrawal from the synthetic narcotic; and

c. discharge planning with continuity of care to assist client to function without support of the medication and treatment activities.

5. Required Withdrawal. Treatment protocols require that the facility provide medically-approved and medically-supervised assistance to withdraw from the synthetic narcotic when:

a. the client requests withdrawal;

b. quality indicators predict successful withdrawal;

or

c. client or payer source suspends payment of fees.

C. Counseling. Type and quantity shall be based on the assessment and recommendations of the treatment team and shall meet the following requirements.

1. Written documentation shall support decisions of the treatment team including indicators such as positive drug screens, maladjustment to new situations, inappropriate behavior, criminal activity, and detoxification procedure.

2. All counseling shall be provided individually or in small (not to exceed 12 individuals) homogenous groups provided that group counselor is familiar with all clients and documents all contacts in the client record.

3. Written criteria are used to determine when a client will receive additional counseling.

4. Counseling shall be provided when requested by the client/family.

D. Physical Evaluations/Examinations. Each client shall have a documented physical evaluation and examination by a physician or advanced practice registered nurse as follows:

1. upon admission;
2. every other week until the client becomes physically stable;
3. as warranted by patient response to medication during the initial stabilization period or any other subsequent stabilization period;
4. after the first year, annually thereafter; and
5. any time that the client is medically unstable.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

#### **§7435. Additional Staffing and Training Requirements**

A. Staffing. All requirements in this Section are in addition to other staffing requirements in these licensing provisions.

1. Pharmacist or Dispensing Physician. An opioid treatment program that dispenses prescription medication on-site shall employ or contract with a pharmacist or dispensing physician to assure that any prescription medication dispensed on-site shall meet the requirements of R.S. 37:1161 et seq.

a. The pharmacist or dispensing physician shall have a current, valid license to practice in the state of Louisiana.

b. The facility shall employ or have written agreement with a licensed pharmacist or licensed dispensing physician to:

- i. provide on-site services;
- ii. consult with the facility as needed;
- iii. evaluate medication policy and procedure of facility to dispense medications;
- iv. reconcile inventories of medications that were dispensed and/or administered at least every 30 days;
- v. maintain medication records for at least three years; and
- vi. approve all transport devices for take home medications in accordance with the program's diversion control policy.

2. Nursing. All medication shall be administered by a nurse or licensed practitioner licensed under state law and registered under the appropriate state and federal laws to administer opioid drugs, or by an agency of such a practitioner, supervised by and under the order of the licensed practitioner.

3. QPS. An opioid treatment program shall hire or contract with a QPS to provide services for at least five hours per week per 100 clients.

4. QP. There must be a minimum of one full time QP for every 75 clients.

B. Training. In addition to orientation requirements for all SA/A facilities all direct care employees shall receive orientation and annual training and be able to demonstrate knowledge of the following:

1. symptoms of opiate withdrawal;
2. drug urine screens and collections, policies and procedures;
3. current standards of practice regarding opiate addiction treatment;
4. poly-drug addiction; and
5. information necessary to assure care is provided within accepted standards of practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

#### **§7437. Medications**

A. Take Home Dose(s). Determinations for take home dose(s) shall be made by the treatment team, documented in the client record, and ordered by the medical director.

1. Client Responsibilities/Considerations Factors. The following must be documented in the client's record before a take home dose is authorized by the treatment team:

- a. negative drug/alcohol screens for at least 30 days;
- b. regularity of clinic attendance;
- c. absence of serious behavioral problems;
- d. absence of known criminal activity;
- e. absence of known drug related criminal activity during treatment;
- f. stability of home environment and social relationships;
- g. assurance that take home medication can be safely stored; and
- h. whether the benefit to the client outweighs the risk of diversion.

2. Standard Schedule (if indicated)

a. After the first 30 days of treatment, and during the remainder of the first 90 days of treatment, one take home dose per week may be allowed if the treatment team and medical director determine, after consideration of the factors above, that the take home dose is appropriate. Documentation of the determination and the consideration of the above factors must be contained in the client record.

b. In the second 90 days of treatment, two take home doses per week may be allowed if the treatment team and medical director determine, after consideration of the factors above, that the take home doses are appropriate. Documentation of the determination and the consideration of each of the factors listed above must be contained in the client record.

c. In the third 90 days of treatment, three take home doses per week may be allowed if the treatment team and medical director determine, after consideration of the factors above, that the take home doses are appropriate. Documentation of the determination and of the consideration of each of the factors listed above must be contained in the client record.

d. In the final 90 days of treatment of the first year, four take home doses per week may be allowed if the treatment team and medical director determine, after consideration of the factors above, that the take home doses are appropriate. Documentation of the determination and of the consideration of each of the factors listed above must be contained in the client record.

e. After one year in treatment, a six-day take home dose supply may be allowed once a week if the treatment team and medical director determine, after consideration to the factors above, that the take home doses are appropriate. Documentation of the determination and of the consideration of each of the factors listed above must be contained in the client record.

f. After two years in treatment, a 13-day dose supply, consisting of take home doses may be allowed once every two weeks if the treatment team and medical director determine, after consideration of each of the factors above, that the take home doses are appropriate. Documentation of the determination and of the consideration of each of the factors listed above must be contained in the client record.

3. Loss of Privilege. Positive drug screens at any time for any drug other than those prescribed will require a new determination to be made by the treatment team regarding take-home doses.

4. An exception to the standard schedule can only be granted for emergencies and severe travel hardships. The facility must request the exception and obtain approval for the exception from the appropriate federal agency. The facility must retain documentation in the client's clinical record which includes:

a. documentation by the physician as to the justification for the requested exception; and

b. documentation of the federal approval or the federal exception.

B. Temporary Transfers or Guest Dosing. The facilities involved shall do the following.

1. The receiving facility shall verify dosage prior to dispensing and administering medication.

2. The sending facility shall verify dosage and obtain approval/acceptance from receiving facility prior to client's transfer.

3. The facility shall maintain documentation to support all temporary transfers and guest dosing.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

#### **§7439. Client Records**

A. Specific additional requirements for client records documentation include:

1. standards of clinical practice regarding medication administration/dispensing;

2. results of five most recent drug urine screens with action taken for positive results;

3. physical status and use of additional prescription medication;

4. monthly or more frequently, as indicated by needs of client, contact notes/progress notes which include employment/vocational needs, legal and social status, overall individual stability; and

5. any other pertinent information.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:

#### **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 effect on family functioning, stability and autonomy as described in R.S. 49:972 by assuring the safe operation of substance abuse/addiction treatment facilities.

#### **Public Comments**

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Wednesday, March 28, 2012 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Substance Abuse and Addiction Treatment Facilities—Licensing Standards**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 11-12. It is anticipated that \$15,580 (SGF) will be expended in FY 11-12 for the state's administrative expense for promulgation of this proposed rule and the final rule.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will increase revenue collections to the Department by approximately \$7,200 for FY 11-12, \$7,200 for FY 12-13, and \$7,200 for FY 13-14 as a result of the collection of annual fees from the licensing of new substance abuse facilities (12 facilities).

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This rule proposes to repeal and replace the provisions governing substance abuse/addiction treatment facilities (approx. 174 existing facilities and 12 new facilities) in order to establish licensing provisions that will support the coordinated system of delivery for substance abuse services as a result of implementation of the Louisiana Behavioral Health Partnership. It is anticipated that implementation of this proposed rule will have economic costs to new facilities of approximately \$7,200 for FY 11-12, \$7,200 for FY 12-13, and \$7,200 for FY 13-14 for licensing fees.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This rule has no known effect on competition and employment.

Don Gregory  
Medicaid Director  
1202#058

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Public Safety and Corrections Corrections Services

#### Offender Incentive Pay and Other Wage Compensation (LAC 22:I.331)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to amend the contents of Section 331 Offender Incentive Pay and Other Wage Compensation.

#### Title 22

### CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

#### Part I. Corrections

#### Chapter 3. Adult Services

#### Subchapter A. General

#### §331. Offender Incentive Pay and Other Wage Compensation

A. Purpose—to state the secretary’s policy regarding payment of incentive wages and other wage compensations to offenders.

B. Applicability—deputy secretary, undersecretary, chief of operations, assistant secretary, director of prison enterprises, regional wardens and wardens. Each unit head is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.

C. Policy. It is the secretary’s policy that compensation shall be paid, in accordance with the provisions of this regulation, to all offenders who have served at least three years of their sentence in the physical custody of the department and who have performed satisfactory work in the job assignment in which they have been classified (except those offenders who opt to receive good time in lieu of incentive wages in accordance with R.S. 15:571.3).

#### D. Procedures

1. An offender sentenced or resentenced or who is returning to the physical custody of the department on or after September 20, 2008, who is not eligible to earn good time at any rate shall serve three years from the date of reception before becoming eligible to earn incentive pay.

a. Grandfather Clause. The provisions of this section are applicable to offenders received at the reception and diagnostic centers on or after September 20, 2008. Offenders received at reception and diagnostic centers prior to this date shall be subject to the waiting period previously in effect for this regulation. Offenders who are currently receiving incentive pay will not be affected and will continue to be eligible to receive incentive pay as they did on the effective date of this regulation but shall be subject to the provisions of Paragraph D.2, as it applies to job changes.

2. Once eligible to earn incentive pay, each offender shall initially be paid an “introductory pay level” of two cents per hour for a period of six months. After six months, the offender shall be paid at the lowest pay rate that is commensurate with the job assignment he is placed in by the institution. In the event of a change in an offender’s job assignment or custody status, the offender’s rate of compensation shall automatically be adjusted to the lowest

pay rate of the assigned job. If the change in job assignment is not for disciplinary reasons, but due to institutional needs, the offender shall be paid at the same rate as the previous job assignment and the rate of compensation shall not be automatically adjusted to the lowest pay rate of the new job assignment. Institutional need shall only be determined by the warden or designee based on the circumstances of the facility and the skills of the offender population. All job changes for institutional need shall be approved by the warden or designee.

a. Grandfather Clause. Offenders earning incentive pay at any rate, prior to the effective date of this regulation, shall continue to earn at these rates. If the offender is reassigned to a new job or vacates the job for any reason and it has been determined the rate of pay for the job that he is leaving should be lower, the next offender to fill that position will receive the adjusted lower rate.

3. An offender may receive a raise in his hourly pay rate of no greater than \$0.04 per hour on an annual basis unless specifically authorized by mutual agreement of the director of prison enterprises and the warden of the respective institution, except as provided in Paragraphs D.12 and 13 below.

4. No offender shall earn more than 80 hours in a two-week period unless specifically authorized by mutual agreement of the director of prison enterprises and the warden of the respective institution.

a. Exception. Offenders assigned to job duties at the governor’s mansion will not be limited to 80 hours bi-weekly.

5. An offender sentenced or re-sentenced or who is returning to the physical custody of the department on or after the effective date of this regulation shall not be eligible to earn incentive wages, if the offender is eligible to earn good time at any rate.

a. Grandfather Clause. Offenders currently earning good time at a rate of three days for every seventeen days served in accordance with Act 1099 of the 1995 Regular Session who are also earning incentive pay shall be allowed to continue to earn incentive pay at authorized rates.

6. Any offender who has his incentive pay forfeited as a disciplinary sanction shall return to the “introductory pay level” of two cents per hour for a six month period upon reinstatement of his right to earn incentive pay. At the end of the six month period, the offender’s pay will be automatically adjusted to the lowest pay rate for the assigned job.

7. A series of pay ranges and a standardized list of job titles shall be established by the director of prison enterprises and approved by the secretary or designee. The institutions shall be assigned limits on the total amount of incentive wages paid in certain pay ranges. These limits shall be derived on a percentage basis determined by the total hours worked by offenders who are eligible to earn incentive pay at each institution and shall be approved by the director of prison enterprises and the secretary or designee. Prison enterprises shall issue reports detailing each institution’s status with regard to their limits on a quarterly basis. Offender banking shall monitor the assigned limits to ensure that the institutions remain within their limits and report discrepancies to the chief of operations, the appropriate

regional warden, the director of prison enterprises and the warden of the institution.

a. The regional wardens shall work closely with the director of prison enterprises to ensure that any institution that exceeds the established limits is brought back into compliance in an expeditious manner.

b. Exception. Offenders who work in prison enterprises job titles will not affect an institution's pay range percentage limits.

8. Incentive wages shall not be paid for extra duty assignments that are imposed as sanctions through the offender disciplinary process.

9. All offenders classified in limited duty status and who are eligible to earn incentive wages shall earn at a rate of no more than \$0.04 per hour. This excludes offenders classified as regular duty with restrictions or those with a temporary limited duty status.

10. All offenders classified in working cellblocks and maximum custody field lines who are eligible to earn incentive wages shall earn at the rate of \$0.02 per hour.

11. All offenders assigned to educational or vocational programs who are eligible to earn incentive wages shall be paid at the rate of \$0.04 per hour.

a. Exception. Due to the importance of the New Orleans Baptist Theological Seminary program and its positive impact on the department, offenders enrolled in this program shall earn incentive wages at the following rates.

Freshmen	\$0.14 per hour
Sophomores	\$0.16 per hour
Juniors	\$0.18 per hour
Seniors	\$0.20 per hour

b. Upon completion of any educational or vocational program, the offender may, upon request and at the discretion of the warden and based upon availability, return to the same job at the same rate of pay he held prior to enrollment in the program.

12. Offenders assigned to prison enterprises industrial, agricultural, service or other prison enterprises jobs may be compensated at a rate up to \$0.40 per hour. The pay range for these jobs shall be established by the director of prison enterprises and approved by the secretary or designee.

13. Offender tutors who achieve certification from the Corrections Education Association (CEA) or an NCCER or other industry based certification may be paid, on a graduating scale, up to \$1.00 per hour while working as a tutor in the area of certification. Certified tutors may earn \$0.75 per hour during the first twelve months after certification and may receive an annual raise of ten cents per hour, up to a maximum of \$1.00 per hour.

14. In accordance with established procedures, offenders who are participating in the American sign language interpreting program shall earn incentive wages at the following rates.

Sign Language Student I	\$0.20 per hour
Sign Language Student II	\$0.30 per hour
Sign Language Interpreter Student	\$0.50 per hour
Sign Language Interpreter Intern	\$0.60 per hour
Sign Language Interpreter	\$0.75 per hour-may be increased to a maximum of \$1.00 per hour

15. Offenders who are eligible to earn incentive wages shall be paid only for actual hours worked in their job assignment. Offenders shall not be paid for time spent away from their job assignment due to circumstances such as holidays, callouts, duty status, weather, illness, etc.

16. For the purpose of this regulation, income earned from a private sector/prison industry enhancement (PS/PIE) program or a transitional work program is not "incentive pay." Therefore, offenders employed in any of these programs may receive good time in accordance with the law. The director of prison enterprises shall establish record-keeping procedures relating to wages earned by offenders employed in a PS/PIE program that include all mandatory deductions from offender wages, other deductions such as child support or garnishment and the distribution of net offender wages to offender banking.

**E. Sources of Funding**

1. The division of prison enterprises shall pay all incentive wages.

2. Offenders who are employed in a certified PS/PIE program shall be paid by the private business that employs them or by prison enterprises depending upon the type of PS/PIE program that is in operation, in accordance with the terms stated in the employment agreement.

3. Offenders who are participating in a transitional work program shall be paid by the private business that employs them, in accordance with the terms outlined in the employment agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 34:1927 (September 2008), amended LR 36:531 (March 2010), LR 38:

**Family Impact Statement**

Amendment to the current Rule has no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

**Public Comments**

Written comments may be addressed to Melissa Callahan, Deputy Assistant Secretary, Department of Public Safety and Corrections, P. O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on March 12, 2012.

James M. Le Blanc  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**  
**RULE TITLE: Offender Incentive Pay and Other Wage Compensation**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule change may result in an indeterminable decrease in costs to the Department of Corrections to the extent offenders are used as sign language interpreters in place of contracted sign language professionals. Classes that teach offenders to be sign language interpreters are currently being conducted. The American Sign Language (ASL) program is currently taught by sign language professionals who also interpret for offenders in rehabilitation programs, such as substance abuse and GED classes. Sign language professionals under contract are paid at a rate of \$75.00 per hour. The ASL program began as part of a settlement agreement in 2008

between the Department of Corrections and the U.S. Department of Justice regarding offender communication. As offenders become more skilled, they may be used to interpret GED classes, substance abuse classes, and other instances where an interpreter will be needed instead of a contracted interpreter.

Based on implementation of the proposed amendments to this rule and the associated proposed hourly rates, offenders participating in the ASL Interpreting Program would earn a higher pay scale than normal based upon the advancement level within the program for which they have achieved. The new pay scale would contain five levels in order from Sign Language Student 1 (\$0.20 per hour), Sign Language Student 2 (\$0.30 per hour), Sign Language Interpreter Student (\$0.50 per hour), Sign Language Interpreter Intern (\$0.60 per hour), and Sign Language Interpreter (\$0.75 - \$1.00 per hour). Currently, there are 570 offenders department wide that are hearing impaired and 20 offenders enrolled as sign language students. To the extent an offender that earns \$1.00 per hour is able to interpret a substance abuse class in place of a contracted profession; the savings would \$74.00 per hour (\$75.00 per hour for professional interpreter - \$1.00 per hour for offender interpreter).

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)

Offenders enrolled as sign language interpreters will receive an economic benefit of an hourly wage depending on the level achieved in the program. Currently, 20 offenders are training to be sign language interpreters and would receive an hourly rate of \$0.20 to \$0.30 for their interpreting services, depending on their level of skill. The amount earned by offenders is indeterminable since it is unknown how much each offender would be used as a sign language interpreter.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The contract service level of sign language interpreters entered into by the Department of Corrections may be reduced as a result of offenders becoming skilled as sign language interpreters.

Thomas C. Bickham, III  
Undersecretary  
1202#046

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Gaming Control Board**

Gaming—Regulation Consolidation  
(LAC 42:III, VII, IX and XIII)

The Louisiana Gaming Control Board hereby gives notice that pursuant to R.S. 27:15 and R.S. 27:24 it intends to promulgate a regulation reorganization by consolidating Chapters from Parts VII, IX and XIII of Title 42 of the Louisiana Administrative Code into Part III as the changes are intended to create uniformity. Those chapters within Parts VII, IX and XIII will be repealed.

**Title 42**

**LOUISIANA GAMING**

**Part III. Gaming Control Board**

**Chapter 17. General Provisions**

Editor's Note: The information for this Chapter was consolidated from corresponding Chapters in Parts VII, IX, and XIII prior to their being repealed.

**§1701. Definitions**

A. The provisions of the Act relating to definitions, words and terms are hereby incorporated by reference and made a part hereof and will therefore apply and govern the interpretation of these rules, unless the context otherwise requires or unless specifically redefined in a particular Section. Any word or term not defined in these rules shall have the same meaning ascribed to it in the Act. Any word not defined by the Act or these regulations shall be construed in accordance with its plain and ordinary meaning.

B. As used in the Part III, Part VII, Part IX and Part XIII of Title 42 of the Louisiana Administrative Code, the following words and terms shall have the following meanings:

*Act*—the Louisiana Gaming Control Law, R.S. 27:1 et seq.

*Administrative Action*—any revocation, suspension, finding of unsuitability, or conditioning of a license or permit, or imposition of a civil penalty.

*Affiliate*—

a. a person that directly or indirectly through one or more intermediary or holding company, controls, or is controlled by, or is under common control with the licensee, casino operator or casino manager and is involved in gaming activities in this state or involved in the ownership of property in this state upon which gaming activities are conducted;

b. whenever the term affiliate is used with respect to the casino operator, the term also means and includes any person holding a direct or indirect shareholder interest that gives such person the ability to control the casino operator or any person owning a 5 percent or more direct interest in the casino operator.

i. For purposes of calculating the percentage of ownership interest, the following shall be attributed to such person:

(a) the ownership, income, or profit interest held by a trustee of a trust of which a person is a beneficiary; and

(b) the interest held by a member of such person's immediate family. Immediate family means a person's spouse, children, parents, brothers, sisters, nieces, nephews and cousins to the first degree.

ii. Notwithstanding the foregoing, a shareholder owning, directly or indirectly, 5 percent or more ownership, income or profit interest in a corporation, the shares of which are widely held and publicly traded, shall not be an affiliate of a person, unless the board determines the shareholder controls that person or an intermediary, effectively controls, or is controlled by, or is under common control with, a specified person.

*Applicant*—any person who has submitted an application or bid to the board or division for a license, permit, registration, contract, certificate or other finding of suitability or approval, or renewal thereof, authorized by the Act or rule of the board.

*Applicant Records*—those records which contain information and data pertaining to an applicant's criminal record, background, and financial records, furnished to or obtained by the board or division from any source incidental to an investigation for licensing or permitting, findings of suitability, registration, the continuing obligation to maintain suitability, or other approval.

*Application*—the documentation, forms and schedules prescribed by the board or division upon which an applicant seeks a license, permit, registration, contract, certificate or other finding of suitability or approval, or renewal thereof, authorized by the Act or rule. Application also includes questionnaires, information, disclosure statements, financial statements, affidavits, and all documents incorporated in, attached to, or submitted by an applicant or requested by the board or division.

*Approve, Approves, Approved or Approval*—the authority of the board or division, prior to an action or transaction, to confirm, uphold or grant permission with respect to the subject matter of that action or transaction.

*Architectural Plans and Specifications or Architectural Plans or Plans or Specifications*—all of the plans, drawings, and specifications for the construction, furnishing, and equipping of a riverboat or the official gaming establishment or a licensed eligible facility, including, but not limited to, detailed specifications and illustrative drawings or models depicting the proposed size, layout and configuration of the component parts of the vessel, or the official gaming establishment or licensed eligible facility, including electrical and plumbing systems, engineering, structure, and aesthetic interior and exterior design as are prepared by one or more licensed professional architects and engineers. *Architectural plans and specifications* does not include FF and E.

*Associated Equipment*—any gaming equipment which does not affect the outcome of the game, is not used to facilitate gaming funds transfers or is not related to the security of a gaming device, except as otherwise provided in these rules.

*Background Investigation*—all efforts, whether prior to or subsequent to the filing of an application, designed to discover information about an applicant, affiliate, licensee, permittee, registrant, casino operator or other person required to be found suitable and includes without time limitations, any additional or deferred efforts to fully develop the understanding of information which was provided or should have been provided or obtained during the application process.

*Base Amount*—the amount of the progressive jackpot offered before it increases.

*Berth*—a location where a riverboat is or will be authorized to dock as provided in the Act and rules.

*Board*—the Louisiana Gaming Control Board.

*Business Entity or Legal Entity*—a natural person, a corporation, limited liability company, partnership, joint stock association, sole proprietorship, joint venture, business association, cooperative association, professional corporation or any other legal entity or organization through which business is conducted.

*Business Year*—the annual period used by a licensee or casino operator for internal accounting purposes as approved by the division.

*Casino*—the entirety of the building and improvements including the furniture, fixture, and equipment, the operating equipment and operating supplies and all other improvements located at the licensed eligible facility, at the Rivergate site in the parish of Orleans or upon a riverboat.

*Casino Gaming Operations*—gaming operations offered or conducted at or in the official gaming establishment.

*Casino Manager*—a person with whom the casino operator contracts to provide all or substantially all of the services necessary for the day-to-day management and operation of the official gaming establishment pursuant to the casino operating contract and these regulations, who or which has been found suitable by the board.

*Casino Operating Contract*—a contract let or bid by the board, in accordance with the provisions of the Act, authorizing a casino operator to conduct casino gaming operations at the official gaming establishment for the benefit of the state and the casino operator.

*Casino Operator*—any person who enters into a casino operating contract with the board.

*Certification Fees*—the fees charged by the board or division incidental to the certification of documents.

*Chairman*—the chairman of the board.

*Cheating Device*—any tangible object, item, contrivance, part or device, including a computerized, electronic or mechanical device used, or attempted to be used, to alter the randomness of any game or any gaming device in a casino; or to play any game or gaming device without placing the required wager in order for a person to win, or attempt to win, money or property or combination thereof, or reduce or attempt to reduce, or increase or attempt to increase, either a losing or winning wager; or any device used by a person to gain an unfair advantage.

*Check Cashing Cage*—the area of a casino to be accessed by the designated check cashing representative or its employees for the purposes of cashing checks and making credit card advances.

*Confidential Record*—any paper, document or other record or data reduced to a record which is not open to public inspection pursuant to the Act or Chapter 39 of these rules

*Confidential Source*—a person who provides information and the revelation of whose identity would tend to compromise the flow of information from that particular provider or his class of providers.

*Counterfeit Chips or Counterfeit Tokens*—any chip or token-like objects that have not been approved by the division, including objects commonly referred to as "slugs," but not including coins of the United States or any other nation.

*Day*—shall mean a calendar day unless preceded by the words "gaming" or "casino gaming."

*Debt Transaction*—a transaction in which the licensee, casino operator, casino manager or an affiliate incurs debt including, but not limited to, the following:

- a. loans, lines of credit or similar financing;
- b. public and private debt offerings; or
- c. any transaction that provides guarantees, grants a form of security or encumbers assets of the licensee, casino operator or casino manager or an affiliate.

*Default Interest Rate*—a floating rate of interest at all times equal to the greater of:



a. the prime rate of Citibank, N.A. or its successor plus 5 percent; or

b. 15 percent per annum, provided, however, that the default interest rate shall not exceed the maximum interest rate allowed by applicable law.

*Designated Check Cashing Representative*—a person designated by the licensee or casino operator to oversee and assume responsibility for cashing patrons' checks and facilitating credit card cash advances to patrons.

*Designated Gaming Area*—

a. for the licensed eligible facility, the contiguous area of the eligible facility at which slot machine gaming may be conducted in accordance with the Act, determined by measuring the area, in square feet, inside the interior walls of the eligible facility, excluding any space therein in which gaming activities may not be conducted, such as bathrooms, stairwells, cage and beverage areas, and emergency evacuation routes that meet or exceed the minimum size required by law;

b. for the casino operator, those portions of the official gaming establishment in which gaming activities may be conducted. The designated gaming area shall not be less than 100,000 square feet of usable space;

c. for riverboats, that portion of a riverboat in which gaming activity may be conducted which shall not exceed 60 percent of the total square footage of the passenger access area of the vessel or 30,000 square feet, whichever is less. Designated gaming area shall be determined by measuring the area (in square feet) inside the interior walls of the riverboats, excluding any space therein in which gaming activities may not be conducted, such as bathrooms, stairwells, cage and beverage area, and emergency evacuation routes. Plans shall be submitted to and approved by the board or division, as applicable.

*Designated Representative*—a person designated by a licensee or the casino operator to oversee and assume responsibility for the operation of the licensee's or casino operator's gaming business.

*Designated River or Designated Waterway*—those rivers or bodies of water upon which gaming activities may be conducted in accordance with the Act.

*Division or Department*—the division of the office of state police, Department of Public Safety, which provides investigatory, regulatory and enforcement services to the board in the implementation, administration and enforcement of the Act.

*Division Agent*—any commissioned Louisiana state police trooper or designated employee of the division.

*Dock or Docking*—to lower the gangplank to a pier or shore or to anchor a riverboat at a pier or shore, or both.

*Dock Side Facility*—the place where docking occurs and where one or more berths may be located.

*Drop*—

a. for table games, the total amount of money and cash equivalents contained in the drop boxes.

b. for slot machines, the total amount of money and cash equivalents contained in the drop box, bill validator acceptor, and the amounts deducted from a player's slot account as a result of slot machine play.

*Duplication Fees*—a charge for duplicating documents for release to the requesting person.

*Economic Interest*—any interest in a casino operating contract, license or permit from which a person receives or is entitled to receive, by agreement or otherwise, a profit, gain, thing of value, loss, credit, security interest, ownership interest or other benefit. Economic interest includes voting shares of stock or otherwise exercising control of the day to day operations through a management agreement or similar contract. Economic interest does not include a debt unless upon review of the instrument, contract, or other evidence of indebtedness, the board or division determines a finding of suitability is required based upon the economic relationship with the casino operator, licensee, or permittee.

*Electronic Fund Transfer or Sweep*—any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephone, computer, or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account.

*Electronic Gaming Device or EGD or Slot Machine*—any mechanical, electrical, or other device, contrivance, or machine which, upon insertion of a coin, cash, token, or similar object therein or upon payment of any consideration whatsoever, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of an element of chance, or both, may deliver or entitle the person playing or operating the machine to receive cash, premiums, merchandise, tokens, or anything of value, where the payoff is made automatically from the machine or in any other manner.

*Eligible facility*—a facility as defined in the Act at which the Louisiana Racing Commission has licensed the conduct of live horse race meetings.

*Emergency Evacuation Route*—

a. for a licensed eligible facility it means those areas within the designated slot machine gaming area which are clearly defined and identified by the licensee as necessary, and approved by the state fire marshal or other federal or state regulatory agency, for the evacuation of patrons and employees from the facility, and from which and in which no gaming activity may occur.

b. for a riverboat it means those areas within the designated gaming area which are clearly defined and identified by the licensee as necessary, and approved by the United States Coast Guard or the board's third party inspector, for the evacuation of passengers and crew from the riverboat, and from which and in which no gaming activity may be conducted.

*FF and E (Furniture, Fixture and Equipment)*—any part of a casino that may be installed or put into use as purchased from a manufacturer, supplier, or non-gaming supplier including, but not limited to, gaming devices, television cameras, television monitors, computer systems, computer programs, computers, computer printers, ready-made furniture and fixtures, appliances, accessories, and all other similar kinds of equipment and furnishings.

*Financial Statements or Financial Records*—both summaries of financial matters of any sort and any source documents or records from which summaries are or may be derived. Those statements and the information contained therein which relate to balance sheets, profit and loss statements, mortgages, debt instruments, ledgers, journals,

invoices, and any other document bearing on the financial status of an entity, whether historical or current.

*Finder's Fee*—

a. any compensation in money in excess of the sum of \$5,000 annually, or real or personal property valued in excess of the sum of \$5,000 annually, which is paid or transferred or agreed to be paid or transferred to any person in consideration for the arrangement or negotiation of an extension of credit to a licensee, casino operator a registered company, or applicant if the proceeds of such extension of credit are intended to be used for any of the following purposes:

- i. the acquisition of an interest in the licensee, casino operator or registered company; or
  - ii. the financing of the gaming operations of licensee, casino operator or registered company;
- b. the term finder's fees shall not include:
- i. compensation to the person who extends the credit;
  - ii. normal and customary payments to employees of the person to whom the credit was extended if the arrangement or negotiation of credit is part of their normal duties;
  - iii. normal and customary payments for bona fide professional services rendered by lawyers, accountants, engineers and appraisers;
  - iv. underwriting discounts paid to a member of the National Association of Securities Dealers, Inc.; and
  - v. normal and customary payments to a person qualifying as a suitable lender, as defined by the casino operating contract or the Act.

*Fiscal Year*—

- a. for the state, the period beginning July 1 and ending June 30 the following year;
- b. for the casino operator, the period beginning April 1 and ending March 31 the following year. The first fiscal year shall be the period commencing on the casino opening date and ending on the first March 31 to occur after the casino opening date. The term full fiscal year means any fiscal year containing not fewer than 365 days. A fiscal year containing 366 days is a fiscal leap year. Any partial fiscal year ending with the expiration of the term but not ending due to a termination as a result of an event of default shall constitute the last fiscal year.

*Funds*—money or anything of value.

*Game*—any banking or percentage game which is played with cards, dice, or any electronic, electrical, or mechanical device or machine for money, property, or anything of value. Game does not include lottery, bingo, charitable games, raffles, electronic video bingo, pull tabs, cable television bingo, wagering on dogs, sports betting, or wagering on any type of sports event, inclusive of but not limited to football, basketball, baseball, hockey, boxing, tennis, wrestling, jai alai, or other sports contest or event. Except for riverboat gaming as provided by the Act, game does not include horse wagering.

*Game Outcome*—the final result of the wager.

*Gaming Activities* or *Gaming Operations*—the use, operation, offering, or conducting of any game or gaming device by a licensee or casino operator in accordance with the provisions of the Act.

*Gaming Day*—the 24-hour period by which the casino keeps its books and records for business, accounting, and tax purposes.

*Gaming Device*—any equipment or mechanical, electro-mechanical, or electronic contrivance, component, or machine, including a slot machine or EGD, used directly or indirectly in connection with gaming or any game, which affects the results of a wager by determining wins or losses.

*Gaming Employee*—a key gaming employee or Non-key gaming employee

*Gaming Employee Permit* or *Employee Permit*—the permit issued to a key gaming employee or non-key gaming employee

*Gaming Equipment*—equipment used directly or indirectly in connection with gaming or any game which affects the result of a wager by determining wins or losses or the amount of the win; equipment used to facilitate gaming funds transfer; or equipment related to the security of the associated gaming devices.

*Gaming License*—see *license*.

*Gaming Operator*—a person licensed by the board or authorized by contract with the board to conduct gaming activities in accordance with the Act.

*Gaming Supplier* or *Distributor*—any person who supplies, sells or leases, or contracts to sell or lease, gaming devices, equipment, or supplies to a licensee or casino operator.

*Gaming Supplier Permit*—the permit of a gaming supplier.

*Gaming Supplies*—all materials, equipment and supplies other than gaming devices which the board or division finds or determines to be used or expended in gaming operations or gaming activities.

*Gross Gaming Revenue*—the total receipts of the casino operator from gaming operations, including cash, checks, property and credit extended to a patron for purposes of gaming less the total value of all amount paid out as winnings to patrons and credit instruments or checks which are uncollected subject to an annual cap of uncollected credit instruments and checks of 4 percent of the total receipts of the casino operator from gaming operations, including all cash, checks, property, and credit extended to a patron for purposes of gaming in a fiscal year. Winnings for purposes of this definition means the total amount delivered by a gaming device as win to a patron or the amount determined by the approved table games odds as win to a patron, exclusive of any double jackpots, increased payouts in addition to table games odds or other increased payouts that result from promotional activities, unless otherwise approved in advance by the board.

*Incremental Amount*—the difference between the amount of a progressive jackpot and its base amount.

*Inspection*—surveillance and observation by the board or division of operations conducted by a licensee, casino operator or permittee which may or may not be made known to the licensee, casino operator or permittee. Inspection also means a surveillance or examination of the activities of a licensee, casino operator, or permittee including the construction of a riverboat, eligible facility or the official gaming establishment.

*Internal Controls*—internal procedures and administration and accounting controls designed by the licensee or the casino operator for the purpose of exercising control over the gaming operations and for complete and accurate calculation and reporting of financial data and approved by the division.

*Junket Representative*—

a. any person who contracts with a licensee, casino operator or their affiliates to provide services consisting of arranging transportation to the casino where the person is to receive compensation based upon either:

- i. a percentage of win or drop of the casino's patrons;
- ii. a percentage of the theoretical win or drop of the casino's patrons; or
- iii. any other method of compensation that is contingent on or related to the gaming activity of the casino's patrons including, but not limited to, any lump sum or flat rate compensation.

b. the term *junket representative* shall not include:

- i. a licensee, casino operator and their employees or any licensed or approved affiliate;
- ii. a supplier of transportation or a travel agency whose compensation is based solely upon the price of transportation arranged for by the agency; or
- iii. a person that is paid a nominal fixed fee for each casino patron that the person brings to the casino, provided that:

(a). the fixed fee does not exceed \$20 for each casino patron; and

(b). no portion of the compensation paid is based upon the gaming activity of the patron at the casino.

*Key Gaming Employee* or *Managerial Employee*—an employee, agent or representative of a licensee, casino operator or permittee, whether or not a gaming employee, who, in the opinion of the board or division, holds or exercises critical or significant management or operating authority over the casino operator, licensee or permittee. *Key gaming employee* or *managerial employee* includes, but is not limited to:

a. any individual who is employed in a director or department head capacity and who is empowered to make discretionary decisions that regulate gaming activities including, but not limited to, the general manager and assistant general manager, director/manager of finance, accounting controller, director/manager of cage and/or credit operations, director/manager of casino operations, director/manager of table games, director/manager of slots, slot performance director/manager, director/manager of security, director/manager of surveillance, and director/manager of management information systems;

b. any employee who supervises the operations of the departments identified in Subparagraph a or to whom the individual department directors report;

c. any other position which the board or division later determines is a key position based upon a detailed analysis of job descriptions as provided in the internal controls and observations of the functions of the position; and

d. any individual designated as managerial representative on premises by a licensee or the casino operator.

*Key Gaming Employee Permit*—the permit of a key gaming employee.

*License* or *Operator's License*—the authorization to conduct gaming activities on a riverboat or at an eligible facility issued in accordance with the Act.

*Licensee*—person issued a license in accordance with the Act.

*Louisiana Business, Louisiana Company, Louisiana Corporation* or *Louisiana Firm*—a business, company, corporation or firm which is at least 51 percent owned by one or more Louisiana individual domiciliaries and/or a corporation, limited liability company or other business entity with a legal and commercial domicile in Louisiana who also control and operate the business shall be considered a Louisiana business, company, corporation or firm for purposes of Louisiana Gaming Control Law and Regulations. A business, company, corporation or firm qualified with the Secretary of State and authorized to do business in Louisiana which has a physical presence in the state in the form of property or facilities owned or leased in Louisiana and which employs Louisiana residents who control and operate the Louisiana business activity or enterprise may be considered a Louisiana business, company, corporation or firm. *Control* in this context means exercising the power to make policy decisions. *Operate* in this context means being actively involved in the day-to-day management of the business. *Commercial domicile* in this context means the place from which the business is directed or managed.

*Manufacturer*—any person that manufactures, assembles, produces, or programs slot machines or gaming devices, supplies, or equipment for sale, use or play in this state.

*Manufacturer Permit*—the permit of a manufacturer.

*M.E.A.L*—machine entry authorization log.

*Minority Business Enterprise* or *Minority Owned Business*—a business performing a commercially useful function which is at least 51 percent owned by one or more minority individuals domiciled in Louisiana who also control and operate the business. Control in this context means exercising the power to make policy decisions. Operate in this context, means being actively involved in the day-to-day management of the business.

*Net Gaming Proceeds*—the total of all cash and property including checks, whether collected or not, received by a riverboat licensee from gaming operations less the total of all cash paid out as winnings to patrons.

*Net Slot Machine Proceeds*—the total of all cash and property received by a licensee of an eligible facility minus the amount of cash and prizes paid to winners.

*Non-Gaming Supplier* or *Supplier of Goods* or *Services Other than Gaming Devices* or *Gaming Equipment*—any person who sells, leases or otherwise distributes, directly or indirectly, goods or services other than gaming equipment and supplies to a licensee or casino operator.

*Non-Gaming Supplier Permit*—the permit of a non-gaming supplier.

*Non-Key Gaming Employee*—a person employed in the operation or supervision of a gaming activity including employees empowered to make discretionary decisions that regulate gaming activities. Non-key gaming employee includes, but is not limited to:

a. captains, master of the vessel, pit bosses, pit managers, floormen, boxmen, dealers or croupiers, device technicians, designated gaming area security employees, count room personnel, cage personnel, slot machine and slot booth personnel, slot machine technicians and mechanics, slot machine change personnel, credit and collection personnel, casino surveillance personnel, bartenders that are allowed to make change for gaming, shift supervisors, shift bosses, credit executives, gaming cashier supervisors, gaming managers and assistant managers;

b. any individual whose employment duties require or authorize access to designated gaming areas as determined by the board or division, other than non-gaming equipment maintenance personnel, cleaning personnel, waiters, waitresses, and secretaries; and

c. any person whose access level allows authorization to change or distribute complimentary balances of patron accounts in the licensee's or the casino operator's gaming database.

*Non-Key Gaming Employee Permit*—the permit of a non-key gaming employee.

*Nonprofit Charitable Organization*—a nonprofit board, association, corporation, or other organization and qualified with the United States Internal Revenue Service for an exemption from federal income tax under section 501(c)(3), (4), (5), (6), (7), (8), (10), or (19) of the Internal Revenue Code.

*Official Gaming Establishment*—the entirety of the building and improvements including the furniture, fixtures and equipment, operating supplies and all other improvements located at the Rivergate site in Orleans Parish.

*Paddlewheel Driven*—having one or more functional paddlewheels which, in the opinion of the board, substantially contribute to the overall propulsion of a riverboat.

*Passenger*—a natural person who is present on a riverboat but has no part in the vessel's operation.

*Passenger Access Area*—any enclosed or unenclosed area of a riverboat that is open to the public including, but not limited to, lavatories, restaurants, shopping areas, seating, lounges, entertainment areas, the outside deck areas and the designated gaming area.

*Patron*—an individual who is at least 21 years of age and who has lawfully placed a wager in an authorized game at a casino.

*Payout*—winnings earned on a wager.

*Permit*—any permit or authorization, or application therefore, issued pursuant to the Act

*Permittee*—any person issued a permit in accordance with the Act.

*Person*—any individual, partnership, association, joint stock association, trust, corporation or other legal or business entity.

*Premises*—land, together with all buildings, improvements, and personal property located thereon.

*Progressive EGD*—an electronic gaming device with a payoff that increases, or appears to increase, uniformly as the EGD or another device on the same link is played.

*Progressive Jackpot*—a slot machine payoff that increases, or appears to increase, automatically over time or as the machine or another is played.

*Promotional Chip or Token*—a chip or token issued by the licensee for use in promotions or tournaments at the casino.

*Public Offering*—a sale of securities (other than Employee Stock Option Plans—ESOP) that is subject to the registration requirements of Section 5 of the Federal Securities Act, or that is exempt from such requirements solely by reason of an exemption contained in Section 3(a)(11) or 3(c) of said Act or Regulation A adopted pursuant to Section 3(b) of said Act.

*Publicly Traded Company*—any person, other than an individual, that:

a. has one or more voting securities registered under Section 12 of the Securities and Exchange Act of 1934, as amended;

b. is an issuer of securities subject to Section 15(d) of the Securities and Exchange Act of 1934, as amended; or

c. has one or more classes of securities exempted from the registration requirements of Section 5 of the Securities Act of 1933, as amended, solely by reason of an exemption contained in Section 3(a)(10), 3(a)(11), or 3(c) of the Securities Act of 1933, as amended.

*Racehorse Wagering*—wager placed on horse racing conducted under the pari-mutuel form of wagering at licensed racing facilities that is accepted by a licensed racehorse wagering operator in accordance with the Act.

*Racehorse Wagering Operator*—the licensed racing association whose facility is located close to the licensed berth of the riverboat on which gaming activities are approved.

*Records*—accounts, correspondence, memorandums, audio tapes, videotapes, computer tapes, computer disks, electronic media, papers, books, and other documents or transcribed information of any type, whether expressed in ordinary or machine language.

*Restricted Sensitive Keys*—those keys that are listed in §2715 which can only be reproduced by the manufacturer of the lock or its authorized agent.

*ROM or Read Only Memory*—the electronic component used for storage of nonvolatile information in a gaming device, including programmable ROM and erasable programmable ROM.

*Riverboat*—A vessel as defined in the Act upon which gaming may be conducted.

*Securities*—any stock; membership in an incorporated association; bond; debenture; or other evidence of indebtedness, investment contract, voting trust certificate, certificate of deposit for a security; or, in general, any interest or instrument commonly known as a security; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase, any of the foregoing regardless of whether evidenced in writing.

*Sensitive Keys*—all restricted sensitive keys and all keys, including originals and duplicates, used in the process of accessing cash, chips, tokens, die, or cards. Sensitive keys also include keys used to access secure areas.

*Slot Machine Gaming*—the use, operation, offering, or conducting of slot machines at an eligible facility in accordance with the Act.

*Supervisor*—the person in charge of the division, or his designee, who has authority to act on his behalf.

*Surveillance Room*—a secure location on the licensee's or casino operator's premises that is used primarily for casino surveillance.

*Surveillance System*—a system of video cameras, monitors and recorders that is used for casino surveillance.

*Taxable Net Slot Machine Proceeds*—net slot machine proceeds from an eligible facility less the amount of support, payment or contributions required by the Act.

*Tilt Condition*—a programmed error state for an electronic gaming device which occurs when the gaming device detects an internal error, malfunction, or attempted cheating wherein the gaming device ceases processing further input, output, or display information other than indicating the tilt condition itself.

*Toll-free Telephone Number*—the telephone number of the National Council on Problem Gambling or similar number approved by the board.

*Wager*—a sum of money or thing of value risked on a game.

*Win*—the total of all cash and property, including checks, whether collected or not, received by the licensee or the casino operator from gaming activities or gaming operations, less the amount paid out to patrons.

*Women's Business Enterprise or Woman Owned Business*—a business that performs a commercially useful function which is at least 51 percent owned by one or more women who are citizens of the United States domiciled in Louisiana and who also control and operate the business. Control in this context means exercising the power to make policy decisions. Operate in this context means being actively involved in the day-to-day management of the business. In determining whether a business is 51 percent owned by one or more women, the percentage ownership by a woman shall not be diminished because she is part of the community property regime.

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 38:

### **§1703. Ownership of Licenses and Permits**

A. Licenses and permits issued by the board or division as provided in the Act are and shall remain the property of the board or division at all times.

B. A license shall be issued in the name of the owner of the riverboat or of the eligible facility. One license will be issued for each riverboat or eligible facility with a designated gaming area even though multiple individuals may file or be required to file applications related thereto.

C. All licenses and permits shall be surrendered to the board or division upon their expiration or revocation at which time they will be destroyed unless needed for a pending investigation.

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 38:

### **§1705. Transfers of Licenses or Permits**

A. Licenses and permits are not transferable or assignable. If the status of the licensee or permittee should change such that the person no longer needs or is entitled to

the license or permit, then the license or permit shall be cancelled and any tangible item which evinces such a license or permit shall be surrendered to the board or division within five days of the change of status. Any license or permit surrendered pursuant to the Section shall be marked cancelled or destroyed.

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 38:

## **Chapter 19. Administrative Procedures and Authority**

Editor's Note: The information for this Chapter was consolidated from corresponding Chapters in Parts VII, IX, and XIII prior to their being repealed.

### **§1901. Policy**

A. It is the declared policy of the Louisiana Gaming Control Board that casino gaming in Louisiana be strictly regulated and controlled through administrative rules and/or the casino operating contract to protect the public morals, good order and welfare of the inhabitants of the state of Louisiana and to develop the economy.

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 38:

### **§1907. Construction of Regulations and Administrative Matters**

A. Construction of Regulations; Severability

1. Nothing contained in these regulations shall be so construed as to conflict with any provision of the Act, any other applicable statute or the casino operating contract. If any regulation is held invalid by a final order of a court of competent jurisdiction at the state or federal level, such provision shall be deemed severed and the court's finding shall not be construed to invalidate any other regulation.

B. Captions, Pronouns, and Gender

1. Captions appearing at the beginning of regulations are descriptive only, are for convenient reference to the regulations and in no way define, limit or describe the scope, intent or effect of the regulation. Masculine or feminine pronouns or neuter gender may be used interchangeably and the plural shall be substituted for the singular form and vice versa, in any place or places in the regulations where the context requires such substitution.

C. These regulations as they relate to the casino operator or casino manager are intended to be a detailed explanation or implementation of the casino operating contract between the board and the casino operator. The regulations are intended to be read in *pari materia* with the casino operating contract.

D. The regulations contained in Title 42, Part III, Chapters 17-47 of the Louisiana Administrative Code shall not apply to persons licensed pursuant to Chapter 6 of the Act.

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 38:

### **§1909. Casino Operator or Licensed Eligible Facility is Licensee**

A. These regulations, subject to any rights in the casino operating contract, intend for the terms casino operator or casino manager and licensee to have the same meaning.

B. These regulations intend for the terms Type A licensee or licensed eligible facility and licensee to have the same meaning.

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 38:

#### **§1911. Obligations, Duties, Responsibilities of a Casino Manager**

A. In the event the casino operator subcontracts all, or substantially all of the services for the day-to-day management and operation of the casino, pursuant to the casino operating contract, to a casino manager, the casino manager's acts or omissions shall be considered the acts or omissions of the casino operator. All obligations, duties, and responsibilities imposed on the casino operator by these regulations, that the casino operator has subcontracted with a casino manager to perform or that the casino manager has undertaken to perform, shall be the obligations, duties and responsibilities of the casino manager and the casino operator.

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 38:

### **Chapter 21. Licenses and Permits**

Editor's Note: The information for this Chapter was consolidated from corresponding Chapters in Parts VII, IX, and XIII prior to their being repealed.

#### **§2101. General Authority of the Board and Division**

A. The board or the division shall have the authority to call forth any person who, in their opinion, has the ability to exercise significant influence over a licensee, permittee, applicant, casino operator, casino manager, or the gaming industry, and such person shall be subject to all suitability requirements.

B. In the event a person is found unsuitable, then no licensee, permittee, casino operator, casino manager or applicant shall have any association or connection with such person. No licensee, permittee, casino operator, casino manager or applicant shall have any association or connection with any person that has had an application for a license or permit denied, had a license or permit revoked, or has been found unsuitable.

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 38:

#### **§2103. Applications in General**

A. Any license or permit issued by the board and any permit issued by the division is deemed to be a revocable privilege, and no person holding such a license or permit is deemed to have acquired any vested rights therein, subject to any rights in the casino operating contract.

B. An applicant for a license or permit authorized by the Act is seeking the granting of a privilege, and the burden of proving qualification and suitability to receive the license or permit is at all times on the applicant.

C. An applicant accepts the risk of adverse public notice, embarrassment, criticism, or other action or financial loss that may result from action with respect to an application and expressly waives any claim for damages as a result thereof, except relating to willful misconduct by the board or division.

D. The filing of an application under the Act or these regulations constitutes a request for a decision upon the applicant's general suitability, character, integrity, and ability to participate or engage in or be associated with a licensee or permittee. By filing an application, the applicant specifically consents to the making of such a decision by the board or division.

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 38:

#### **§2105. Investigations; Scope**

A. The board or division shall investigate all applications for licenses or permits or other matters requiring board or division approval. The board or division may investigate, without limitation, the background of the applicant, the suitability of the applicant, the suitability of the applicant's finances, the applicant's business integrity, the suitability of the proposed premises for gaming, the suitability of a person with an ownership or economic interest in the applicant of 5 percent or more, the suitability of any person who in the opinion of the board or division has the ability to exercise significant influence over the activities of an applicant and the applicant's compliance with all applicable federal, state, and local laws and regulations.

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 38:

#### **§2107. Applicants in General; Restrictions**

A. The securing of a license, permit or approval required under the Act is a prerequisite for conducting, operating, or performing any activity regulated by the Act. Each applicant must file a complete application as prescribed by the board or division.

B. The Multi Jurisdictional Personal History Disclosure Form and DPSSP 0074/0077/0092 or other approved forms shall be filed as part of an application, by the following individuals:

1. If the applicant is a corporation, each officer, director, and shareholder having a 5% or greater ownership interest.

2. If the applicant is a limited liability company, each officer, managing member, manager and any member having a 5 percent or greater ownership interest.

3. If the applicant is a general partnership or joint venture, each individual partner and joint venturer.

4. If the applicant is a limited partnership, the general partner and each limited partner having a 5 percent or greater ownership interest.

5. If the applicant is a registered limited liability partnership pursuant to R.S. 9:3431 et seq., the managing partner and each partner having a 5 percent or greater ownership interest.

6. If such shareholder, owner, partner, or member from Paragraphs 1-5 is a legal entity, each officer, director, manager or managing member and each person with an indirect ownership or economic interest equal to or greater than 5 percent in the applicant.

C. A Multi Jurisdictional Personal History Disclosure Form and DPSSP 0074/0077/0092 or other approved forms may be required to be filed by any person who in the opinion of the board or division:

1. has significant influence over an applicant, casino operator, licensee, or permittee;

2. receives or may receive any share or portion of the money generated by gaming activities subject to the limitations provided in La. R.S. 27:28(H)(2)(b);

3. receives compensation or remuneration as an employee of an applicant, casino operator, licensee or permittee in exchange for any service or thing provided to the applicant, casino operator, licensee, or permittee; or

4. has any contractual agreement with an applicant, casino operator, licensee or permittee.

D. Failure to submit the applications required by this Section may constitute grounds for delaying consideration of the application or for denying the application.

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 38:

### **§2108. Non-Gaming Suppliers**

A. Any non-gaming supplier, regardless of whether having been permitted or not and regardless of the dollar amount of goods or services provided to a licensee or casino operator, may be requested to apply to the division for a finding of suitability.

B. No licensee or casino operator shall pay more than the amount provided in R.S. 27:29.3 to any non-gaming supplier during any calendar year period as payment for providing services or goods, unless such non-gaming supplier holds a valid non-gaming suppliers permit, exemption pursuant to the provisions of Subsection C or a waiver pursuant to the provisions of Subsection D of this Section.

C. The following persons shall be exempt from obtaining a non-gaming supplier permit pursuant to this Section:

1. nonprofit charitable organizations and educational institutions which receive funds from the licensee or casino operator including educational institutions that receive tuition reimbursement on behalf of employees of a licensee or casino operator;

2. entities which provide one or more of the following services and which are the sole source provider of such service:

- a. water;
- b. sewage;
- c. electricity;
- d. natural gas; and
- e. local telephone services;

3. regulated insurance companies providing insurance to a licensee, casino operator and its employees including providers of medical, life, dental, and property insurance;

4. administrators of employee benefit and retirement plans including incorporated 401K plans and employee stock purchase programs;

5. national or local professional associations which receive funds from a licensee or casino operator for the cost of enrollment, activities, and membership;

6. all state, federal and municipal operated agencies;

7. all liquor, beer and wine industries regulated by the Office of Alcohol and Tobacco Control;

8. state and federally regulated banks and savings and loan associations;

9. newspapers, television stations and radio stations which contract with a licensee or the casino operator to provide advertising services;

10. providers of professional services, including but not limited to accountants, auditors, actuaries, architects, landscaping or surveying services, attorneys, legal services, advertising or public relation services, consultants, engineers and lobbyists, when acting in their respective professional capacities;

11. hotels and restaurants;

12. nationwide shipping services, including Federal Express, United Parcel Service, Airborne Express and Emory Freight; and

13. publicly traded companies or wholly owned subsidiaries of publicly traded companies subject to regulation by the Securities and Exchange Commission, who are in good standing and are current with required filings.

D. The board, in its sole discretion, may rescind any exemption granted in Subsection C and require any person to make application for a non-gaming supplier permit.

E. Any non-gaming supplier required to obtain a non-gaming suppliers permit, other than those listed in Subsection C, may request a waiver of the necessity of obtaining a non-gaming suppliers permit. The division may grant such a request upon showing of good cause by the non-gaming supplier. The division may rescind any such waiver which has been previously granted upon written notice to the non-gaming supplier.

F. Junket representatives shall be subject to the provisions of this Section in the same manner as other non-gaming suppliers.

G. Each licensee and casino operator shall submit to the division, on a quarterly basis, a report containing a list of all non-gaming suppliers that have received \$10,000 or more from the licensee or casino operator during the previous quarter, or an amount equal to or greater than the amount provided in R.S. 27:29.3 during the preceding calendar year as payment for providing non-gaming services or goods. This report shall include the name and address of the supplier, a description of the type of goods or services provided, the supplier's non-gaming supplier permit number if paid an amount equal to or greater than the amount provided in R.S. 27:29.3 during the year included in the report, federal tax identification number, and the total amount of all payments made by the licensee or casino operator, or any person acting on behalf of the licensee or casino operator, to each supplier. The report shall be sent to the division no later than 20 days after the end of each quarter.

H. Each licensee and casino operator shall also submit a report naming each individual, corporation, firm, partnership, association, or other legal entity that furnishes professional services, as defined in Paragraph C.10 of this Section, to the licensee or the casino operator. The report shall be sent to the board and division by certified mail or electronic transmission no later than twenty days after the end of each quarter. The report required by the provisions of this Section shall contain the name and address of each individual, corporation, firm, partnership, association, or other legal entity that furnishes professional services to each holder of a license and the casino operator a description of the type of goods or services provided, the supplier's non-gaming supplier permit number, if applicable, and the supplier's federal tax identification number. The report required by the provisions of this Section shall not be

required to contain the amount of compensation paid to each individual, corporation, firm, partnership, association, or other legal entity in exchange for furnishing professional services to each holder of a license and the casino operator.

I. The division shall determine whether non-gaming suppliers providing goods or services to licensees or the casino operator are legitimate ongoing businesses and are not utilized for the primary purpose of compliance with voluntary procurement goals. In making such determination, the division shall consider any or all of the following nonexclusive factors:

1. years in business providing specific goods and/or services procured by the licensees or casino operator;
2. number of employees;
3. total customer base;
4. dollar volume of all sales compared to sales to the licensees or casino operator;
5. existence and nature of warehouse and storage facilities;
6. existence and number of commercial delivery vehicles owned or leased;
7. existence and nature of business offices, equipment and facilities;
8. whether the goods or services provided to the licensee or casino operator are brokered, and, if so, whether the actual supplier distributes through brokers as a common business practice;
9. registration with and reporting to appropriate local, state and federal authorities, as applicable.

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 38:

#### **§2109. Suitability Determination**

A. An applicant, licensee, permittee, casino operator, owner or operator of onshore facilities, and officers, directors, and any person having a 5 percent or more economic interest in such entities shall be required to submit to an investigation to determine suitability.

B. Any person, who in the opinion of the board or division, has the ability to exercise significant influence over the activities of an applicant, licensee, casino operator or permittee shall be required to submit to an investigation to determine suitability.

C. All costs associated with conducting an investigation for suitability shall be borne by the applicant, licensee, casino operator or permittee or the person who is the subject of the investigation.

D. Failure to submit to a suitability determination as required by this Section may constitute grounds for delaying consideration of the application or for denial of the application.

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 38:

#### **§2110. Plans and Specifications**

A. Riverboat

1. The applicant or licensee shall submit all plans and specifications of the vessel and its qualifications to operate a riverboat, including a statement of maritime experience as a riverboat operator, to the board and division. The applicant or licensee shall have an ongoing duty to update the division

of changes in the vessel plans, specifying layout and design as they become available. Such changes are subject to prior approval by the board or division.

B. Licensed Eligible Facility

1. The applicant shall submit all plans and specifications of the eligible facility to the board and the division at the time of application. The applicant or licensee shall have an ongoing duty to inform the division of changes in the facility plans, specifying layout and design as they become available. Such changes are subject to prior approval by the board or division.

C. Official Landbased Gaming Establishment

1. The casino operator shall deliver to the board and division accurate scale drawings of the floor plans of the casino showing and designating the use for each room or enclosed area, the secured areas, and particularly areas where gross gaming receipts and other casino revenues are handled. The casino operator shall have an ongoing duty to inform the board and division of changes in the facility plans, specifying layout and design as they become available. Such changes may be subject to approval of the board in accordance with Article XI of the casino operating contract.

D. Every contract for construction entered into by a licensee or casino operator shall contain an indemnification provision for the protection of the state, the board and division and their agents and employees against claims for personal injury or property damage arising out of errors and omissions in the:

1. approval of riverboat, casino or support facility plans, designs and specifications;
2. granting of approval or licensure;
3. issuance of emergency orders; and
4. denial, suspension or revocation of a license.

E. Failure to comply with the provisions of this Section may constitute grounds for delaying consideration of the application or for denial of the application.

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 38:

#### **§2111. License or Permit Disqualification Criteria**

A. The board or division shall not issue a license, permit or finding of suitability to any person who fails to prove by clear and convincing evidence that he is suitable and qualified in accordance with the provisions of the Act and these regulations.

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 38:

#### **§2112. Continuing Suitability, Duty to Report**

A. Suitability is an ongoing process. An applicant, licensee, casino operator, permittee, registrant, or person required to submit to suitability by the Act or these regulations has a continuing duty to inform the board and division of any action which could reasonably be believed to constitute a violation of the Act or regulations. This obligation to report is to be construed in the broadest possible manner; any question that exists regarding whether a particular action or circumstance constitutes a violation shall be decided in favor of reporting. The board and division shall be notified no later than 15 days from the date



the applicant, licensee, casino operator, permittee, registrant or person knew or should have known of the possible violation. No person who so informs the board and division shall be discriminated against by an applicant, licensee, casino operator, permittee or registrant because of supplying such information.

B. An applicant, licensee, casino operator, permittee, registrant, or person required to submit to suitability by the Act or these regulations shall also have a continuing duty to inform the board and division of material changes in their affiliations, businesses, financial standing, operations, ownership relationships, corporate management personnel, officers or directors within 15 days of the change. However, in the case of a publicly traded company, this obligation shall be satisfied if such company files with the board and division copies of all form 10Ks, 10Qs, and 8Ks filed with the Securities and Exchange Commission within 15 days of the filing with the Securities and Exchange Commission.

C. An applicant, licensee, casino operator, permittee, registrant, or person required to submit to suitability by the Act or these regulations shall also have a continuing duty to inform the board and division of all administrative actions instituted or pending in any other jurisdiction against or involving the applicant, licensee, casino operator, permittee, registrant or the parent corporation or affiliate of the applicant, licensee, casino operator, permittee, registrant within 15 days of receipt of notice of the administrative actions instituted or pending in any other jurisdiction.

D. Failure to report or provide notice required by this Section may constitute grounds for delaying consideration of the application or denial of the application or the imposition of a civil penalty.

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 38:

#### **§2113. Licensing Criteria**

A. No person shall be eligible to conduct gaming operations at a casino or obtain any license or permit issued pursuant to the provisions of the Act or these regulations unless the applicant proves by clear and convincing evidence he is suitable.

B. The applicant must prove by clear and convincing evidence that it has, or guarantees acquisition of, the competence and experience to conduct gaming operations, by demonstrating through training, education, business experience, or a combination thereof, the capability to operate a casino.

C. The applicant shall demonstrate that the proposed financing of the casino and the gaming operations is adequate for the nature of the proposed operation and from a source suitable and acceptable to the board.

D. If a natural person, the applicant for a license shall be a Louisiana domiciliary.

E. If not a natural person, the applicant for a license shall be a Louisiana corporation, partnership, limited liability company, or a registered limited liability partnership authorized to conduct business in the state of Louisiana.

F. If not a natural person, the applicant for a permit shall be authorized to conduct business in the state of Louisiana.

#### **G. Riverboat Applicants**

1. The applicant shall demonstrate a proven ability to operate a vessel of comparable size and capacity and of

comparable complexity to a riverboat so as to ensure the safety of its passengers as set forth in these regulations.

2. The applicant shall submit a detailed plan of design of the riverboat.

3. The applicant shall show adequate financial ability to construct and maintain a riverboat.

4. The applicant shall designate the docking facilities to be used by the riverboat.

5. The applicant shall have a good-faith plan to recruit, train, and upgrade minorities in all employment classifications.

6. The applicant shall have a plan to provide the maximum practical opportunities for participation by the broadest number of minority-owned businesses.

#### **H. Casino Operator Applicants**

1. The casino operator applicant shall demonstrate it has or is capable of and guarantees the obtaining of a bond or satisfactory financial guarantee of sufficient amount, as determined by the board, to guarantee successful completion of and compliance with the casino operating contract or such other projects which are regulated by the board.

I. Failure to satisfy this Section may constitute grounds for delaying consideration of the application or for denial of the application.

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 38:

#### **§2114. Tax Clearances Required of an Applicant, Licensee or Permittee**

A. The applicant, its officers, directors, any person with an economic interest of at least 5 percent in an applicant and any person who in the opinion of the board or division has the ability to exercise significant influence over the activities of the applicant shall provide tax clearances from the appropriate federal and state agencies prior to the granting of a license or permit.

B. Failure to provide the tax clearances required by Subsection A may constitute grounds for delaying consideration or for denial of the application.

C. Any licensee, casino operator or permittee, its officers, directors, any person with an economic interest of 5 percent or greater, and any person who, in the opinion of the board or division, has the ability to exercise significant influence over the activities of a licensee, casino operator or permittee shall remain current in filing all applicable tax returns and in the payment of all taxes, interest and penalties owed to the state of Louisiana and the Internal Revenue Service, excluding items under formal appeal in accordance with applicable statutes and regulations, and items for which the Department of Revenue and Taxation or the Internal Revenue Service has accepted a payment schedule for taxes owed.

1. Any failure to timely file all applicable tax returns or pay any tax delinquency shall be corrected within 30 days of the receipt of written notice from the division.

2. At the expiration of the 30 day period, if the failure to file or the tax delinquency is not corrected to the satisfaction of the appropriate taxing authority, the license or permit shall be suspended and a civil penalty imposed.

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 38:

**§2115. Tax Clearances Required of an Applicant for a Gaming Employee Permittee**

A. An applicant for a gaming employee permit shall be current in filing all applicable tax returns and in the payment of all taxes, interest and penalties owed to the state of Louisiana and the Internal Revenue Service, excluding items under formal appeal in accordance with applicable statutes and regulations, and items for which the Department of Revenue and Taxation or the Internal Revenue Service has accepted a payment schedule for taxes owed.

B. Failure to provide the tax clearances required by Subsection A may constitute grounds for delaying consideration or for denial of the application.

C. A gaming employee permittee shall remain current in filing all applicable tax returns and in the payment of all taxes, interest and penalties owed to the state of Louisiana and the Internal Revenue Service, excluding items under formal appeal in accordance with applicable statutes and regulations, and items for which the Department of Revenue and Taxation or the Internal Revenue Service has accepted a payment schedule for taxes owed.

1. Any failure to timely file tax returns or pay any tax delinquency shall be corrected within 30 days of receipt of written notice from the division.

2. At the expiration of the 30 day period, if the failure to file or the tax delinquency is not corrected to the satisfaction of the appropriate taxing authority, the permit shall be suspended and a civil penalty imposed.

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 38:

**§2117. Certification Required, Riverboat Only**

A. Before any riverboat may be operated under the authority of the Act, the applicant or, if the application has been approved, the licensee, shall provide to the division evidence that the riverboat has a valid Certificate of Inspection from the United States Coast Guard for carriage of passengers on navigable rivers, lakes, and bayous as provided by the Act and for the carriage of a minimum total of 600 passengers and crew or evidence that the riverboat has a valid certificate of compliance from a board approved third party inspector.

B. In addition, the applicant or licensee shall document compliance with all applicable federal, state and local laws.

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 38:

**§2120. Modifications of Routes, Excursion Schedules and Berth, Riverboat Only**

A. Except for emergency orders and applications therefore, all proposed modifications to routes, excursion schedules, and berth sites shall be submitted by the applicant or licensee for prior approval by the board.

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 38:

**§2121. Form of Application for a License**

A. An application for a license or finding of suitability shall be filed by way of forms prescribed by and obtained from the board or division. Such forms may include, but are not limited to:

1. information regarding the background of the applicant;
2. a financial statement;
3. a statement disclosing the nature, source, and amount of any financing, the proposed uses of all available funds, the amount of funds available after opening for the actual operation of the casino, and economic projections for the first three years of operation of the casino;
4. an affidavit of full disclosure, signed by the applicant;
5. an authorization to release information to the board and division, signed by the applicant;
6. a standard bank confirmation form, signed by the applicant;
7. a release of all claims, signed by the applicant; and,
8. a security statement explaining the type of security procedures, practices, and personnel to be utilized by the applicant.

B. All applications are to contain a properly notarized oath wherein the applicant states that:

1. the information contained therein is true and correct;
2. the applicant has read the Act and these rules, and any other informational materials supplied by the division; and
3. the applicant agrees to comply with these rules and the Act.

C. Failure to comply with the provisions of this Section may constitute grounds for delaying consideration or for denial of the application.

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 38:

**§2122. Form of Application for a Permit**

A. An application for a permit or finding of suitability shall be filed by way of forms prescribed by and obtained from the board or division. Such forms may include, but are not limited to:

1. information regarding the background of the applicant;
2. a financial statement;
3. an affidavit of full disclosure, signed by the applicant;
5. an authorization to release information to the board and division, signed by the applicant;
6. a standard bank confirmation form, signed by the applicant;
7. a release of all claims, signed by the applicant.

B. All applications are to contain a properly notarized oath wherein the applicant states that:

1. the information contained therein is true and correct;
2. the applicant has read the Act and these rules, and any other informational materials supplied by the division; and

3. the applicant agrees to comply with these rules and the Act.

C. Failure to comply with the provisions of this Section may constitute grounds for delaying consideration or for denial of the application.

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 38:

**§2123. Information Required from an Applicant for a License**

A. Every application for a license shall contain the following information including but not limited to:

1. two copies of detailed plans of design of the casino, including a layout of each floor stating the projected use of each area;

2. the total estimated construction cost of the casino proposed by the applicant distinguishing between known costs and projections, and separately identifying:

- a. facility design expense;
- b. land acquisition or site lease costs;
- c. site preparation costs;
- d. construction cost or renovation cost;
- e. equipment acquisition cost;
- f. cost of interim financing;
- g. organization, administrative and legal expenses;

and

h. projected permanent financing costs;

3. an estimated timetable for the proposed financing arrangements through completion of construction;

4. the construction schedule proposed for completion of the casino including therein projected dates for completion of construction and commencement of gaming activities and indicating whether the construction contract includes a performance bond;

5. explanation and identification of the source or sources of funds for the construction of the casino;

6. description of the casino size and approximate configuration of slot machines and table games including the type of slot machine and table games and the proposed distributors and manufacturers of this equipment;

7. a detailed plan of surveillance and surveillance equipment to be installed;

8. proposed hours of operation;

9. the proposed management plan, management personnel by function and organizational chart by position;

10. a general promotion and advertising plan. A general description of the amounts, kinds and types of general promotion and advertising campaign(s) which will likely be undertaken by the applicant including information whether any national or regional advertising will occur, the medium(s) which may be used, the proposed market and whether any other facility or activity except the casino will be included in such advertising;

11. a feasibility study. Each applicant shall submit or make available to division or board personnel a feasibility study performed by an independent or approved applicant's staff consultant, which study shall examine, evaluate and attest to the feasibility of the applicant's proposed operation and shall describe or list the evaluation methodology used. The feasibility study shall include a list of the consultant's qualifications, a discussion of the overall market for gaming

operations and the effect of the proposed casino on the market. In addition, the feasibility study shall address possible competition from other casinos and other forms of gaming in all areas of Louisiana and other states; and,

12. an economic development and utilization plan. Each applicant shall submit an economic development plan addressing the purchasing of or utilization of goods and services in the construction and operation of the proposed casino. The plan shall include a list and offer of voluntary conditions by the applicant regarding the following procurement:

a. an estimated procurement budget for resources and goods to be used in the operation of a casino listing the amount of the proposed utilization of Louisiana resources, goods and services in the operation of the casino and the area from which they will be procured;

b. a list of employees which the applicant anticipates employing in the casino operation, including job classifications and total estimated salaries;

c. the percentage of Louisiana residents projected to be hired and the percentage of minorities and women projected to be employed.

B. Upon request by the board or division, an applicant for a license shall provide a copy proposed internal controls which shall include:

1. accounting and financial controls including procedures to be utilized in counting, banking, storage and handling of cash;

2. procedures, forms and where appropriate, formulas covering the calculation of hold percentages, revenue drop, expenses and overhead schedules, complimentary services, cash equivalent transactions, salary structure, and personnel practices;

3. job descriptions and the systems of personnel and chain-of-command, establishing a diversity of responsibility among employees engaged in gaming operations and identifying primary and secondary supervisor positions for areas of responsibility, which areas shall not be so extensive as to be impractical for an individual to monitor;

4. procedures within the cashier's cage for the receipt, storage, and disbursal of chips, if applicable, cash, and other cash equivalents used in gaming, the payoff of jackpots, and the recording of transactions pertaining to gaming operations;

5. if applicable, procedures for the collection and security of monies at the gaming tables;

6. if applicable, procedures for the transfer and recordation of chips between the gaming tables and the cashier's cage;

7. if applicable, procedures for the transfer of monies from the gaming tables to the counting process;

8. procedures for the counting and recordation of revenue;

9. procedures for the security, storage, and recordation of cash equivalents utilized in other gaming operations;

10. procedures for the transfers of monies, cash equivalents or chips, if applicable from and to the slot machines;

11. procedures and standards for the opening and security of slot machines;

12. procedures for the payment and recordation of slot machine jackpots;

13. procedures for the cashing and recordation of checks exchanged by patrons;

14. procedures governing the utilization of the private security force within the designated area;

15. procedures and security standards for the handling and storage of gaming devices, machines, apparatus, including cards and dice, if applicable, and all other gaming equipment;

16. procedures and rules governing the conduct of particular games and the responsibilities of the gaming personnel in respect thereto; and,

17. such other procedures, rules or standards that the division may impose on a licensee regarding its operations.

C. In addition, the division may require an applicant to provide such other information and details as it needs to discharge its duties properly.

D. Failure to comply with the provisions of this Section may constitute grounds for delaying consideration or for denial of the application.

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 38:

#### **§2124. Additional Application Information Required, Riverboat Only**

A. Every application for a riverboat license shall contain the following additional information:

1. a statement that the vessel has or will obtain a valid Certificate of Inspection from the United States Coast Guard or valid Certificate of Compliance from a board approved third party inspector;

2. if required to cruise and conduct excursions by the Act, the proposed route to be followed identifying the designated waterways; and a description of proposed excursions including frequency and approximate schedule of excursions, projected passenger load, admission charges, and a proposed berth site.

B. Failure to comply with the provisions of this Section may constitute grounds for delaying consideration or for denial of the application.

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 38:

#### **§2125. Access to Premises and Records**

A. The board and division, upon displaying proper credentials, shall be given immediate access to any premises to be used in the licensed or permitted operation of an applicant for the purpose of inspecting or examining:

1. records or documents required to be kept under the provisions of the Act and these regulations;

2. gaming devices or equipment to be used in the licensed or permitted operation; or

3. the conduct of any gaming activity in the licensed or permitted operation.

B. The board and division are empowered to inspect, examine, audit, photocopy and if necessary seize, all papers, books, records, documents, information and electronically stored media of an applicant, licensee, casino operator or permittee pertaining to the licensed or permitted operation or activity on all premises where such information is

maintained. The division shall provide an evidence receipt to the applicant, licensee, casino operator or permittee providing a general description of all documents and items seized.

C. Failure to allow access and inspection as provided in Sections B and C may constitute grounds for delaying consideration of the application, administrative action against the licensee, casino operator or permittee, or denial of the application.

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 38:

#### **§2127. Information Constituting Grounds for Delay or Denial of Application; Amendments**

A. All information included in an application shall be true, correct and a complete, accurate account of the information requested to the best of the applicant's knowledge as of the date submitted. The applicant shall notify the division in writing of all changes to any information in the application within 15 business days of the effective date of the change.

B. No applicant shall make any untrue statement of material fact in any application, form, statement, report or other document filed with the board or division.

C. An applicant shall not omit any material fact in any application, form, statement, report or other document filed with the board or division. The applicant shall provide all information which is necessary to make the information supplied in an application complete and accurate.

D. No applicant shall make any untrue statement in any written or verbal communication with the board or division.

E. An application may be amended upon approval of the chairman or division supervisor. An amendment to an application may have the effect of establishing the date of such amendment as the filing date of the application with respect to the time requirements for action on the application. A request for amendment to an application shall be in writing.

F. Upon request of the board or division for additional information, the applicant shall provide the requested information within 10 days of receipt of written notice of the request or within such additional time as allowed by the board or division.

G. Failure to comply with the provisions of this Section may constitute grounds for delaying consideration or for denial of the application.

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 38:

#### **§2129. Other Considerations for Licensing**

A. The board may consider the following criteria when deciding whether to issue a license or a finding of suitability to conduct casino gaming. The various criteria set forth may not have the same importance in each instance. Other factors may present themselves in the consideration of an application for a license and a finding of suitability. The following criteria are not listed in order of priority:

1. Proper Financing. The board may consider whether the proposed casino is properly financed.

2. Adequate Security and Surveillance. The board may consider whether the proposed casino is planned in a manner which provides adequate security and surveillance for all aspects of its operation and for the people working or patronizing the casino.

3. Character and Reputation. The board may consider the character and reputation of all persons identified with the ownership and operation of the casino and their capability to comply with regulations and the Act.

4. Miscellaneous. The board may consider such other factors as may arise in the circumstances presented by a particular application.

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 38:

#### **§2131. Time Table for Construction**

A. The timetable for construction shall be approved by the board and monitored for compliance by the division.

B. All riverboat licenses shall be subject to the condition that within 24 months from the date the license is granted the riverboat shall commence gaming operations. Upon the recommendation of the division, an extension of time may be granted.

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 38:

#### **§2133. Filing of Application**

A. Each application, including renewal applications, shall be deemed filed with the board or division when the application form has been received by the division, as evidenced by the date stamp on the application.

B. Renewal applications for licenses to conduct gaming operations shall be submitted to the division no later than 120 days prior to the expiration of the license.

C. Renewal applications for permits shall be submitted to the division no later than 60 days prior to the expiration of the permit and all fees as required by the Act shall be paid on or before the date of expiration of the permit.

D. Failure to timely file applications or submit application may constitute grounds for delaying consideration of the application or for denial of the application or imposition of a civil penalty.

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 38:

#### **§2137. Fingerprinting**

A. An initial application is not complete unless all persons required by the division have submitted to fingerprinting by or at the direction of the division.

B. Failure to submit to fingerprinting may constitute grounds for delaying consideration of the application or for denial of the application.

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 38:

#### **§2139. Application Filing Fees**

A. All monies deposited by an applicant to defray the costs associated with the applicant investigation conducted by the division must be deposited into a designated state treasury fund.

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 38:

#### **§2141. Renewal Applications**

A. Applications for renewal of a license or permit shall be made by way of forms prescribed by the board or division and shall contain all information requested by the board or division.

B. The renewal application shall contain a statement made, under oath, by the applicant that any and all changes in the history and financial information provided in the previous application have been disclosed. This statement shall also be provided by each officer or director, each person with a 5 percent or greater economic interest in the applicant, and any person who, in the opinion of the board or division, has the ability to exercise significant influence over the activities of the applicant.

C. Renewal applications shall further contain:

1. a list of all civil lawsuits to which the applicant is a party instituted since the previous application;

2. a current list of all stockholders of the applicant, if the applicant is a corporation, or a list of all partners, if applicant is a partnership or limited partnership, or a list of all members if the applicant is a limited liability company, or a list of persons with a 5 percent or greater economic interest in the applicant. Applicants who are publicly traded corporations need not provide this information for any shareholder owning less than 5 percent of the applicant unless requested by the board or division;

3. a list of all administrative actions instituted or pending in any other jurisdiction against or involving the applicant, parent company of the applicant, or an affiliate;

4. prior year's corporate or company tax return of the applicant;

5. a list of all charitable and political contributions made by the applicant during the last three years, indicating the recipient and amount contributed.

D. The board or division may require an applicant to provide any other documentation or information as is necessary to determine suitability of the applicant or to discharge their duties under the Act and rules.

E. Failure to comply with the provisions of this Section may constitute grounds for delaying consideration or for denial of the application.

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 38:

#### **§2144. Multiple Licensing Criteria, Riverboat Only**

A. A person licensed as a riverboat gaming operator may apply for additional licenses. In all such cases, the board shall consider whether such multiple approval is in the best interest of the state of Louisiana, having due regard for the state's policy concerning economic development and gaming. In making this determination, the board may consider any index or criteria deemed to be relevant to the effect of multiple licenses upon the public health, safety, morals, good order and general welfare of the public of the state of Louisiana, including but not limited to the following factors:

1. the quality of the applicant's performance under the Act and regulations;

2. the adequacy of resources available to the applicant to undertake additional operations including, but not limited to, manpower, managerial and financial resources;

3. whether additional operations would jeopardize the stability of the existing operation; and

4. whether additional operations would be inimical to the economic development of the state.

B. If a licensee is issued more than one license by the board and has a license suspended or revoked, the board may suspend or revoke all licenses issued.

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 38:

#### **§2145. Hearing to Consider Application; Licensee**

A. Prior to issuing a license, the board shall hold a public hearing to determine if the provisions of the Act have been met, and if issuance of a license to the applicant is in the best interest of the state and consistent with the intent of the legislature as expressed in the Act. The public hearing will be conducted in accordance with the provisions of the Act and these regulations.

1. The board will notify the applicant in writing of the date, time, and place of the public hearing to consider its application at least 20 days prior to said hearing.

2. The board may summon any person named in an application to appear and testify; and all such testimony shall be given under oath and may encompass any matter that the board deems relevant to the application. Failure of applicant to appear and testify fully at the time and place designated, unless excused by the board, is grounds for denial of the application. Any request by applicant for excuse of appearance shall be in writing and filed with the board at least five days prior to the scheduled appearance.

B. The applicant shall prove by clear and convincing evidence that it is qualified to receive a license under the provisions of the Act and the rules.

C. The applicant shall agree to all conditions proposed by the board for the prospective license prior to the board granting a license. An applicant shall indicate in writing its agreement to all conditions attached to the license prior to the issuance of the license

D. The failure to comply with a condition attached to a license may be grounds to revoke or suspend the license.

E. The board shall make its determination concerning the application for a license within ten days of the conclusion of the public hearing.

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 38:

#### **§2146. Subpoenas and Subpoenas Duces Tecum**

A. Pursuant to the Act, the division's supervisor or the board shall have the authority to issue subpoenas to compel the attendance of witnesses or production of documents under the authority of the division or jurisdiction of the board.

B. For failure or refusal to comply with any subpoena issued by the board and duly served, the board may cite the subpoenaed party for contempt and may impose a fine as provided in the laws of the state of Louisiana. Such contempt citations and fines may be appealed to the Nineteenth Judicial District Court.

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 38:

#### **§2151. Applicant Refusal to Answer, Privilege**

A. An applicant or individual may claim any privilege afforded by the Constitution of the United States or of the state of Louisiana in refusing to provide information to, answer questions of, or cooperate in any investigation by the division or board.

B. Refusal to provide information to, answer questions of, or cooperate in any investigation by the division or board, or a claim of privilege with respect to any testimony or evidence, may constitute sufficient grounds for denial of the application.

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 38:

#### **§2153. Surrender of a License or Permit**

A. A license or permit may not be surrendered without the prior approval of the board or division.

B. If a request to surrender a license or permit is approved, the person is immediately eligible to apply for a license or permit, unless the board or division has placed a condition which the applicant shall have to fulfill in order to reapply.

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 38:

#### **§2155. Withdrawal of Application**

A. A request to withdraw an application shall be made in writing to the chairman or division supervisor at any time prior to issuance of the determination with respect to the application. The board or division may deny or grant the request.

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 38:

#### **§2159. Gaming Employee Permits Required, Temporary Permit**

A. No licensee or casino operator may employ an individual as a gaming employee unless such individual is the holder of a valid gaming employee permit issued by the board or division.

B. Prior to obtaining a key gaming employee permit, no person shall commence work or perform any duties as a key gaming employee or managerial employee without approval of the board.

C. The board or division may issue a temporary permit pending completion of investigation of an application for a gaming employee permit. If the division discovers grounds to recommend denial of the application, the employee shall immediately surrender his temporary permit to the division or a person designated by the division and cease working as a gaming employee. A temporary permit is not valid unless the applicant for the gaming employee permit agrees in writing to comply with the rules regarding temporary permits.

D. In the case of vacation, leave of absence, illness, resignation, termination or other planned or unplanned extended absence of a key gaming employee department

head and upon written request made to the division or board and receipt of written approval by the division or board, a non-key gaming employee assistant director or manager may serve as head of the department for not more than 90 calendar days during one calendar year.

E. A gaming employee permit is not transferable.

F. A fee of \$15 shall be paid to the division for any modifications of a permit.

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 38:

#### **§2161. Application for Gaming Employee Permit; Procedure**

A. An application for a gaming employee permit shall be made on forms prescribed by the board or division and shall contain all information requested by the board or division. All applications are to contain a properly notarized oath wherein the applicant states that:

1. the information contained therein is true and correct;

2. the applicant has read the Act and these rules, and any other informational materials supplied by the division; and

3. the applicant agrees to comply with these rules and the Act.

B. An applicant for a gaming employee permit shall submit to fingerprinting at the direction of the division and supply a color passport size photograph. The photograph must be satisfactory to the division and must have been taken not earlier than three months before the date of filing the application.

C. The applicant shall also provide any other information requested by the division.

D. An applicant for a gaming employee permit shall pay the application fee established by the Act prior to the issuance of the permit.

E. Failure to comply with the provisions of this Section may constitute grounds for delaying consideration of the application or for denial of the application.

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 38:

#### **§2165. Display of Gaming Identification Badge**

A. Every gaming employee shall keep his gaming employee permit identification badge on his person and displayed at all times when on the licensed premises. The badge shall meet all requirements of the division.

B. With prior approval of the division, individual employees may be authorized to conceal their gaming employee identification badge. An employee authorized to conceal his gaming employee identification badge is responsible for producing his identification badge without delay if requested by the division.

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 38:

#### **§2169. Additional Manufacturer and Gaming Supplier Permit Criteria**

A. The division shall determine whether manufacturer and gaming supplier applicants and/or permittees are

legitimate ongoing businesses. In making such determination the division shall consider any or all of the following nonexclusive factors:

1. years in business providing goods and/or services procured by a licensee or casino operator;

2. number of employees;

3. total customer base;

4. dollar volume of all sales compared to sales to licensees;

5. existence and nature of warehouse and storage facilities;

6. existence and number of commercial delivery vehicles owned or leased;

7. existence and nature of business offices, equipment and facilities;

8. whether the goods and/or services provided to the licensee are brokered, and if so, whether the actual supplier distributes through brokers as a common business practice;

9. registration with and reporting to appropriate local, state and federal authorities, as applicable.

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 38:

#### **Chapter 23. Compliance, Inspections and Investigations**

Editor's Note: The information for this Chapter was consolidated from corresponding Chapters in Parts VII, IX, and XIII prior to their being repealed.

#### **§2301. Applicability and Resources**

A. This Chapter is applicable to inspections and investigations relative to compliance with the Act and the rules. The board and division are empowered to employ such personnel as may be necessary for such inspections and investigations.

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 38:

#### **§2303. Inspections and Observations**

A. The board or division shall conduct inspections and investigations relative to compliance with the Act and these rules.

B. The board, the division and their representatives shall have complete, immediate and unrestricted access at all times and without notice or demand to a licensee, casino operator, permittee or any other person, to enter and:

1. inspect the entire casino and its ancillary facilities, including all restricted areas;

2. inspect the premises where gaming devices and gaming equipment are stored, manufactured, sold or distributed;

3. inspect any gaming device or gaming equipment;

4. observe the conduct of any gaming activity; or

5. observe the transportation and count of each of the following: electronic gaming device drop, all table game drops, tip box and slot drops, slot fills, fills and credits for table games, and any other implemented internal control procedure(s).

C. A licensee, casino operator, or permittee shall, upon request, immediately make available for inspection by the board, division and their representatives all papers, documents, books and records used in the licensed or permitted operations.

D. Such inspections and observations may or may not be made known to the licensee, casino operator or permittee.

E. All requests for access to premises and production of records and documents in connection with any inspection shall be granted in accordance with the provisions of the Act and these regulations.

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 38:

#### **§2305. Inspections during Construction**

A. The division may inspect a riverboat and dockside facility, the landbased gaming facility or an eligible facility during construction.

B. Upon presentation of identification, the division shall be given immediate access to any place where construction of a casino or any of its component parts is underway.

C. The division shall ensure that the casino complies with the plans and specifications and any applicable change orders. If the division determines an event of noncompliance occurred, a report shall be prepared describing the noncompliance and forwarded to the board.

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 38:

#### **§2306. Inspections of Persons Furnishing Services or Property or Doing Business with a Licensee**

A. The board, the division and their representatives shall have the right to inspect the physical property and buildings, all books and records and all computer programs, files and disks of any permittee transacting business or providing services or property to a licensee or casino operator. This right of inspection covers all persons regardless of the amount of business conducted with a licensee.

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 38:

#### **§2307. Investigations**

A. All investigations of any possible violations of the Act or of the rules by an applicant, licensee, casino operator or permittee may or may not be made known to the applicant, licensee, casino operator or permittee before being completed.

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 38:

#### **§2309. Investigative Powers of the Board and Division**

A. In conducting an investigation or inspection, the board and division are empowered to:

1. inspect and examine the entire premises wherein gaming activities are conducted or proposed to be conducted, wherein gaming devices, gaming equipment or gaming supplies are maintained or repaired, and wherein all papers, books, records, documents and electronically stored media are maintained;

2. summarily seize and remove gaming equipment and devices from such premises and impound any equipment for the purpose of examination and inspection;

3. have access to inspect, examine, photocopy and, if necessary seize all papers, books, records, documents,

information and electronically stored media of an applicant, licensee, casino operator or permittee pertaining to the licensed or permitted operation or activity, on all premises where such information is maintained;

4. review all papers, books, records, and documents pertaining to the licensed or permitted operation;

5. conduct audits to determine compliance with all gaming laws and rules on gaming activities and operations under the board or division's jurisdiction;

6. issue subpoenas in connection with any investigation conducted by the board or division;

7. issue written interrogatories; and

8. conduct depositions, interviews, and obtain formal statements.

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 38:

#### **§2310. Licensee or Permittee Refusal to Answer, Privilege**

A. A licensee, casino operator, permittee or individual may claim any privilege afforded by the Constitution of the United States or of the state of Louisiana in refusing to provide information to, answer questions of, or cooperate in any investigation by the division or board.

B. Refusal to provide information to, answer questions of, or cooperate in any investigation by the division or board or a claim of privilege with respect to any testimony or evidence may constitute sufficient grounds for administrative action against a licensee casino operator, permittee or individual.

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 38:

#### **§2311. Seizure and Removal of Gaming Equipment and Devices**

A. Gaming equipment, devices and/or associated equipment may be summarily seized by the division. Whenever the division seizes and removes gaming equipment, devices and/or associated equipment:

1. an inventory of the gaming equipment, devices and/or associated equipment seized will be made by the division, identifying all such gaming equipment, devices and/or associated equipment as to make, model, serial number, type, and such other information as may be necessary for authentication and identification;

2. all such gaming equipment, devices and/or associated equipment will be sealed or by other means made secure from tampering or alteration;

3. the time and place of the seizure will be recorded; and

4. a copy of the inventory of the seized gaming equipment, devices and/or associated equipment will be provided to the licensee, casino operator or permittee.

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 38:

#### **§2315. Seized Equipment and Devices as Evidence**

A. All gaming equipment, devices and/or associated equipment seized by the division shall be considered evidence, and as such shall be subject to the laws of



Louisiana governing chain of custody, preservation and return, except that:

1. any article of property that constitutes a cheating device shall not be returned. All cheating devices shall become the property of the division upon their seizure and may be disposed of by the division, which disposition shall be documented as to date and manner of disposal;

2. if the property is not characterized as a cheating device, such property may be returned to the claimant;

3. items seized for inspection or examination may be returned by the division without a court order.

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 38:

### **§2317. Subpoenas in Connection with Investigative Hearings**

A. The board or division supervisor has full power and authority to issue subpoenas to compel the attendance of witnesses and the production of documents in accordance with the Act and these rules for investigative hearings at any place within the state, and to administer oaths and require testimony under oath. Any such subpoena issued by the board or division supervisor will be served in a manner consistent with the service of process and notices in civil actions.

B. For failure or refusal to comply with any subpoena issued by the board or division and duly served, the board or division may cite the subpoenaed party for contempt and may impose a fine as provided in the laws of the state of Louisiana. Such contempt citations and fines may be appealed to the Nineteenth Judicial District Court.

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 38:

### **§2319. Refusal to Answer, Privilege**

A. A person may claim any privilege afforded by the Constitution of the United States or of the state of Louisiana in refusing to provide information to, answer questions of, or cooperate in any investigation by the division or board.

B. Refusal to provide information to, answer questions of, or cooperate in any investigation by the division or board, or a claim of privilege with respect to any testimony or evidence, may constitute sufficient grounds for administrative action.

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 38:

### **§2321. Investigative Hearings**

A. Investigative hearings may be conducted by the board at such times and places as may be convenient to the board. Investigative hearings may be conducted in private at the discretion of the board. A transcript of the hearing shall be made by a licensed court reporter.

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 38:

### **§2323. Interrogatories**

A. All interrogatories propounded by the board or the division shall be in writing and shall be served in the manner

consistent with the service of process in civil actions. The respondent is entitled to 15 days within which to respond.

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 38:

### **§2325. Administrative Actions and Penalty Schedule**

A. The board or division may initiate administrative action authorized by the Act for any violation of the Act or of the rules after notice of the proposed administrative action and after opportunity to request a hearing before the board.

B. The board or division may initiate administrative action authorized by the Act for any violation of any condition, restriction, or limitation imposed by the board on a license or permit.

C. The board or division may initiate administrative action authorized by the Act for violation of a licensee's or casino operator's internal controls as approved by the Division.

D. Subject to the rights in the casino operating contract, administrative action includes revocation, suspension, finding of unsuitability, or conditioning of a license or permit, imposition of a civil penalty or such other costs as the board or division deems appropriate. The board or division may determine the appropriate sanction considering factors contained in the Act including, but not limited to:

1. the risk to the public and the integrity of gaming operations created by the conduct;

2. the seriousness of the conduct and whether the conduct was purposeful and with knowledge that the conduct was in violation of the Act or rules promulgated in accordance with the Act;

3. a justification or excuse for the conduct;

4. the history of the licensee, casino operator or permittee with respect to gaming activity;

5. the corrective action taken to prevent similar misconduct from occurring in the future;

6. whether there was any material involvement, directly or indirectly, with the licensee, casino operator or permittee by a disqualified person as defined in the Act; and

7. in the case of a civil penalty or fine, the amount of the fine in relation to the severity of the misconduct and the financial means of the licensee, casino operator or permittee.

E. The board or division may assess a civil penalty as provided for in the penalty schedule. The penalty schedule lists a base fine and proscriptive period for each violation committed by the licensee, casino operator or permittee. If the total amount of the penalty or penalties recommended by the division resulting from an inspection or investigation exceeds \$300,000.00, the matter shall be forwarded to the board for administrative action.

F. The proscriptive period is the amount of time in which a prior violation is still considered active for purposes of consideration in assessment of penalties. A prior violation is a past violation of the same type which falls within the current violation's proscriptive period. The date of a prior violation shall be the date the licensee, casino operator, or permittee receives the significant action report or violation/inspection report. If one or more violations exist within the proscriptive period, the base fine shall be multiplied by a factor based on the total number of violations within the proscriptive period.

G. A violation of §2931 may result in a civil penalty in the same amount as provided in the penalty schedule for the respective violation.

H. Penalty Schedule

Section Reference	Description	Base Penalty	Proscriptive Period (Months)
<b>Chapter 21. Licenses and Permits</b>			
2101.B.	General Authority of the Board and Division	\$10,000	18
2108.	Non-Gaming Suppliers	\$2,000	12
2112.B.	Continuing Suitability, Duty to Report	\$10,000	24
2112.C.	Continuing Suitability, Duty to Report	\$5,000	24
2115.	Tax Clearances Required of a Gaming Employee Permittee	\$250	24
2131.B.	Time Table for Financing and Construction	\$25,000	24
2159.	Gaming Employee Permits Required	\$10,000	18
2165.	Display of Gaming Identification Badge	\$500	12
<b>Chapter 23. Compliance, Inspections, and Investigations</b>			
2325.	Administrative Actions and Penalty Schedule	\$2,500	12
2329.	Notification of Supplier Recommendation or Solicitations	\$2,000	12
<b>Chapter 25. Transfers of Interest in Licensees and Permittees; Loans and Restrictions</b>			
2521.	Financial Transaction; Incurring Debt	\$75,000	60
<b>Chapter 27. Accounting Regulation</b>			
2701.	Procedures for Reporting and Paying Gaming Revenues and Fees: Late Reports	\$2,000	12
2701.	Procedures for Reporting and Paying Gaming Revenues and Fees: Late Wire Transfers	\$5,000	12
2703.	Accounting Records (per issue)	\$2,000	12
2705.	Records of Ownership	\$500	12
2707.	Record Retention	\$10,000	18
2709.B.	Quarterly Financial Statements	\$1,000	12
2709.C.	SEC Reports	\$500	12
2711.A.	Guidelines	\$10,000	12
2711.B.	Required Signatures	\$500	12
2711.D.	Change of CPA Requirements	\$10,000	60
2711.E.	Separate Financial Statements	\$5,000	12
2711.F.	Audited Financial Statements (Submission Date)	\$10,000	60
2711.G.	Change of Business Year	\$2,000	60
2711.H.	Other CPA Reports	\$2,000	60
2711.I.	Quarterly Net Win Reports	\$5,000	24
2711.J.	Additional CPA Information	\$10,000	60
2711.K.	IRS Audit Report	\$5,000	60
2713.B.	Written Approval Required for Licensees Own Calculation Procedure	\$5,000	12
2713.C.	Submit Monthly Calculation to Division	\$5,000	12
2713.D.	Submission of Revised Calculated Amount	\$5,000	12

Section Reference	Description	Base Penalty	Proscriptive Period (Months)
2714.	Internal Controls, General	\$2,500	12
2714.G.	Amendments to Internal Controls Required by the Division	\$20,000	24
2715.A.	Keys	\$10,000	24
2715.B.	Restricted Areas	\$10,000	24
2715.C.	Internal Audit	\$10,000	18
2715.D.	Addition of Game or Computerized System	\$25,000	24
2715.E.	Training	\$5,000	24
2716.	Clothing Requirements	\$5,000	12
2717.A-E.	Fills and Credits	\$2,000	12
2717.F.	Table Games Inventory Procedures	\$5,000	12
2717.G.	Credit Procedures in Pit	\$2,000	12
2717.H.	Non-Marker Credit Play	\$5,000	12
2717.I.	Call Bets	\$10,000	18
2717.J.	Table Games Drop Procedures	\$10,000	24
2717.K.	Table Games Count Procedures	\$10,000	24
2717.L.	Table Games Key Control Procedures	\$10,000	24
2717.M.	Supervisory Controls	\$2,500	12
2717.N.	Accounting and MIS Functions	\$2,500	12
2719.A.	Handling of Cash at Gaming Tables	\$5,000	18
2719.B.	No Cash Wagers Allowed	\$10,000	18
2721.	Tips and Gratuities	\$2,000	12
2723.B & C.	Jackpot Request	\$2,000	12
2723.D.	Jackpot Payout Slip	\$2,000	12
2723.E.	Jackpot Payout Slips greater than \$1,200	\$1,000	12
2723.F.	Jackpot Payout Slips greater than \$5,000	\$5,000	12
2723.G.	Jackpot Payout Slips greater than \$10,000	\$10,000	18
2723.H.	Jackpot Payout Slips greater than \$500,000	\$15,000	24
2723.I.	Slot Fill Slips	\$2,000	12
2723.J.	Slot Hard Drop	\$10,000	12
2723.K.	Slot Count	\$10,000	12
2723.L.	Hard Count Weigh Scale	\$10,000	12
2723.M.	Accurate and Current Records for Each Slot Machine	\$5,000	12
2723.N.	Slot Machines Removed from Gaming Floor	\$10,000	18
2723.O.	Currency Acceptor Drop and Count Standards	\$10,000	24
2723.P.	Computer Records	\$5,000	12
2723.Q.	Management Information Systems (MIS) Functions	\$5,000	18
2723.R.	Accounting Department Audit Procedures Relative to Slot Operations	\$10,000	24
2723.S.	Slot Department Requirements	\$2,000	12
2725.	Poker	\$2,500	12
2727.	Race Book	\$5,000	12
2729.	Cage, Vault and Credit	\$5,000	12
2730.	Exchange of Chips and Tokens	\$1,000	12
2731.	Currency Transaction Reporting	\$5,000	12
2735.	Net Gaming Proceeds Computation	\$5,000	12

Section Reference	Description	Base Penalty	Proscriptive Period (Months)
2736.	Treatment of Credit for Computing Net Gaming Proceeds	\$5,000	12
<b>Chapter 29. Operating Standards</b>			
2901.	Code of Conduct of Licensees and Permittees	\$10,000	24
2901.B.4.c.	Notification; arrest, summons, citation or charge for any criminal offense or violation which if convicted would be a disqualification pursuant to R.S. 27:28(B)	\$500	24
	Notification: arrest, summons, citation or charge for any criminal offense or violation which if convicted would not be a disqualification pursuant to R.S. 27:28(B)	\$250	24
	Notification: Death of Owner/Member/Officer/Revenue Recipient	\$250	24
	Notification: Stock Or Interest Transfer	\$500	24
	Notification: Company Structure Change (Conversion/Merger Etc)	\$500	24
	Notification: Company Management Structure Change	\$500	24
2904.	Record Retention	\$10,000	18
2911.	Accessibility to Premises; Parking	\$1,000	12
2915.	Methods to Prevent Minors from Gaming Area	\$10,000	12
2919.	Finder's Fees	\$10,000	12
2921.	Collection of Gaming Credit	\$10,000	60
2923.	Gaming Employee Badge Equipment	\$2,500	12
2927.	Advertising	\$1,000	18
2935.	Entertainment Activities	\$5,000	12
2937.A.	Distributions	\$2,000	12
2937.B.	Distributions	\$5,000	12
2943.	Gaming Employees Prohibited from Gaming	\$2,500	12
2945.	Restricted Areas	\$10,000	24
2953.	Promotions	\$5,000	12
2954.	Tournaments	\$5,000	12
2955.	Managerial Representative on Premises	\$25,000	18
<b>Chapter 31. Rules of Play</b>			
3101.A&B.	Only Authorized Games Allowed	\$25,000	24
3101.C.	Games Must Be Conducted According to Rules and Licensee's Rules of Play	\$5,000	12
3103.	Rules of Play	\$5,000	12
3104.	Gaming equipment, gaming table, and gaming table layout requirements	\$5,000	12
3105.	Procedures for opening and closing of the gaming table	\$5,000	12
3106.	Procedures for each game that uses cards	\$5,000	12
3107.	Wagers	\$5,000	12
3109.	Game Limits	\$5,000	12
3111.	Publication of Payoffs	\$5,000	12
3113.	Periodic Payoffs	\$5,000	12

Section Reference	Description	Base Penalty	Proscriptive Period (Months)
<b>Chapter 33. Surveillance</b>			
3301.	Required Surveillance Equipment	\$10,000	24
3302.	Digital Video Recording Standards	\$10,000	24
3303.	Surveillance System Plans	\$25,000	24
3305.	Surveillance and Division Room Requirements	\$10,000	24
3307.	Segregated Telephone Communication	\$5,000	24
3309.	Surveillance Logs	\$10,000	24
3311.	Storage and Retrieval	\$20,000	24
3315.	Maintenance and Testing	\$20,000	24
3317.	Surveillance System Compliance	\$25,000	24
<b>Chapter 34. Security</b>			
3403.	Security Plans	\$25,000	24
3409.	Security Logs	\$10,000	24
<b>Chapter 35. Patron Disputes</b>			
3502.	Division Notification	\$1,000	12
<b>Chapter 40. Designated Check Cashing Representatives</b>			
4003	Cash Transaction Reporting for Designated Check Cashing Representative	\$5,000	12
4004	General Requirements	\$2,500	12
4006	Record Retention for Designated Check Cashing Representatives	\$10,000	18
4007	Designated Check Cashing Representative's Clothing Requirements	\$5,000	12
4008	Internal Controls; Designated Check Cashing Representative	\$2,500	12
4009	Internal Controls; Designated Check Cashing Representative Cage and Credit	\$5,000	12
4010	Designated Check Cashing Representative Currency Transaction Reporting	\$5,000	12
4011	Internal Controls Compliance	\$2,500	12
<b>Chapter 42. Electronic Gaming Devices</b>			
4202.	Approval of Gaming Devices; Applications and Procedures; Manufacturers and Suppliers	\$10,000	12
4204.	Progressive EGDs	\$5,000	12
4205.	Computer Monitoring Requirements of Electronic Gaming Devices	\$10,000	12
4208.	Certification by Manufacturer	\$1,000	12
4209.	Approval of New Electronic Gaming Devices	\$5,000	12
4210.	Electronic Gaming Device Tournament	\$5,000	12
4211.	Duplication of Program Storage Media	\$20,000	24
4212.	Marking, Registration, and Distribution of Gaming Devices	\$5,000	12
4213.	Approval to Sell or Dispose of Gaming Devices	\$10,000	24
4214.	Maintenance of Gaming Devices	\$20,000	24

Section Reference	Description	Base Penalty	Proscriptive Period (Months)
4215.	Analysis of Questioned Electronic Gaming Devices	\$20,000	12
<b>Chapter 43. Specifications for Gaming Devices and Equipment</b>			
4301.	Approval of Chips and Tokens; Applications and Procedures	\$5,000	12
4309.	Use of Chips and Tokens	\$1,000	12
4311.	Receipt of Gaming Chips and Tokens	\$1,000	12
4313.	Inventory of Chips	\$5,000	12
4315.	Redemption and Disposal of Discontinued Chips and Tokens	\$5,000	12
4317.	Destruction of Counterfeit Chips and Tokens	\$5,000	12
4318.	Promotional and Tournament Chips or Tokens	\$5,000	12
4319.	Approval and Specifications for Dice	\$5,000	12
4321.	Dice; Receipt, Storage, Inspections and Removal From Use	\$5,000	12
4323.	Approval and Specifications for Cards	\$5,000	12
<b>Title 27. Louisiana Gaming Control Law</b>			
<b>Chapter 2. Louisiana Gaming Control Board</b>			
27:29.3.	Annual Fee	\$500	60
27:29.5.	Renewal of permits; penalties	\$500 plus not less than \$25 or 25% of the amount due, whichever is the greater	60
<b>Chapter 4. The Louisiana Riverboat Economic Development and Gaming Control Act</b>			
<b>Part III. Gaming Enforcement Division</b>			
27:58.10.	Toll-Free Telephone Number	\$1,000 per day	24
27:61(1)	Net Gaming Procedures	\$2,000	12
27:61(2)	Tax Paid	\$2,000	12
27:61(3)	Quarterly Financial Statements	\$1,000	12
27:61(3)	Annual Financial Statements	\$10,000	60
<b>Part V. Conducting of Gaming Operations</b>			
27:65B(1)	Sailing Requirements	\$5,000	12
27:65B(2)	Sailing Duration	\$5,000	12
27:65B(3)	Division Agents May Inspect Anytime	\$25,000	60
27:65B(4)	Gaming Equipment Must Be from Permitted Suppliers	\$25,000	
27:65B(5)	Wagering Restrictions	\$10,000	18
27:65B(7)	Gaming Equipment Storage	\$25,000	60
27:65B(9)	No One under 21 Allowed	\$10,000	12
27:65B(11)	Wagering Only with Chips, Tokens, etc.	\$10,000	18
27:65B(13)	Adequate Insurance	\$25,000	60
27:65B(15)	Must Obey All Rules	\$10,000	18
<b>Part VIII. Issuance of Permits to Manufacturers, Suppliers, and Others</b>			
27:84	Gaming Employee Permits	\$10,000	18
27:85A	Unpermitted Employee	\$10,000	18
27:85B	Underage Patron/Employees	\$10,000	12

Section Reference	Description	Base Penalty	Proscriptive Period (Months)
27:86	Issuance of Permit to Conduct Racehorse Wagering	\$5,000	12
<b>Chapter 5. The Louisiana Economic Development And Gaming Corporation Law</b>			
<b>Part V. General Corporation Gaming Operations</b>			
27:230E	License or Permit Required	\$10,000	60
<b>Part VI. Land-Based Casino Operating Contract</b>			
27:244A(7)	Adequate Insurance	\$25,000	60
<b>Part VII. Licenses, Fees, and Registration</b>			
27: 250A	License or Permit Required	\$10,000	60
27:250(G)	Unpermitted Employee	\$10,000	18
<b>Part IX. Prohibitions, Exclusions, and Gaming Offenses</b>			
27:260A	No One Under 21 Allowed	\$10,000	12
<b>Chapter 7. Pari-Mutuel Live Racing Facility Economic Redevelopment and Gaming Control Act</b>			
<b>Part II. O Conduct of Slot Machine Gaming Activity</b>			
27:376	No One under 21 Allowed	\$10,000	12

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 38:

### **§2327. Proof of Compliance**

A. If a licensee, casino operator or permittee is notified by the division of a possible violation of the Act or the rules, the licensee, casino operator or permittee may submit proof of compliance with the Act and rules within 10 days of receipt of the notification.

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 38:

### **§2329. Notification of Supplier Recommendations or Solicitations**

A. The casino operator and all licensees shall file a written report with the division on the twentieth day of the following month providing the name, address, and telephone number of any person who recommends to, or solicits through any agent, employee, or representative who has authority to contract for the licensee or casino operator, for the purchase of goods or services from a particular supplier during the month. The licensee and casino operator shall also report the name, address, and telephone number of the recommended supplier to the division at the same time. This provision shall only apply to the solicitation or purchase of goods or services with a value in excess of \$10,000. This provision shall not apply to any recommendations made to the licensee or casino operator for the hiring of employees working in the day-to-day operations of the casino.

B. The licensee or casino operator shall also report any recommendation or solicitation received under circumstances in which a reasonable person would perceive there to be pressure, intimidation of any kind or other conduct not customary in an ordinary business transaction.

C. Supplier, for the purposes of this Section, shall include, but is not limited to, any manufacturer, distributor, gaming supplier, non-gaming supplier, junket representative, professional, independent contractor, consultant, or other person in the business of providing goods and services

regardless of whether required to be licensed, permitted, or registered.

D. If no recommendations or solicitations have occurred during a month, a report shall not be submitted for that period.

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 38:

## **Chapter 25. Transfers of Interest in the Casino Operator, Licensees, and Permittees; Loans and Restrictions**

Editor's Note: The information for this Chapter was consolidated from corresponding Chapters in Parts VII, IX, and XIII prior to their being repealed.

### **§2501. Transfers of Interest, General**

A. The transfer of a license, permit or an application for a license or permit is prohibited.

B. No person shall transfer any interest of any sort whatsoever in a licensee, permittee, casino operator or casino manager, or foreclose on a security interest in a licensee, permittee, casino operator or casino manager, or enter into or create a voting trust agreement or any agreement of any sort in connection with any licensee, permittee, casino operator or casino manager except in accordance with the Act and rules.

C. The following definitions shall apply to transfers of interest.

*Acquire Control or Change of Control*—any act or conduct by a person whereby he obtains control, whether accomplished through the ownership of equity or voting securities, ownership of rights to acquire equity or voting securities, by management or consulting agreements or other contract, by proxy or power of attorney, by merger, consummation of tender offer, acquisition of assets, or otherwise. Any acquisition by a person or group of persons acting in concert of more than 20 percent ownership or economic interest shall be considered a change of control.

*Control*—the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person.

*Economic Interest*—same meaning as in Section 1701.

*Ownership Interest*—owning shares or securities issued by a corporation, being a partner in any kind of partnership, being a member of a limited liability company, or owning or possessing any interest in any other kind of legal entity.

*Transfer*—to alienate, assign, acquire, bequeath, bestow, cede, convey, dispose of, divest, donate, lease, purchase or sell.

D. No person shall transfer any interest in a licensee, permittee, casino operator or casino manager to any person acting as an agent, trustee or in any other representative capacity for or on behalf of another person without having first fully disclosed all facts pertaining to such transfer and representation to the board and division. No person acting in such representative capacity shall hold or acquire any such interest or so invest or participate without having first fully disclosed all facts pertaining to such representation to the board and division and having obtained approval of the board or division.

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 38:

### **§2502 Transfer of Interest; Prior Approval**

A. Except as otherwise provided in this Chapter, the transfer of the following interests shall receive prior written approval of the board or division:

1. other than the transfer of securities in a publicly traded corporation, an ownership or economic interest of 5 percent or more in a licensee, permittee, casino operator or casino manager;

2. other than the transfer of securities in a publicly traded corporation, an ownership or economic interest of 5 percent or more in any person required to meet the qualification and suitability requirements of the Act;

3. a transaction that results in a change of control of a licensee, permittee, casino operator or casino manager; or

4. a transaction in which a person acquires control of a licensee, permittee, casino operator or casino manager.

B. The acquisition of an ownership or economic interest in a licensee, permittee, casino operator or casino manager not listed in Subsection A is conditional and ineffective if subsequently disapproved by the board or division. The person involved in an acquisition other than one listed in Subsection A may request prior approval of the transaction from the board or division.

C. The requirements of Subsection A shall apply should an accumulation of transfers occur wherein 5 percent or more ownership or economic interest or such other interest that otherwise leads to a change of control in a licensee, permittee, casino operator or casino manager is transferred.

D. Any person seeking prior approval required by this Section shall comply with the provisions of this Chapter unless the board or division waives any or all of the requirements upon receipt of a written request for such waiver.

E. No transfer of interest for which prior approval is required pursuant to this Chapter may be completed unless the transfer and proposed transferee have been approved, in writing, by the board and any transfer that occurs without the prior approval of the board is void and without effect. Failure to obtain prior approval as required by this Section may be grounds for administrative action against a licensee, permittee, casino operator or casino manager.

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 38:

### **§2503. Procedure for Proposed Transfer; Prior Approval**

A. Any person seeking prior approval of a transfer of interest as required by this Chapter shall make application to the board or division. The application shall include:

1. all application forms, including personal history forms, required by the board or division;

2. all documents which evince the transfer of interest including any financing arrangements, if applicable;

3. all documents which evince any side agreements or related agreements regarding the transfer of interest; and

4. all other documents the division deems necessary for a full and complete investigation and evaluation of the proposed transferee's qualifications and suitability to hold the interest to be transferred.

B. All costs associated with the investigation of the application for a transfer shall be paid by the person seeking to acquire the interest. An application fee of \$50,000 shall be

paid at the time of filing of the application to defray the costs associated with the background investigation conducted by the division. Any portion of the application fee remaining upon completion of the background investigation shall be refunded to the person making application.

C. All persons required to obtain approval pursuant to this Chapter shall meet the qualification and suitability requirements as set forth in the Act and rules.

D. The board shall give the applicant notice of the granting of its application for a transfer of interest. The granting of an application for a transfer of interest may be subject to any condition, limitation, or restriction in the same manner as the granting of a license or permit. The applicant shall indicate its acceptance of any condition, limitation, or restriction by documentation approved by the board.

E. An applicant served with notice of a recommendation of denial of the application for transfer of interest may make written request for a hearing as provided in the Act and rules. The applicant shall provide by clear and convincing evidence that he is qualified and suitable in accordance with the Act and rules. Appeals of any decision of the hearing officer resulting from such hearing shall be made to the board as provided in the Act and rules.

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 38:

#### **§2504. Transfer of Interest; Among Owners and Affiliates**

A. The transfer of an interest in a licensee, permittee, casino operator or casino manager to a person who then holds an interest in, or is an affiliate of, such licensee, permittee, casino operator or casino manager and who has previously been determined qualified and suitable in accordance with the Act and rules does not require prior approval of the board or division.

B. At least 30 days prior to consummation, the parties shall provide written notice of the transfer to the board or division. The notice shall contain the name and addresses of the parties, the extent of the interest transferred and the consideration provided for the transfer. The notice shall also include the following as attachments:

1 a sworn statement from the transferee explaining and identifying the source of funds used in acquiring the interest, if any, and attesting that the transferee continues to meet all qualification and suitability requirements of the Act and rules,

2 a copy of all documents which evince the transfer including any financing arrangements,

3 a copy of all documents which evince any side agreements or related agreements regarding the transfer, and

4 any other documents the board or division may deem necessary.

C. The board or division may conduct such investigation pertaining to the transaction as it deems appropriate to assure the continued qualification and suitability of the transferee in accordance with the Act and rules.

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 38:

#### **§2505. Transfer of Interest; Publicly Traded Securities**

A. Each person, other than an institutional investor as defined in the Act, who individually, or in association with others, acquires an ownership or economic interest of 5 percent or more of any class of publicly traded voting securities of a licensee, permittee, casino operator or casino manager, or an affiliate, shall submit all required applications to the board or division for a determination of qualification and suitability in accordance with the Act and rules. The application for the suitability determination shall be filed within 30 days of acquisition of the securities.

B. An institutional investor as defined by the Act who individually, or in association with others, acquires an ownership or economic interest of 5 percent or more of any class of publicly traded voting securities of a licensee, permittee, casino operator or casino manager, or an affiliate, shall notify the board or division within 10 business days after the acquisition of the voting securities. Upon receipt of the notice, the division shall determine if the institutional investor has previously submitted the certification required by R.S. 27:27. If the institutional investor does not have a valid certification on file, it shall submit the required certification documents within 30 days of receiving written notice from the division.

C. The licensee, permittee, casino operator or casino manager shall provide notice to the board and division within 5 days of obtaining knowledge of the accumulation of an ownership interest of 5 percent or more of any class of publicly traded voting securities of the licensee, permittee, casino operator or casino manager, or an affiliate.

D. If the board finds that the holder of the security is not qualified and suitable in accordance with the Act and rules, the holder of the security shall not receive dividends or interest on the security, exercise directly or indirectly any right conferred by the security, receive any remuneration or economic benefit or continue in ownership of the security. Within 30 days of the finding that the holder is not qualified and suitable, the issuer of the security shall purchase the security from the holder for the lesser of the current fair market value or the original purchase price.

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 38:

#### **§2506. Prohibited Transfers; Licensed Eligible Facility; Casino Operator**

A. The transfer of more than 50 percent ownership or economic interest or a transfer that has the effect of transferring control in a licensed eligible facility is prohibited.

B. The casino operator shall not transfer the casino operating contract or any interest therein, or subcontract the performance of any of the casino operator's duties or obligations there under, to any person without first obtaining the approval of the board.

C. Except a transfer to a leasehold mortgagee in compliance with the casino lease or in connection with the initial plan financing or other approved financing or a transfer pursuant to section 23.6(g) of the casino operating contract, the casino operator shall not voluntarily or involuntarily transfer the casino lease, or any interest

therein, to any person without first obtaining the approval of the board.

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 38:

#### **§2507. Stock Restrictions**

A. Unless otherwise expressly approved by the board, all ownership securities or stock issued by a licensee, permittee, casino operator or casino manager shall bear on both sides of the certificate a statement of the restrictions containing the following inscription:

1. "The purported sale, assignment, transfer, pledge or other disposition of this security must receive prior approval of the Louisiana Gaming Control Board. The purported sale, assignment, transfer, pledge or other disposition, of any security or shares issued by the entity issuing this security is void unless approved in advance by the Louisiana Gaming Control Board. If at any time an individual owner of any such security is determined to be unsuitable under the Act and rules to continue as a permittee or suitable person, the issuing entity shall ensure that such person or persons may not receive any dividend or interest upon any such security, exercise, directly or indirectly through any trustee or nominee, any voting right conferred by such security, receive remuneration in any form from the entity or an affiliate for services rendered or otherwise, receive any economic benefit from the entity or an affiliate, or continue in an ownership or economic interest in the entity or function as a manager, officer, director or partner in the entity."

B. A publicly traded company organized and formed prior to applying for a license, permit, or casino operating contract under the provisions of the Act is only required to put the restriction on securities issued after the entity files its application for a license or permit or transfer for approval.

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 38:

#### **§2508. Notice of Significant Regulatory Violation;**

##### **Application of Sanction to Transferee**

A. In the event the division institutes an administrative action against a licensee, permittee, casino operator or casino manager which involves an alleged significant violation of the Act or rules, the division may, at the time of instituting the action or any time thereafter, file a notice of significant violation in accordance with the terms of this Section. The filing of the notice of significant violation shall serve as actual and constructive notice of the pending proceeding to any person and bind them in accordance with Subsection C.

B. The division may apply to the hearing officer for the issuance of a notice of significant violation. A notice of significant violation shall issue upon written application of the division specifying facts establishing that there are reasonable grounds to believe that the licensee, permittee, casino operator or casino manager has violated the Act or rules and that such alleged violation could lead to a civil penalty or the suspension or revocation of any license or permit or the termination of any contract. If accepted by the hearing officer as complying with the terms of this Section, the notice of significant violation shall be filed with the

board which shall maintain a separate notice of significant violation index as a public record.

C. Any sale, assignment, transfer, pledge or other disposition of an ownership or economic interest in a licensee, permittee, casino operator or casino manager that takes place after the filing of the notice of significant violation shall render the transferee responsible and subject to any sanction subsequently imposed upon the licensee, permittee, casino operator or casino manager based upon any conduct described in the notice of significant violation.

D. If, after hearing, there is a determination that the grounds for the notice of the significant violation do not exist, the notice of significant violation shall be canceled and be of no effect.

E. Nothing herein shall be construed to limit the division or board with respect to any other right or remedy provided by the Act or rules.

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 38:

#### **§2509. Emergency Situations**

A. If a transfer of interest which requires prior board approval under this Chapter is contemplated, and in the opinion of the board, the exigencies of the situation require that the proposed transferee be permitted to take part in the conduct of operations or to make available financing or other credit for use in connection with such operation during the pendency of an application for approval of the transfer of interest, then the board may by emergency order implement the emergency procedures described in §2510 of this Chapter.

B. An emergency as used in this Chapter may be deemed to include, but is not limited to any of the following:

1. the licensee, permittee, casino operator, casino manager or person who was required to be qualified and suitable in accordance with the Act and rules has died or has been declared legally incompetent;

2. the licensee, permittee, casino operator, casino manager or person who was required to be qualified and suitable in accordance with the Act and rules is a legal entity that has been dissolved by operation of law;

3. the licensee, permittee, casino operator, casino manager or person who was required to be qualified and suitable in accordance with the Act and rules has filed a petition of bankruptcy, or in the opinion of the board, is or will likely become insolvent;

4. the license or permit has been suspended or revoked;

5. a person with an interest in the licensee, permittee, casino operator, casino manager or person who was required to be qualified and suitable in accordance with the Act and rules no longer meets the suitability requirements of the Act and rules;

6. the licensee, permittee, casino operator, casino manager or person who was required to be qualified and suitable in accordance with the Act and rules, or an interest in a licensee, permittee, casino operator or casino manager is subject to foreclosure or other forced sale permitted by law; or

7. any other emergency circumstance that is approved by the board.

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 38:

### **§2510. Emergency Procedures**

A. A proposed transferee who seeks to participate in an operation pursuant to an emergency order of the board must submit a written request to the board which shall contain the following:

1. a complete description of the extent to which and the manner in which the proposed transferee will participate in the operations pending the completion of the proposed transfer of interest;

2. a complete description of the plan for effecting the proposed transfer of interest;

3. a complete financial statement, including the sources for all funds to be used in the transfer and that will be used in the participation prior to completion of the transfer;

4. full, true and correct copies of all documents pertaining to the proposed transfer, including but not limited to all agreements between the parties, leases, notes, mortgages or deeds of trust, and pertinent agreements or other documents with or involving third parties;

5. a complete description of any and all proposed changes in the manner or method of operations, including but not limited to the identification of all proposed changes of and additions to supervisory personnel;

6. all such additional documentation and information as may be requested by the board; and

7. a certification that a copy of the request for emergency participation has been provided to the board.

B. The proposed transferee must file a complete application with the board for approval of the transfer of interest and for any necessary license or permit as provided in this Chapter within five business days after an order for emergency participation has been issued. The board may waive any and all requirements of this Section upon written request of the proposed transferee with a showing of good cause.

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 38:

### **§2511. Emergency Permission to Participate; Investigation; Extent of Participation**

A. After receipt of a proper application for emergency permission to participate, the division shall determine if all necessary documents and information have been provided by the transferee. If the division determines all necessary documents and information have been provided by the proposed transferee, then the division shall notify the proposed transferee of that fact in a manner deemed appropriate by the board.

B. After the notice required by Subsection A of this Section has been provided to the proposed transferee, the division shall commence the background investigation of the proposed transferee. The division may request such additional documents and information during the investigation as it deems necessary. Upon conclusion of the background investigation, the board may grant or deny the request for emergency participation. No hearing will be granted to review the denial of a request for emergency

participation. Any conditions imposed by the board on the proposed transferee must be accepted by the proposed transferee in a manner approved by the board prior to the board granting a request for emergency participation.

C. Emergency permission to participate shall be defined with respect to time and shall be limited as follows:

1. Pending final action on the application to approve transfer of interest, the existing licensee, permittee, casino operator, casino manager or person who has met the suitability requirements of the Act and rules and the proposed transferee approved for emergency participation shall both be responsible for the payment of all taxes, fees and fines, and the acts or omissions of each.

2. No proposed transferee who has been granted emergency permission to participate shall receive any portion of the gross or net gaming revenue from the gaming operations until final approval of the proposed transfer of interest has been granted. If approval is granted, such approval shall be retroactive to the effective date of the emergency participation.

3. A proposed transferee who has been granted emergency permission to participate and who actually renders services to the gaming operation or permitted operation may be compensated for any services actually rendered, but such compensation is subject to prior written approval of the board.

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 38:

### **§2512. Effect of Permission to Participate; Withdrawal**

A. The granting of emergency permission to participate is a revocable privilege. The granting of emergency permission to participate is not a finding by the board that the applicant for emergency participation is qualified and suitable in accordance with the Act and rules. Such emergency permission to participate is without prejudice to any action that the division or board may take with respect to any application for approval of the proposed transfer of interest. All emergency permissions to participate are subject to the condition that they may be revoked or suspended at any time without a right to a hearing to review the board's decision. The provisions contained in this Section are to be considered a part of any emergency participation granted by the board whether or not they are included in the order granting such emergency participation.

B. Upon notice that the emergency permission to participate has been withdrawn, suspended or revoked, the proposed transferee shall immediately terminate any participation whatsoever in the operations of the licensee, permittee, casino operator, casino manager or person required to meet the suitability requirements of the Act and rules. Anything of value, including money, contributed to the operations of the licensee, permittee, casino operator, casino manager or person required to meet the suitability requirements of the Act and rules shall be immediately returned to the proposed transferee. Non-compliance with this Section shall be considered a violation of the Act and rules.

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 38:



### **§2513. Escrow Accounts**

A. No money or other thing of value shall be paid, remitted, or distributed, directly or indirectly, to a proposed transferee, including a transferee with emergency permission to participate, until the board has approved the transfer and transferee.

B. All money or other things of value to be paid, remitted, or distributed, directly or indirectly, to a proposed transferee, including a transferee with emergency permission to participate, shall be placed in escrow in a manner acceptable to the board until the board has approved the transfer and transferee.

C. Upon approval of the transfer and transferee, the money or other thing of value held in escrow may be distributed to the transferee.

D. If a transfer or transferee is disapproved by the board, any money or thing of value placed in escrow shall be returned to the person depositing the money or other thing of value in escrow.

E. A transferee with emergency permission to participate may be paid such compensation for services rendered as has been approved by the board in writing without such compensation being placed in escrow.

F. Any violation of this Section shall be grounds to deny the transfer and disapprove the transferee.

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 38:

### **§2514.-§2520. Reserved**

### **§2521.-§2526 ...**

### **Chapter 27. Accounting Regulations**

Editor's Note: The information for this chapter was consolidated from corresponding chapters in Parts VII, IX, and XIII prior to their being repealed.

### **§2701. Procedure for Reporting and Paying Gaming Revenues and Fees**

A. All gaming revenue summary reports, together with all necessary subsidiary schedules, shall be submitted to the division no later than 48 hours from the end of the licensee's or casino operator's specified gaming day in a manner specified by the division.

1. For reporting purposes, licensee's the specified gaming day shall be submitted in writing to the division for approval prior to implementation.

2. Each licensee or casino operator shall have only one gaming day common to all its departments. Any change to the gaming day shall be submitted to the division 10 days prior to implementation of the change.

#### **B. Riverboat**

1. All riverboat license and franchise fees related thereto must be electronically transferred to the designated bank account as directed by the division. In addition to any other administrative action, civil penalties, or criminal penalties, riverboat licensees who are late in electronically transferring these fees may retroactively be assessed late penalties of 15 percent of the amount due per annum after notice and opportunity for a hearing held in accordance with the Act. Interest may be imposed on the late payment of fees at the daily rate of 0.00041 multiplied by the amount of unpaid fees for each day the payment is late.

#### **C. Casino Operator**

1. All Louisiana gross gaming revenue share payments must be electronically transferred to the designated bank account as directed by the division and the casino operating contract. Interest shall be imposed on the late payment of fees at the default interest rate as defined by the casino operating contract. In addition to any other administrative action, civil penalties, or criminal penalties allowed by law, casino operators or casino managers who are late in electronically transferring these payments may retroactively be assessed late penalties after notice and opportunity for a hearing held in accordance with the Act.

#### **D. Licensed Eligible Facility**

1. All taxes must be electronically transferred to the designated bank account as directed by the division. In addition to any other administrative action, civil penalties, or criminal penalties, licensed eligible facilities who are late in electronically transferring these taxes may retroactively be assessed late penalties of 15 percent of the amount due per annum after notice and opportunity for a hearing held in accordance with the Act. Interest may be imposed on the late payment of taxes at the daily rate of 0.00041 multiplied by the amount of unpaid taxes for each day the payment is late.

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 38:

### **§2703. Accounting Records**

A. The following requirements shall apply throughout this Chapter.

1. Each licensee and casino operator, in such manner as the division may approve or require, shall keep accurate, complete, legible, and permanent records of all transactions pertaining to revenue that is taxable or subject to fees under the Act.

2. Each licensee and casino operator shall keep records of all transactions including, but not limited to, contracts or agreements with suppliers/vendors, contractors, consultants, attorneys, accounting firms; accounts/trade payable files; insurance policies; and bank statements, reconciliations and canceled checks or legible copies thereof.

3. Each licensee and casino operator that keeps permanent records using a computer or microfiche system shall, upon request, immediately provide division agents with a detailed index to the microfiche or computer record that is indexed by casino department and date, and provide the division agent with access to a computer or microfiche reader. Only documents which do not contain original signatures required by these rules may be kept in a microfiche or computer system.

B. Each licensee and casino operator shall keep general accounting records on a double entry system of accounting, with transactions recorded on a basis consistent with generally accepted accounting principles, maintaining detailed, supporting, subsidiary records, including but not limited to:

1. records identifying:
  - a. revenues by day;
  - b. expenses;
  - c. assets;

- d. liabilities;
- e. equity for the establishment; and
- f. admissions or if approved by the division, reasonable estimates of admissions;

2. records of all markers, IOU's, returned checks, hold checks, or other similar credit instruments;

3. individual and statistical game records to reflect drop, win, and the percentage of win to drop by table for each table game, and to reflect drop, win, and the percentage of win to drop for each type of table game, for each day or other accounting periods approved by the division and individual and game records reflecting similar information for all other games, including slots;

4. slot analysis reports comparing actual hold percentage to theoretical hold percentage for each machine;

5. records required by the internal controls;

6. journal entries and all work papers, electronic or manual, prepared by the licensee or casino operator and their independent accountant;

7. records supporting the accumulation of the costs for complimentary services and items. A complimentary service or item provided to patrons in the normal course of business shall be expended at an amount based upon the full cost of such services or items to the licensee or casino operator;

8. gaming chip and token perpetual inventory records which identify the purchase, receipt, and destruction of gaming chips and tokens from all sources, and any other necessary adjustments to the inventories. The recorded accountability shall be verified by physical counts at least once per year;

9. work papers supporting the daily reconciliation of cash and cash equivalent accountability;

10. financial statements and supporting documents; and

11. any other records the division requires.

C. Each licensee and casino operator shall create and maintain records sufficient to accurately reflect gross income and expenses relating to its gaming operations.

D. If a licensee or casino operator fails to keep the records used to calculate gross and net gaming revenue, or if the records are not adequate to determine these amounts, the division may compute and determine the amount of gross gaming revenue, net gaming proceeds, or net slot machine proceeds based on an audit and statistical analysis conducted by the division.

E. The division may review or take possession of records at any time.

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 38:

### **§2705. Records of Ownership**

A. Each licensee or casino operator that is a corporation shall keep on the premises of its gaming establishment, or other premises as approved by the division, the following documents pertaining to the corporation:

1. a certified copy of the articles of incorporation and any amendments;

2. a copy of the bylaws and any amendments;

3. a copy of the certificate issued by the Louisiana Secretary of State authorizing the corporation to transact business in Louisiana;

4. the address of registered office and agent(s);

5. a list of all current and former officers and directors;

6. a certified copy of minutes of all meetings of the stockholders;

7. a certified copy of minutes of all meetings of the directors;

8. a list of all stockholders listing each stockholder's name, birth date, Social Security number, address, the number of shares held, and the date the shares were acquired;

9. the stock certificate ledger;

10. a record of all transfers of the corporation's stock;

11. a record of amounts paid to the corporation for issuance of stock and other capital contributions; and

12. a schedule of all salaries, wages, and other remuneration (including perquisites), direct or indirect, paid during the calendar or fiscal year by the corporation to all officers, directors, and stockholders with an ownership interest at any time during the calendar or fiscal year equal to 5 percent or more of the outstanding capital stock of any class of stock.

B. Each licensee or casino operator that is a limited liability company ("LLC") shall keep on the premises of its gaming establishment or other premises as approved by the division, the following documents pertaining to the company:

1. a certified copy of the articles of organization and any amendments;

2. a copy of the initial report, setting forth location and address of registered office and agent(s);

3. a copy of required records to be maintained at the registered office of the LLC including a current list of names and addresses of members and managers;

4. a copy of the operating agreement and amendments; and

5. a copy of the certificate issued by the Louisiana Secretary of State authorizing the LLC to transact business in Louisiana.

C. Each licensee or casino operator that is a partnership shall keep on the premises of its gaming establishment or other premises as approved by the division, the following documents pertaining to the partnership:

1. a copy of the partnership agreement and, if applicable, the certificate of limited partnership;

2. a list of the partners including their names, birth date, Social Security number, addresses, the percentage of interest held by each, the amount and date of each capital contribution of each partner, and the date the interest was acquired;

3. a record of all withdrawals of partnership funds or assets;

4. a schedule of salaries, wages and other remuneration (including perquisites), direct or indirect, paid to each partner during the calendar or fiscal year; and

5. a copy of the certificate issued by the Louisiana Secretary of State authorizing the partnership to transact business in Louisiana.

D. Each licensee or casino operator that is a sole proprietorship shall keep on the premises of its gaming establishment or other premises as approved by the division, the following documents:

1. a schedule showing the amount and date of the proprietor's original investment and of any additions and withdrawals; and

2. a schedule of salaries, wages and other remuneration (including perquisites), direct or indirect, paid to the proprietor during the calendar or fiscal year.

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 38:

#### **§2707. Record Retention**

A. Upon request and at a location designated by the division, each licensee and casino operator shall provide the division with the records required to be maintained by this Chapter. Each licensee and casino operator shall retain all such records for a minimum of five years in a location approved by the division. In the event of a change of ownership, records of prior owners shall be retained in a location approved by the division for a period of five years unless a different period is authorized by the division. Electronic records may be maintained in other locations if access to the records is available on computers located at the casino premises or other location approved by the division.

B. Each licensee and casino operator shall conduct a complete system data backup to an off-site location a minimum of once a month. For purposes of this Section, the licensee and casino operator shall submit the name, location, and security controls of the off-site storage facility to the division. Licensees and the casino operator shall submit changes to the location and security controls of the off-site storage facility at least 30 days prior to the change. Any changes less than 30 days in advance must include justification for the late submission. A complete system data backup includes, but is not limited to:

1. all automated slot data information;
2. all automated table game information;
3. all automated cage and credit information; and
4. all automated revenue reports.

C. Licensees and the casino operator shall have a written contingency plan in the event of a system failure or other event resulting in the loss of system data. The plan shall address backup and recovery procedures and shall be sufficiently detailed to ensure the timely restoration of data in order to resume operations after a hardware or software failure or other event that results in the loss of data.

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 38:

#### **§2709. Standard Financial Statements**

A. The division may prescribe a uniform chart of accounts including account classifications in order to insure consistency, comparability, and appropriate disclosure of financial information. The prescribed chart of accounts shall be the minimum level of detail to be maintained for each accounting classification by the licensees or casino operator. A licensee or casino operator shall prepare its financial statements in accordance with the division's chart of accounts or the licensee's or casino operator's chart of accounts if the division does not prescribe a chart of accounts.

B. A licensee and casino operator shall furnish to the division on a form, as prescribed by the division, a quarterly

financial report. The quarterly financial report shall also present all data on a monthly basis. Monthly financial reports shall include reconciliation of general ledger amounts with amounts reported to the division. The quarterly financial report shall be submitted to the division no later than 60 days following the end of each quarter.

C. A licensee or casino operator shall submit to the division one copy of any report including, but not limited to, Forms S-1, 8-K, 10-Q, and 10-K, required to be filed with the Securities and Exchange Commission or other domestic or foreign securities regulatory agency by the licensee or casino operator, and their holding company, intermediate company, or parent company. These reports shall be delivered to the division within 15 days of the time of filing with such commission or agency or within 15 days of the due date prescribed by such commission or regulatory agency, whichever comes first.

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 38:

#### **§2711. Audited Financial Statements**

A. Each licensee and casino operator shall submit to the division, in a manner prescribed by the division, audited financial statements reflecting all financial activities of the licensee's or casino operator's establishment prepared in accordance with generally accepted accounting principles and subjected to an examination conducted according to generally accepted auditing standards by an independent Certified Public Accountant (CPA). The CPA shall incorporate the guidelines established by the division into current procedures for preparing audited financial statements. The submitted audited financial statements required by this Section shall be based on the licensee's or casino operator's business year as approved by the division. The financial statements must further reflect the operating records of food, beverage, hotel, and retail facilities or enterprises owned by the licensee or casino operator or an affiliate and located on the premises or considered part of the operations.

B. The reports required to be filed pursuant to this Section shall be sworn to and signed by:

1. if from a corporation, the chief executive officer and the financial vice president, treasurer or controller;
2. if from a limited liability company, the manager or managing member and the financial vice president, treasurer or controller;
3. if from a partnership, the managing general partner and the financial director;
4. if from a sole proprietorship, the proprietor; or
5. if from any other form of business association, the chief executive officer or other person approved by the division.

C. All audits and reports required by this Section shall be prepared at the sole expense of the licensee or casino operator.

D. Each licensee and casino operator shall engage an independent Certified Public Accountant (CPA) licensed by the Louisiana State Board of Certified Public Accountants. The CPA shall examine the statements in accordance with generally accepted auditing standards. The CPA is prohibited from providing internal audit services. Should the CPA previously engaged as the principal accountant to audit the

licensee's or casino operator's financial statements resign or be dismissed as the principal accountant, or if another CPA is engaged as principal accountant, the licensee or casino operator shall file a report with the division within 10 days following the end of the month in which the event occurs, setting forth the following:

1. the date of the resignation, dismissal, or engagement;

2. any disagreements with a former accountant, in connection with the audits of the two most recent years, on any matter of accounting principles, or practices, financial statement disclosure, auditing scope or procedure, which disagreements, if not resolved to the satisfaction of the former accountant, would have caused him to make reference in connection with his report to the subject matter of the disagreement; including a description of each such disagreement; whether resolved or unresolved;

3. whether the principal accountant's report on the financial statements for any of the past two years contained an adverse opinion or a disclaimer of opinion or was qualified. The nature of such adverse opinion, disclaimer of opinion, or qualification shall be described; and

4. a letter from the former accountant furnished to the licensee or casino operator and addressed to the division stating whether the CPA agrees with the statements made by the licensee or casino operator in response to this Section.

E. Unless the division approves otherwise in writing, the statements required must be presented on a comparative basis. Consolidated financial statements may be filed by commonly owned or operated establishments, but the consolidated statements must include consolidating financial information or consolidated schedules presenting separate financial statements for each establishment licensed or authorized to conduct gaming. The CPA shall express an opinion on the consolidated financial statements as a whole and shall subject the accompanying consolidating financial information to the auditing procedures applied in the examination of the consolidated financial statements.

F. Each licensee and casino operator shall submit to the division two originally signed copies of its audited financial statements and the applicable CPA's letter of engagement not later than 120 days after the last day of the licensee's or casino operator's business year. In the event of a license or contract termination, change in business entity, or a change in the percentage of ownership of more than 20%, the licensee or casino operator or former licensee or former casino operator shall, not later than 120 days after the event, submit to the division two originally signed copies of audited statements covering the period between the filing of the last financial statement and the date of the event. The division may waive this requirement if the date of the event is within 30 days of the end of the licensee's or casino operator's business year. If a license or contract termination, change in business entity, or a change in the percentage of ownership of more than 20 percent occurs within 120 days after the end of the business year for which a statement has not been submitted, the licensee or casino operator may submit statements covering both the business year and the final period of business.

G. If a licensee or casino operator changes its fiscal year, the licensee or casino operator shall prepare and submit to

the division audited financial statements covering the period from the end of the previous business year to the beginning of the new business year not later than 120 days after the end of the period.

H. Reports that directly relate to the CPA's examination of the licensee's or casino operator's financial statements shall be submitted within 120 days after the end of the licensee's or casino operator's business year. The CPA shall incorporate the guidelines established by the division into current procedures for preparing the reports.

I. Each licensee and casino operator shall engage an independent CPA to conduct a quarterly audit of its net gaming proceeds, gross gaming revenue, or net slot machine proceeds. Quarters shall be based upon the licensee's fiscal year. Two signed copies of the auditor's report shall be forwarded to the division not later than 60 days after the last day of the applicable quarter. The CPA shall incorporate the guidelines established by the division into current procedures for preparing the quarterly audit.

J. The division may request additional information and documents from either the licensee or casino operator or their CPA, regarding the financial statements or the services performed by the CPA. The division may review any and all work papers of the CPA at a time and place determined by the division. These requirements shall be included in agreements between the licensee, casino operator or its affiliates and the CPA.

K. The licensee or casino operator shall submit to the division, postmarked by the United States Postal Service or deposited for delivery with a private or commercial interstate carrier, or in another manner approved by the division, any audit report prepared by the Internal Revenue Service (IRS) and issued to the licensee or casino operator. The report is due within 30 days of receipt from the IRS.

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 38:

**§2713. Cash Reserve and Bonding Requirements.**

A. Each licensee and casino operator shall maintain in cash or cash equivalent amounts sufficient to protect patrons against defaults in gaming debts owed by the licensee or casino operator. The licensee or casino operator shall use the appropriate calculation below:

1. Licensed Eligible Facility

SLOTS: Non-progressive:  
 Number of Machines x \$50 = \_\_\_\_\_  
 Progressive:  
 Total of all in house progressive jackpots: \_\_\_\_\_  
 OTHER: Operating Accounts Payable: \_\_\_\_\_  
 (amount equal to two weeks payables)  
 Payroll for Two Weeks : \_\_\_\_\_  
 Debt Service for One Month: \_\_\_\_\_  
 TOTAL REQUIREMENTS: \_\_\_\_\_  
 CASH RESERVE COMPRISED OF  
 Cash in Cage : \_\_\_\_\_  
 Cash in Banks, TCD, Savings, etc.: \_\_\_\_\_  
 Entity's Cash on Hand (Do not include slot  
 machine bucket cash): \_\_\_\_\_  
 Less: Safekeeping Money (\_\_\_\_\_) \_\_\_\_\_  
 TOTAL CASH RESERVE AVAILABLE: \_\_\_\_\_

2. Casino Operator—in accordance with the internal controls

### 3. Riverboat

GAMES: All Table Games  
Number of games X table limit average X \$50 = \_\_\_\_\_

SLOTS: Non-progressive:  
Number of Machines X \$50 = \_\_\_\_\_  
Progressive:  
Total of all in house progressive jackpots = \_\_\_\_\_

KENO: Number of Games X \$25,000 = \_\_\_\_\_  
(or game limit, whichever is smaller)

OTHER: Operating Accounts Payable = \_\_\_\_\_  
(amount equal to two weeks payables)  
Payroll for Two Weeks = \_\_\_\_\_  
Debt Service for One Month = \_\_\_\_\_

TOTAL REQUIREMENTS:  
CASH RESERVE COMPRISED OF  
Cash in Cage:  
Cash in Banks, TCD, Savings, etc. = \_\_\_\_\_  
Casino Cash on Hand  
(Do not include slot machine bucket cash)  
Less: Safekeeping Money (\_\_\_\_\_) \_\_\_\_\_

TOTAL CASH RESERVE AVAILABLE \_\_\_\_\_

a. For the purposes of this Section, table limit average shall be defined as the sum of the highest table limit set for each and all tables during the calendar month, divided by the total number of tables. All tables shall be included in the calculation whether they are opened or closed.

B. Each licensee and casino operator may submit its own procedure for calculating its cash reserve requirement for approval by the division in writing prior to implementation. After approval of the licensee's or casino operator's procedure, division approval must be issued prior to reverting to the calculation provided in Subsection A of this Section.

C. Each licensee and casino operator shall submit monthly calculations of its cash reserve to the division no later than 30 days following the end of each month.

D. Cash equivalents are defined as all highly liquid investments with an original maturity of 12 months or less and available unused lines of credit issued by a federally regulated financial institution as permitted in Chapter 25 and approved pursuant to that Chapter. Approved lines of credit shall not exceed 50 percent of the total cash reserve requirement. Any changes to the initial computation submitted to the division shall require the licensee or casino operator to resubmit the computation with all changes delineated therein including a defined time period for adjustment of the cash reserve account balance (e.g., monthly, quarterly, etc.).

E. Each licensed eligible facility and riverboat shall be required to secure and maintain a bond from a surety company licensed to do business within the state of Louisiana that ensures specific performance under the provisions of the Act for the payment of taxes, fines and other assessments. The amount of the bond shall be set at \$250,000 unless the division determines that a higher amount is appropriate. The licensed eligible facility and riverboat shall submit the surety bond to the division prior to the commencement of gaming operations.

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 38:

#### **§2714. Internal Controls, Procedures**

A. Each licensee and casino operator shall describe, in such manner as the division may approve or require, its

procedures in detail in a written system of internal controls. Each licensee and casino operator shall submit a copy of its internal controls to the division for approval prior to commencement of operations. The internal controls shall be implemented to reasonably ensure that:

1. all assets are safeguarded;
2. financial records are accurate and reliable;
3. transactions are performed only in accordance with the internal controls;
4. transactions are recorded adequately to permit proper reporting of gaming revenue, fees and taxes, and all revenues deriving from casino and related facilities and to maintain accountability for assets;
5. access to assets is permitted only in accordance with the internal controls;
6. recorded accountability for assets is compared with actual assets at least annually and appropriate action is taken with respect to any discrepancies; and
7. functions, duties, and responsibilities are appropriately segregated and performed in accordance with sound practices by competent, qualified personnel.

B. The internal controls shall include:

1. an organizational chart depicting appropriate segregation of functions and responsibilities;
2. a description of the duties, responsibilities, access to sensitive areas, and signatory authority of each position shown on the organizational chart;
3. a detailed, narrative description of the administrative and accounting procedures designed to satisfy the requirements of this Section;
4. flow charts illustrating the information required in Paragraphs 1, 2, and 3 above;
5. a written statement signed by an officer of the licensee or casino operator attesting that the system satisfies the requirements of this Section;
6. accounting and financial controls including procedures to be utilized in counting, banking, storage and handling of cash;
7. procedures, forms and, where appropriate, formulas covering the calculation of hold percentages, revenue drop, expenses and overhead schedules, complimentary services, cash equivalent transactions, salary structure, and personnel practices;
8. job descriptions and the systems of personnel and chain-of-command, establishing a diversity of responsibility among employees engaged in gaming operations and identifying primary and secondary supervisor positions for areas of responsibility, which areas shall not be so extensive as to be impractical for an individual to monitor;
9. procedures within the cashier's cage for the receipt, storage, and disbursal of chips, if applicable, cash, and other cash equivalents used in gaming, the payoff of jackpots, and the recording of transactions pertaining to gaming operations;
10. if applicable, procedures for the collection and security of monies at the gaming tables;
11. if applicable, procedures for the transfer and recordation of chips between the gaming tables and the cashier's cage;
12. if applicable, procedures for the transfer of monies from the gaming tables to the counting process;

13. procedures for the counting and recordation of revenue;

14. procedures for the security, storage, and recordation of cash equivalents utilized in other gaming operations;

15. procedures for the transfers of monies, cash equivalents or chips, if applicable from and to the slot machines;

16. procedures and standards for the opening and security of slot machines;

17. procedures for the payment and recordation of slot machine jackpots;

18. procedures for the cashing and recordation of checks exchanged by patrons;

19. procedures governing the utilization of the private security force within the designated area;

20. procedures and security standards for the handling and storage of gaming devices, machines, apparatus, including cards and dice, if applicable, and all other gaming equipment;

21. procedures for recording multiple transactions and aggregating the transactions of individuals or on behalf of individuals to ensure compliance with Currency Transaction Report for Casinos (CTRC) and Suspicious Activity Report for Casinos (SARC) requirements;

22. procedures and rules governing the conduct of particular games and the responsibilities of the gaming personnel in respect thereto; and,

23. such other procedures, rules or standards that the division may impose on a licensee or casino operator regarding its operations.

C. The licensee or casino operator may not implement its initial internal controls unless the division determines the proposed internal controls satisfy this Section, and approves the internal controls in writing. In addition, the licensee and casino operator shall engage an independent CPA to review the proposed internal controls prior to implementation. The CPA shall forward two signed copies of the report reflecting the results of the evaluation of the proposed internal controls prior to implementation.

D. Once the division approves the internal controls, the licensee and casino operator shall comply with all provisions of the approved internal controls.

E. The licensee and casino operator shall have a continuing duty to review its internal controls to ensure the internal controls remain in compliance with the Act and these rules. The licensee and casino operator shall amend its internal controls to comply with the requirements with the Act and these rules.

F. Any change or amendment in procedure including any change or amendment in the internal controls previously approved by the division shall be submitted to the division for prior written approval in accordance with division policies on internal control changes.

G. If the division determines that internal controls do not comply with the requirements of this Section, the division shall so notify the licensee or casino operator in writing. After receiving the notification, the licensee or casino operator shall amend its internal controls to comply with the requirements of this Section.

H.1. Each licensee and casino operator shall require the independent CPA, engaged for purposes of examining the financial statements, to submit to the licensee and casino

operator two signed copies of a written report detailing the continuing effectiveness and adequacy of the internal controls.

2. Using the division's standard Minimum Internal Control questionnaire and guidelines, the independent CPA shall report each event and procedure discovered by him, or otherwise brought to his attention, that does not satisfy the internal controls approved by the division.

3. Not later than 150 days after the end of the its fiscal year, the licensee or casino operator shall submit a signed copy of the CPA's report, the division's standard Minimum Internal Control questionnaire, and any other correspondence directly relating to the internal controls to the division accompanied by the licensee's or casino operator's statement addressing each item of noncompliance as noted by the CPA and describing corrective measures taken.

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 38:

**§2715. Internal Controls - Keys, Restricted Areas, Internal Audit, Addition of Game or Computerized System, Training**

**A. Keys**

1. Sensitive keys are maintained in a secure area subject to surveillance.

2. All restricted sensitive keys shall be stored in an immovable lockable key box or an automated access key box.

3. The lockable key box shall have two differently keyed locks:

a. the two keys to the key box locks shall only be issued to employees from different departments;

b. one key shall open only one lock on the key box; and

c. an employee shall be issued only a single key to a key box lock.

4. There shall be dedicated surveillance coverage of all key boxes with restricted sensitive keys .

5. Sensitive keys shall not be removed from the premises unless prior approval has been granted by the division. For purposes of this rule, a licensee's or casino operator's premises shall be specified in the internal controls.

6. Access to the keys in dual-locked boxes storing restricted sensitive keys shall be documented on key access log forms. The logs shall include the following:

a. date and time of issuance;

b. the key or ring of keys issued;

c. printed name, signature, and employee number of the person to whom the key is issued;

d. printed name, signature, and employee number of the person issuing the key;

e. printed name, signature, and employee number of the witness to the issuance of the key;

f. reason for issuance of the key;

g. date and time of return of the key to the key box;

h. signature and employee number of the person returning the key. This shall be the same employee to whom the key was issued. If, due to unforeseen circumstances, a different employee returns the key, surveillance shall be notified and surveillance shall monitor and record the entire

log-in process. The recording of the transaction shall be maintained by surveillance for 30 days;

i. signature and employee number of the person receiving the key; and

j. signature and employee number of the witness to the return of the key to the key box.

7. Key logs shall be reviewed at least monthly and an investigation and documentation made of any omissions or instances in which keys are not signed out and signed back in by the same individual.

8. Approved electronically monitored (automated access) key systems do not require the log in paragraph 6 above if the system logs the same or similar information, except signatures, as the transaction takes place.

a. The electronic key box may act as the issuer or receiver in key transactions. The internal controls shall specify the number of employees required for each electronic key transaction.

b. The licensee or casino operator is responsible for establishing access to keys in the electronic key box. Access shall be in accordance with job descriptions and detailed in the internal controls.

c. Access to multiple keys in one transaction, not including multiple keys on one key ring, require the employee to enter all key numbers prior to accessing the keys. Each key or key ring shall be secured individually within the electronic key box to prevent employees from accessing keys without authorization.

d. Electronic key access lists shall be updated within 72 hours after a change to an employee's status and/or position.

e. A licensee or casino operator shall review reports daily to identify questionable key transactions and exceptions identified by the system or licensee's or casino operator's employees. Investigations of possible violations shall be documented and maintained for five years.

9. Cage keys, change bank/booth keys and the two keys used to access the key box are the only restricted sensitive keys not required to be maintained in a dual locked key box. All restricted sensitive keys and all other keys stored in a key box with restricted sensitive keys shall be inventoried and accounted for on a quarterly basis. If an electronic key box is used and each key is secured individually, only restricted sensitive keys in the box must be inventoried in accordance with this section. Restricted sensitive keys include, but are not limited to:

- a. slot drop cabinet keys;
- b. bill validator release keys;
- c. bill validator contents keys;
- d. table drop release keys;
- e. table drop contents keys;
- f. count room keys;
- g. high level Caribbean stud key;
- h. vault entrance key;
- i. CCOM (processor) keys;
- j. card and dice storage keys;
- k. slot office storage box keys where sensitive keys are stored for issuance;
- l. dual lock box keys;
- m. change bank/booth keys;
- n. secondary chip access keys;
- o. weigh calibration key;

p. cage door keys; and

q. main bank door keys

10. Slot drop cabinet keys, bill validator release keys, and table drop release keys shall be accompanied by security at all times.

11. All other sensitive keys not listed in §2715.A.9 shall be listed in the internal controls and controlled as prescribed therein.

12. All sensitive keys shall be logged out and in on a per shift basis unless otherwise approved by the division.

13. If key rings are used, a list must be maintained at the key box with all keys on each key ring.

14. Duplicate keys shall be maintained and issued in such a manner as to provide the same degree of control as is required for the original keys.

15. All damaged sensitive keys shall be disposed of timely and adequately. The licensee or casino operator shall notify the division of the destruction in advance. Notification shall include type of key(s), number of key(s), and the place and manner of disposal.

16. The licensee or casino operator shall notify the division within two hours of discovery that a sensitive key may have been lost or removed from the premises.

#### B. Restricted Areas

1. All access to the count rooms and the vault shall be documented on a log maintained by the count team and vault personnel respectively. Such logs shall be kept in the count rooms and vault room respectively and be available at all times. The logs shall contain entries with the following information:

- a. name of each person entering the room;
- b. reason each person entered the room;
- c. date and time each person enters and exits the room;
- d. date, time and type of any equipment malfunction in the room;
- e. a description of any unusual events occurring in the room; and
- f. such other information required in the internal controls.

2. The logs shall be forwarded to a department independent of the count team and vault personnel for review of appropriateness of access and to ensure all required information is included.

3. Only transparent trash bags are utilized in restricted areas.

#### C. Internal Audit

1. An independent CPA firm or an autonomous internal audit department of the licensee or casino operator or their parent company shall be used to perform internal audit work. The same CPA firm shall not perform both internal and external audit functions. The performance of reviews at the request of the licensee's or casino operator's management does not affect independence as long as the internal auditor performs the work free of restrictions from the licensee's or casino operator's management.

2. The licensee or casino operator is responsible for notifying the division of any known, actual, or potential conflict that could impair the internal auditors' independence.

3. The internal audit department or independent CPA firm shall develop reports providing details of all exceptions

found and subsequent action taken by the licensee or casino operator.

4. Each licensee and casino operator shall submit copies of the internal audit reports to the division within 15 days of completion of the final report.

5. The licensee or casino operator shall investigate and resolve all material exceptions resulting from internal audit work. The results of the investigation shall be documented, retained, and available to division agents for five years.

D. Addition of Game or Computerized System

1. Before adding or eliminating any game; adding or modifying any computerized system that affects the proper reporting of gaming revenue; adding or modifying any computerized system of betting at a race book; or adding or modifying any computerized system for monitoring slot machines or other games, or any other computerized equipment, the licensee and casino operator shall:

- a. amend its accounting and administrative procedures and its internal controls, as necessary;
- b. submit to the division a copy of the amendment of the internal controls, signed by the licensee's or casino operator's chief financial officer or general manager, and a written description of the amendments;
- c. comply with any written requirements imposed by the division regarding approval of computerized equipment; and
- d. after compliance with Subparagraphs a-c and approval has been issued by the division, implement the procedures and internal controls as amended.

E. Training

1. All personnel responsible for slot machine operations and related computer functions shall be adequately trained before they are allowed to perform gaming functions, maintenance functions, or computerized functions.

- a. Each licensee and casino operator shall maintain records to document employee training.
- b. Each licensee and casino operator shall create training programs for in-house training and ensure outsourced training adheres to its program requirements.
  - i. Designated in-house instructors shall meet the following requirements:
    - (a). full-time employee of the licensee or casino operator; and
    - (b). certified as an instructor by the manufacturer or its representative.
  - c. Each licensee and casino operator shall ensure personnel receive training on any new equipment and system prior to implementation. The training shall be in all areas to be used by the licensee or casino operator. Each licensee and casino operator must ensure employees are trained prior to adding or enabling capabilities to equipment or systems.
  - d. The licensee and casino operator has a continuing obligation to secure additional training whenever necessary to ensure all new employees receive adequate training before they are allowed to perform gaming functions, maintenance functions, or computerized functions.

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 38:

**§2716. Clothing Requirements**

A. All authorized persons accessing any count room when unaudited funds are present shall wear clothing without any pockets or other compartments with the exception of division agents, security personnel, internal auditors, and external auditors.

B. Cage employees shall not bring purses, handbags, briefcases, bags or any other similar item into the cage unless it is transparent.

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 38:

**§2717. Internal Controls; Table Games**

A. Table Games Fill and Credit Slip Requirements (Computerized and Manual)

1. Each licensee and casino operator shall utilize fill and credit slips to document the transfer of chips and tokens to and from table games. Fill and credit slips shall, at a minimum, be in triplicate form, in a continuous numerical series, pre-numbered or numbered by the computer in a form utilizing the alphabet and only in one series at a time. The alphabet need not be used if the numerical series is not repeated during the business year. All table game fill and credit slips shall be safeguarded in their distribution, use, and control as follows.

- a. Each slip shall be clearly and correctly marked "Fill" or "Credit", whichever applies, and shall contain the following:
  - i. date and time of transaction;
  - ii. shift;
  - iii. table number;
  - iv. game type;
  - v. amount of fill or credit by denomination and in total;
  - vi. sequential slip number (manual slips may be issued in sequential order by location); and
  - vii. identification code of the requestor, in stored data.

b. All fill slips shall be distributed as follows.

- i. One part shall be deposited in the table drop box by the dealer/boxperson. The part that is placed in the drop box shall be of a different color for fills than that used for credits or other manner approved by the division.
- ii. One part shall be retained in the cage for reconciliation of the cashier bank.
- iii. One part shall be forwarded to accounting or retained internally within the computer. This copy shall be known as the "restricted copy" and shall not be accessible to cage or pit employees. The stored data shall not be susceptible to change or removal by cage or pit personnel after preparation of a fill, with the exception of voids. Only accounting shall have access to the restricted copies of the fill slips.

c. All credit slips shall be distributed as follows.

- i. One part shall be retained in the cage for reconciliation of the cashier bank.
- ii. One part shall be deposited in the table drop box by the dealer/boxperson. The part that is placed in the



drop box shall be a different color for credits than that used for fills or other manner approved by the division.

iii. One part shall be forwarded to accounting or retained internally within the computer. This copy shall be known as the "restricted copy" and shall not be accessible to cage or pit employees. The stored data shall not be susceptible to change or removal by cage or pit personnel after preparation of a credit, with the exception of voids. Only accounting shall have access to the restricted copies of the credit slips.

2. Processed slips shall be signed by the following individuals to indicate that each has counted the amount of the fill or credit and the amount agrees with the slip:

a. cashier who prepared the slip and issued the fill or received the credit transferred from the pit;

b. runner, who shall be a gaming employee independent of the transaction, who carried the chips, tokens, or monetary equivalents to or from the table. This count shall be performed prior to transferring chips, tokens, or equivalents;

c. dealer/boxperson who received the fill or had custody of the credit prior to the transfer; and

d. pit supervisor who supervised the fill or credit.

3. Fill and credit slips that are voided shall be clearly marked "Void" across the face of all non-restricted copies. The cashier shall print his employee number and sign his name on the voided slip. A brief statement of why the void was necessary shall be written on the face of the copies. The pit or cage supervisor who approves the void shall print his employee number and sign his name and shall print or stamp the date and time the void is approved. All copies shall be forwarded to accounting on a daily basis.

4. Access to slips and slip processing areas shall be restricted to authorized personnel.

a. All unissued, pre-numbered fill and credit slips shall be securely stored under the control of the accounting or security department.

b. All unissued pre-numbered fill and credit slips shall be controlled by a log. Monthly, the accounting department shall reconcile the log to purchase invoices for these slips.

5. The accounting department shall account for all slips daily and investigate all missing slips within 10 days. The investigation shall be documented and the documentation retained for a minimum of five years.

#### B. Computerized Table Fill Transactions

1. Computerized table fill transactions shall be:

a. initiated by a pit supervisor and the order acknowledged by a cage cashier prior to the issuance of a fill slip and transportation of the chips, tokens, and monetary equivalents. The pit supervisor or pit clerk shall process the order for fill by entering the following information into the computer:

i. date and time of transaction;

ii. shift;

iii. table number;

iv. game type;

v. amount of fill by denomination and in total;

and

vi. identification code of preparer;

b. transported and deposited on the table only when accompanied by a completed fill slip;

c. transported from the cage by a gaming employee independent of the transaction. This must be the employee who signs as the runner;

d. broken down or verified by the dealer/boxperson in public view before the dealer/boxperson places the fill in the tray;

e. acknowledged by the pit clerk or cage personnel by computer upon completion of the fill; and,

f. finalized by the cage cashier who shall complete the transaction by computer entry.

#### C. Cross-fills

1. Cross-fills between tables are prohibited.

#### D. Computerized Table Credit Transactions

1. Computerized table credit transactions shall be:

a. initiated by a pit supervisor and the order acknowledged by a cage cashier prior to the issuance of a credit slip and transportation of the chips, tokens, and monetary equivalents. The pit supervisor or pit clerk shall process the order for credit by entering the following information into the computer:

i. date and time of transaction;

ii. shift;

iii. table number;

iv. game type;

v. amount of credit by denomination and in total;

and

vi. identification code of preparer;

b. broken down or verified by the dealer/boxperson in public view before the dealer/boxperson places the credit in racks for transfer to the cage;

c. transacted and transferred from the table to the cage only when accompanied by a completed credit slip;

d. transported from the table by a gaming employee independent of the transaction. This must be the employee who signs as the runner;

e. acknowledged by the pit clerk or cage personnel by computer upon completion of the credit; and

f. finalized by the pit clerk or cage cashier who shall complete the transaction by computer entry.

#### E. Alternate Internal Controls for Non-Computerized Table Games Transactions

1. For any non-computerized table games systems, alternate documentation and procedures which provide at least the level of control required by the standards in this Section for fills and credits will be acceptable. Such procedures must be enumerated in the internal controls.

#### F. Table Games Inventory Procedures.

1. All table game inventories shall be counted each gaming day simultaneously by a dealer/boxperson and a pit supervisor, or two pit supervisors. The count shall be conducted at the end of the gaming day, except for tables which are counted and closed before the end of the gaming day. These tables do not have to be recounted at the end of the gaming day if they remained closed. At the beginning and end of each gaming day, each table's chip, token, and coin inventory shall be counted and recorded on a table inventory form. Tables which have remained closed after crediting the entire inventory back to the cage will be exempt from conducting a daily count; however, the zero balance shall be documented in the table games paperwork for each day that they maintain a zero balance.

2. Table inventory forms shall be prepared, verified and signed by the individuals conducting the count.

3. If the table banks are maintained on an imprest basis, a final fill or credit shall be made to bring the bank back to the imprest amount.

4. If final fills are not made, beginning and ending inventories shall be recorded on the master game sheet for win calculation purposes.

5. Table inventory forms shall be placed in the drop box by someone other than a pit supervisor.

#### G. Credit Procedures in the Pit

1. Prior to the issuance of gaming credit to a player, the employee extending the credit shall determine if credit is available.

2. Proper authorization to extend credit in excess of the previously established limit shall be documented.

3. Issuance of credit shall be documented by the creation of a marker slip, which is a formal record of the credit transaction.

4. Marker preparation shall be initiated and other records updated within two hands of play following the initial issuance of credit to the player.

5. All credit extensions shall be initially evidenced by marker buttons representing the amount of credit extended, which shall be placed by pit supervisory personnel on the table in public view.

6. Marker buttons shall be removed only by the dealer or boxperson employed at the table upon completion of a marker transaction.

7. The marker slip shall, at a minimum, be in triplicate form, pre-numbered or numbered by the printer, and utilized in numerical sequence. Manual markers may be issued in numerical sequence by location. The three parts shall be utilized as follows:

a. the original slip shall be maintained in the pit until paid or transferred to the cage;

b. the payment slip shall be sent to the cage accompanied by the original and a transfer slip, or maintained in the pit until:

i. the marker is paid, including partial payments, at which time it shall be placed in the drop box;

ii. the end of the gaming day, at which time it shall be sent to the cage accompanied by the original and a transfer slip;

c. the issue slip shall be inserted into the appropriate table drop box when credit is extended or when the player has signed the original.

8. The original slip shall include the following information:

a. marker number;

b. player's name and signature;

c. date; and

d. amount of credit issued.

9. The issue slip shall include the same marker number as the original slip, the table number, date and time of issuance, and amount of credit issued. The issue slip also shall include the signature of the individual extending the credit and the signature or initials of the dealer at the applicable table, unless this information is included on another document verifying the issued marker.

10. The payment slip shall include the same marker number as the original. When the marker is paid in full in the

pit, it shall also include the table number where paid, date and time of payment, manner of payment such as cash or chips and amount of payment. The payment slip shall also include the signature of a pit supervisor acknowledging payment and the signature or initials of the dealer/boxperson receiving payment, unless this information is included on another document verifying the payment of the marker.

11. The pit shall notify the cage by computer when the transaction is completed. The cage or another independent source shall update the patron's credit record within a reasonable time, in accordance with the internal controls, subsequent to each issuance.

12. Voided markers (computer-generated and manual) shall be clearly marked "Void" across the face of all copies. The supervisor who approves the void shall print their employee number and sign their name, print or stamp the date and time the void is approved, and print the reason for the void. All copies of the voided marker shall then be forwarded to accounting and retained for a minimum of five years.

13. Marker documentation shall be inserted in the drop box by the dealer/boxperson at the table.

14. When partial payments are made in the pit, a new marker shall be completed which shall note the remaining balance and the number of the original marker.

15. When partial payments are made in the pit, the payment slip of the original marker shall be properly cross-referenced to the new marker number and inserted into the drop box.

16. The cashier's cage or another independent source shall be notified when payments, full or partial, are made in the pit so credit records can be updated for such transactions. Notification shall be before the patron's play is completed or at shift end, whichever is earlier.

17. All portions of markers, both issued and unissued, shall be safeguarded and procedures shall be employed to control the distribution, use and access to the forms.

18. The accounting department shall investigate the loss of any part of a numbered marker form immediately upon discovery of the missing part. Accounting shall be notified immediately when another department discovers part of a numbered marker form is missing. The investigation is to determine the cause and responsibility for the lost form. The results of the investigation shall be documented and maintained for five years. The licensee or casino operator shall notify the division in writing of the loss, disappearance or failure to account for marker forms within 10 days of such occurrence.

19. When markers are transferred to the cage, marker transfer slips shall be utilized and such documents shall include, at a minimum, the date, time, shift, marker number(s), table number(s), amount of each marker, the total amount transferred, and the signature of pit supervisor releasing instruments from the pit.

20. Markers shall be transported to the cashier's cage by an individual who is independent of the marker issuance and payment functions. Pit clerks may perform this function.

21. Marker log documentation shall be maintained by numerical sequence, indicating marker number, name of patron, date marker issued, date paid, manner of payment, if a combination of payment methods, the amount paid by each method, and amount of credit remaining.

#### H. Non-marker Credit Play

1. Non-marker credit play shall be prohibited except as provided in this Section.

2. Prior to accepting credit instruments, except traveler's checks, from a player, the employee extending the credit shall contact the cashier or another independent source to determine if the player's credit limit has been properly established and the remaining credit available is sufficient for the advance.

3. All credit instruments shall be transferred to the cashier's cage immediately following the acceptance of the instrument and issuance of chips.

4. An order for credit shall be completed and include the patron's name and amount of the credit instrument in addition to the information required for a standard table credit.

5. The acceptance of payments in the pit for non-marker credit instruments is strictly prohibited.

6. All non-marker credit play shall be evidenced by the placement of a lammer, a button with numbers representing the total amount of credit provided, or other item in the amount equal to the wager.

7. The pit supervisor shall place the lammer in the wagering area of the table only after the supervisor's specific authorization.

8. Non-marker credit extensions shall be settled at the end of each hand of play by the preparation of a marker or payoff of the wager.

9. There shall be no other extension of credit without a marker.

#### I. Call Bets

1. Call bets shall be prohibited. A call bet is a wager made without chips, tokens, or cash.

#### J. Table Games Drop Procedures

1. The drop process shall be conducted at least once each gaming day according to a schedule submitted to the division setting forth the specific times for such drops. Each licensee and casino operator shall notify the division of any changes to such schedules at least five days prior to implementing a change to this schedule, except in emergency situations. Emergency drops, which require removal of the table drop box, require written notification to the division within 24 hours following the emergency drop. The drop process shall be conducted as follows:

a. All locked drop boxes shall be removed from the tables by an individual independent of the pit. Surveillance shall be notified when the drop process begins. The entire drop process shall be recorded by surveillance. At least one surveillance employee shall monitor the drop process at all times. This employee shall record on the surveillance log the times that the drop process begins and ends, and any exceptions or variations to established procedures observed during the drop including each time the count room door is opened.

b. Upon removal from the tables, the drop boxes are to be placed in a drop box storage rack and locked therein for transportation directly to the count area or other secure place approved by the division and locked in a secure manner until the count takes place.

c. The transporting of drop boxes shall be performed by a minimum of two individuals, at least one of whom is a security officer.

d. Access to all drop boxes regardless of type, full or empty, shall be restricted to authorized members of the drop and count teams.

K. Table Games Count Procedures. The counting of table game drop boxes shall be performed by a soft count team with a minimum of three persons. Count tables shall be transparent to enhance monitoring. Surveillance shall be notified when the count process begins and the count process shall be monitored in its entirety and recorded by surveillance. At least one surveillance or internal audit employee shall watch the entire count process on at least two days per month that shall be randomly selected. Surveillance shall record on the surveillance log any exceptions or variations to established procedures observed during the count. Surveillance shall notify count team members immediately if surveillance observes the visibility of hands or other activity is consistently obstructed in any manner. Testing and verification of the accuracy of the currency counter shall be conducted and documented quarterly. This test shall be witnessed by someone independent of the count team members.

1. Count team members shall be:

a. rotated on a routine basis. Rotation is such that the count team does not consist of only the same three individuals more than four days per week; and

b. independent of transactions being reviewed and counted and the subsequent accountability of soft drop proceeds.

2. Soft count shall be performed daily and include:

a. a test count of the currency counter prior to the start of each count;

b. the emptying and counting of each drop box individually;

c. the recordation of the contents of each drop box on the count sheet in ink or other permanent form prior to commingling the funds with funds from other boxes;

d. the display of empty drop boxes to another member of the count team or to surveillance;

e. the comparison of table numbers scheduled to be dropped to a listing of table numbers actually counted to ensure that all table game drop boxes are accounted for during each drop period;

f. the correction of information originally recorded by the count team on soft count documentation by crossing out the error, entering the correct figure, and then obtaining the initials of at least two count team members who verified the change;

g. the signatures of all members of the soft count team on the count sheet attesting to the accuracy of table games drop after the count sheet has been reconciled to the currency;

h. the transfer of all monies and monetary equivalents that were counted to the cage cashier who is independent of the count team or to an individual independent of the revenue generation and the count process for verification. This individual certifies by his signature the accuracy of the monies delivered and received from the soft count team. If a pass-through window between the count room and the vault is not utilized, monies shall be transferred in a locked transport cart; and

i. the delivery of the count sheet, with all supporting documents, promptly to the accounting

department by a count team member. Alternatively, it may be adequately secured (e.g., locked in a container to which only accounting personnel can gain access) until retrieved by the accounting department.

3. access to the count room during the count shall be restricted to members of the drop and count teams, division agents, authorized observers as approved by the division and supervisors for resolution of problems. Access shall be further restricted unless three count team members are present. Authorized maintenance personnel shall enter only when accompanied by security.

4. Accounting shall perform the following functions:
- a. match the original and first copy of the fill and credit slips;
  - b. match orders for fills and credits to the fill and credit slips;
  - c. examine fill and credit slips for inclusion of required information and recordation on the master gaming report;
  - d. trace or record pit marker issue and payment slips to the master gaming report by the count team, unless other procedures are in effect which assure that issue and payment slips were placed into the drop box in the pit;
  - e. examine and trace or record the opening and closing table and marker inventory forms to the master gaming report; and
  - f. review accounting exception reports for the computerized table games on a daily basis for propriety of transactions and unusual occurrences. Documentation of the review and its results shall be retained for five years.

L. Table Games Key Control Procedures

1. The keys used for table game drop boxes and soft count keys shall be controlled as follows.

a. Drop box release keys shall be maintained by a department independent of the pit department. Only the person authorized to remove drop boxes from the tables shall be allowed access to the release keys. Count team members may have access to the release keys during the soft count in order to reset the drop boxes. Persons authorized to remove the table game drop boxes are precluded from having access to drop box contents keys. The physical custody of the keys needed for accessing full drop box contents requires involvement of persons from three separate departments. The involvement of at least two individuals independent of the cage department is required to access empty drop boxes.

b. Drop box storage rack keys shall be maintained by a department independent of the pit department. Someone independent of the pit department shall be required to accompany such keys and observe each time drop boxes are removed from or placed in storage racks. Persons authorized to obtain drop box storage rack keys shall be precluded from having access to drop box contents keys with the exception of the count team.

c. Drop box contents keys shall be maintained by a department independent of the pit department. Only count team members are allowed access to the drop box contents keys. This control is not applicable to emergency situations which require drop box access at other than scheduled count times. At least three persons from separate departments, one of which shall be management, must participate in these situations. The reason for access must be documented with the signatures of all participants and observers.

d. The issuance of soft count room keys and other count keys shall be witnessed by two gaming employees who shall be from different departments. Neither of these two employees shall be members of the soft count team.

e. All duplicate keys shall be maintained and issued in a manner which provides the same degree of control over drop boxes as is required for the original keys.

M. Supervisory Controls

1. Pit supervisory personnel with authority equal to or greater than those being supervised shall provide supervision of all table games.

N. Accounting and MIS.

1. Backup and Recovery

a. MIS shall perform backup of system data daily. Backup and recovery procedures shall be written and distributed to all applicable personnel. These policies shall include information and procedures (e.g., a description of the system, systems manual, etc.) that ensure the timely restoration of data in order to resume operations after a hardware or software failure.

b. MIS shall maintain either printed or electronic copies of system-generated edit reports, exception reports, and transaction logs.

2. Access to Software and Hardware

a. Management shall establish security groups based on each employee's job requirements. These groups will determine the access level of the employee. This information shall be maintained by MIS and include the employee's name, position, identification number, and the date authorization is granted. These files shall be updated as employees or the functions they perform change.

b. MIS shall print and review the computer security access report monthly. Discrepancies shall be investigated, documented, and maintained for five years.

c. Only authorized personnel shall have physical access to the computer software and hardware.

d. All changes to the system and the name of the individual who made the change shall be documented.

e. Reports and other output generated by the system shall be available and distributed to authorized personnel only.

3. Computer Control

a. The pit credit system shall be secured so that only authorized users can access it.

b. The delete option within an individual program shall be secured so that only authorized users can execute it. The delete option shall not allow for the deletion of any gaming transaction or void.

c. Each licensee and casino operator shall change passwords in accordance with documented IT password security best practices, as specified in the internal controls. Password complexity shall be of sufficient strength to ensure security against false entry by unauthorized personnel.

d. The secured copies, restricted copies, and other electronically stored documents required by these rules and those necessary to calculate gaming revenue and expenses shall be retained for five years.

e. The division shall have access to all information pertaining to table games.

O. Table Games Records

1. Each licensee and casino operator shall maintain records and reports reflecting drop, win and drop hold

percentage by table and type of game by day, cumulative month-to-date, and cumulative year-to-date. The reports shall be presented to and reviewed by management independent of the pit department on at least a monthly basis. The independent management shall investigate any unusual statistical fluctuations with pit supervisory personnel. At a minimum, investigations are performed for all statistical percentage fluctuations from the base level for a month in excess of plus or minus three percentage points. The base level is defined as the licensee's or casino operator's statistical win to statistical drop percentage for the previous business year. The results of such investigations shall be documented in writing and maintained for at least five years by the licensee.

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 38:

#### **§2719. Internal Controls; Handling of Cash**

A. Currency of the United States received from a patron in the gaming area shall be promptly placed:

1. in the lock box at the table;
2. in the appropriate place in the cashiers' cage; or
3. in an appropriate place on the table, in the cash register, or in another repository approved by the division on those games which do not have a lock box, including poker tables.

B. No cash wagers shall be accepted at any gaming table. Cash shall be converted to chips or tokens for wagering. All wagers other than those made with the licensee's or casino operator's approved chips, tokens, or other division approved methods are expressly prohibited.

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 38:

#### **§2721. Internal Controls; Tips or Gratuities**

A. All gaming employees shall convert cash tips or gratuities from a patron to value chips except for slot gaming employees, change persons, cashiers, and bar tenders who may accept cash as a tip or gratuity from a patron. Security personnel may accept cash tips or gratuities outside the designated gaming areas of the casino.

B. No key gaming employee or any other gaming employee who serves in a supervisory position as outlined in the internal controls, shall accept a tip or gratuity.

C. No employee shall solicit a tip or gratuity.

D. All tips and gratuities given to dealers at table games, except as provided for in Subparagraph E, shall be:

1. immediately deposited in a transparent locked box reserved for that purpose. If non-value chips are received at a roulette table, the marker button indicating their specific value shall not be removed from the slot or receptacle attached to the outer rim of the roulette wheel until after a dealer in the presence of a supervisor has converted the non-value chips into value chips. Procedures for accepting non-value chips received as tips shall be defined in the internal controls;
2. counted and recorded by a randomly selected dealer and a randomly selected employee who is independent of the tips being counted; and
3. placed in a pool for pro rata distribution among the dealers on a basis that coincides with the normal pay period.

Tips or gratuities from this pool shall be deposited into the licensee's or casino operator's payroll account. Distributions to dealers from this pool shall be made in accordance with the payroll accounting practices and shall be subject to all applicable state and federal withholding taxes.

E. A licensee or casino operator may elect to handle tips generated in its poker room separately from the pro rata distribution pool. Tips or gratuities may be assigned to the dealer generating the tip or gratuity, and the following procedures shall be used:

1. Each dealer shall have a locked transparent box marked with his name or otherwise coded for identification. Keys to these boxes shall be maintained by the cage department. When not in use, these boxes shall be stored in a locked storage cabinet or other approved lockable storage in the poker room. Keys to the storage cabinet shall be maintained and used as specified in the internal controls;

2. When a poker dealer arrives at his assigned poker table, the dealer shall obtain his marked transparent locked box. The box shall be placed at the poker table in the same manner as any other dealer token box. If the dealer leaves the poker table, the dealer's marked box shall be removed from the table by the dealer and secured.

3. At the end of the dealer's shift, the dealer shall take that dealer's marked transparent locked box to the cage for counting. The cage employee shall unlock, empty, and relock the box. The cage employee shall count the contents of the box in the presence of the dealer. The amount shall be recorded on a three-part voucher and signed by the cage employee and the dealer. The three parts of the voucher shall be distributed as follows:

- a. one part shall be given to the dealer;
- b. one part shall be maintained by the cage; and
- c. one part shall be forwarded to the payroll department;

4. Tips or gratuities shall be deposited into the licensee's or casino operator's payroll account. Distribution to the dealer shall be made in accordance with the payroll accounting practices and shall be subject to all applicable state and federal withholding taxes and regulations. No distributions shall be made to the dealer in any other manner;

5. A poker room dealer may tip any cashier working as the poker room cashier during the poker room dealer's shift. Any such tip shall be handled when the poker room dealer's tips are counted as defined above. A section of the dealer's tip voucher shall be marked to allow the dealer to indicate which cashier(s) the dealer wishes to tip and the amount. The tip shall be deducted from the dealer's total tips at the time of the count. Tips given to a cashier in this manner shall be distributed to the cashier in accordance with the payroll accounting practices and shall be subject to all applicable state and federal withholding taxes and regulations. No tips from a poker room dealer shall be made to a cashier in any other manner;

F. Upon receipt from a patron of a tip or gratuity, a dealer assigned to the gaming table shall extend his arm in an overt motion and deposit such tip or gratuity in the transparent locked box reserved for such purpose.

G. All tips received by employees not covered in Subsections D and E shall be deposited into the licensee's or casino operator's payroll account and distributed to

employees in accordance with the internal controls. Distributions to employees from this pool shall be made following the payroll accounting practices and shall be subject to all applicable state and federal withholding taxes.

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 38:

### §2723. Internal Controls; Slots

A. Any reference to slot machines or slots in this Section includes all electronic gaming devices. Provisions in this Section which are only applicable when coins and tokens are used shall not apply to coinless and tokenless devices.

B. Whenever a patron wins a jackpot that is not totally and automatically paid directly from the electronic gaming device, a slot attendant shall prepare and process a request for jackpot payout form in accordance with the internal controls. A request for jackpot payout form is not required if all of the following conditions are met:

1. a slot representative initiates an automated jackpot slip at the game;
2. a jackpot slip is generated through the computer system; and
3. the cashier uses this information to pay the jackpot.

C. The request for jackpot payout form shall contain, at a minimum, the following information:

1. date and time the jackpot was processed;
2. the electronic gaming device machine number and location number;
3. the denomination of the electronic gaming device;
4. number of credits played;
5. combination of reel characteristics;
6. on short pays, amount the machine paid;
7. amount of hand-paid jackpot;
8. signature of the slot attendant if for a pouch pay, quick pay, or other similar approved payment process; and
9. if a pouch pay, quick pay, or other similar payment process, the signature of the witness to the payment. If the pouch pay is under the amount approved by the division in the internal controls, this signature is not required.

D. Each licensee and casino operator shall use multi-part jackpot payout slips to document any jackpot payouts or short pays. The jackpot slips shall be in a continuous numerical series, pre-numbered or numbered by the printer in a form utilizing the alphabet, and only in one series at a time. The alphabet need not be used if the numerical series is not repeated during the business year. Manual jackpot slips may be utilized in numerical sequence by location

1. A three-part jackpot payout slip which is clearly marked "jackpot" shall be utilized. The third copy may be the secured copy retained in the computer or whiz machine. Each jackpot slip shall include the following information:

- a. date and time the jackpot was processed;
- b. denomination;
- c. machine and location number of the electronic gaming device on which the jackpot was registered;
- d. number of credits played;
- e. dollar amount of payout in both alpha and numeric. Alpha is optional if another unalterable method is used for evidencing the amount of the jackpot or short pay;
- f. game outcome including reel symbols, card values and suits, etc., for jackpot payouts;

- g. slip number;
- h. signature of the cashier;
- i. signature of a slot attendant. This signature is after the receipt of money from the cashier to verify the attendant received the correct amount of money; and
- j. verification and witness by an additional permitted gaming employee if the jackpot is less than \$1,200. This signature is not required if the jackpot is paid in accordance with §2723.C.9. If the jackpot is \$1,200 or greater, the additional permitted gaming employee shall be a security officer.

2. When paying a jackpot slip where the jackpot request is used to document a pouch pay, quick pay or other similar payment process, the cashier shall:

- a. verify the required signatures are on the request;
- b. verify the information on the request matches the information on the jackpot payout form;
- c. sign the jackpot payout form verifying that the request and the slip match and that the proper amount of money was paid to the attendant; and
- d. attach the request to the jackpot payout form.

3. Voided jackpot slips shall be clearly marked "Void" across the face of all copies. On manual jackpot slips, only the first and second copies must have "Void" written across the face. The employee initiating the void shall print their name and employee number and sign their name on the voided slip. The supervisor who approves the void shall print their name and employee number and sign the voided slip. The supervisor shall print or stamp the date and time the void is approved. Either the supervisor or the initiating employee shall note why the slip was voided on the face of all copies. All copies of the voided slip shall be forwarded to accounting.

4. Computerized slot systems and components shall be restricted to prevent unauthorized access and fraudulent payouts.

5. Jackpot payout forms shall be controlled and routed in a manner that precludes a fraudulent payout by forging signatures, or by altering the amount paid subsequent to the payout, and misappropriating the funds. One copy of the jackpot payout slip shall be retained in a locked box located outside the change booth or cage where jackpot payout slips are executed or as otherwise approved by the division.

6. Jackpot overrides shall have the notation "override" printed on all copies, and shall be approved by a slot supervisor. Jackpot override reports shall be run on a daily basis by a department independent of slots.

E. If a jackpot is \$1,200 or greater in value, the following shall be obtained by the slot attendant prior to payout and for preparation of a Form W-2G:

1. a valid ID;
2. the name, address, and Social Security number, if applicable, of the patron;
3. amount of the jackpot; and
4. any other information required for completion of the Form W-2G.

F. If the jackpot is \$5,000 or more, in addition to Subsections D and E, a surveillance photograph shall be taken of the winner and the payout form shall be signed by a slot supervisor or casino shift manager. The requirements of this Subsection shall be met prior to the device being returned to operation.

G. If the jackpot is greater than \$10,000, in addition to Subsections D, E, and F, the slot attendant shall notify a slot technician who shall remove the electronic board housing the program storage media and inspect the board to ensure no division seals are broken. A surveillance photograph of the division seal covering the program storage media shall be taken before the jackpot is paid. This photograph shall be attached to the jackpot payout form. The requirements of this Subsection shall be complied with prior to the device being returned to operation.

H. If the jackpot is \$500,000 or more, in addition to Subsections D, E, F, and G, the licensee or casino operator shall immediately call for a division agent. Surveillance shall constantly monitor the electronic gaming device until payment of the jackpot has been completed or until otherwise directed by a division agent. With the exception of surveillance monitoring the game and the processing of the jackpot slip, W-2G, and DCFS jackpot intercept search, no action shall be taken until a division agent is present. A slot technician shall remove the electronic board housing the program storage media. The slot technician shall inspect and test the program storage media in a manner prescribed by the division. Surveillance shall monitor the entire process of inspecting and testing. The payout form shall be signed by a designated licensee or casino operator representative as specified in the internal controls. The device shall not be placed back into service until all requirements of this Subsection are met.

I. Each licensee and casino operator shall use multi-part slot fill slips to document any fill made to a slot machine hopper. The fill slips shall be in a continuous numerical series, pre-numbered or numbered by the printer in a form utilizing the alphabet, and only in one series at a time. The alphabet need not be used if the numerical series is not repeated during the business year. Manual fill slips may be utilized in numerical sequence by location.

1. A three-part slot fill slip which is clearly marked "fill" shall be utilized. The third copy may be the secured copy retained in the computer or whiz machine. Each fill slip shall include the following information:

- a. date and time;
- b. machine and location number;
- c. dollar amount of slot fill in both alpha and numeric. Alpha is optional if another unalterable method is used for evidencing the amount of the slot fill;
- d. signatures of at least two employees verifying and witnessing the slot fill; and
- e. slip number.

2. Computerized slot fill slips shall be restricted so as to prevent unauthorized access and fraudulent slot fills.

3. Hopper fill slips shall be controlled and routed in a manner that precludes a fraudulent fill by forging signatures, or by altering the amount paid subsequent to the fill, and misappropriating the funds. One copy of the hopper fill slip shall be retained in a locked box located outside the change booth or cage where hopper fill slips are executed or as otherwise approved by the division.

4. The initial slot fills shall be considered part of the coin inventory and shall be clearly designated as "slot loads" on the slot fill slip.

5. Voided slot fill slips shall be clearly marked "Void" across the face of all copies. On manual fill slips, only the

first and second copies shall have "Void" written across the face. The employee initiating the void shall print their name and employee number and sign their name on the voided slip. The supervisor who approves the void shall print their name and employee number and sign the slip. The supervisor shall stamp or print the date and time the void is approved. Either the supervisor or the initiating employee shall note why the slip was voided on the face of all copies. All copies shall be forwarded to accounting for accountability and retention on a daily basis.

6. Slot fill slips shall be used in sequential order.

#### J. Slot Drop

1. The licensee or casino operator shall remove the slot drop from each machine according to a schedule submitted to the division, setting forth the specific times for such drops. The division reserves the right to deny a licensee's or casino operator's drop schedule or schedule change with cause. All slot drop buckets, including empty slot drop buckets, shall be removed according to the schedule. Each licensee and casino operator shall notify the division at least five days prior to implementing a change to this schedule, except in emergency situations. Emergency drops, including those for maintenance and repairs, which require removal of the slot drop, require written notification to the division within 24 hours detailing date, time, machine number and reason.

2. Each licensee and casino operator shall submit its drop transportation route from the gaming area to the count room to the division prior to implementing or changing the route.

3. The slot drop process shall be completed as follows.

a. Prior to opening any slot machine, emptying or removing any slot drop bucket, security and surveillance shall be notified that the drop is beginning. The slot drop process shall be monitored in its entirety and recorded by surveillance including transportation to the count room or other secured area as approved by the division. At least one surveillance employee shall monitor the drop process at all times. This employee shall document on the surveillance log the time that the drop process begins and ends and any exceptions or variations to established procedures observed during the drop.

b. A minimum of three employees shall be involved in the removal of the slot drop, at least one of whom is independent of the slot department.

c. The drop team shall collect each drop bucket and ensure that the correct tag or number is added to each bucket.

d. Security shall be provided over the slot buckets removed from the slot drop cabinets prior to being transported to the count area. Slot drop buckets must be secured in a locked slot drop cabinet or cart during transportation to the count area.

e. If more than one trip is required to remove the slot drop buckets from all of the machines, the filled carts or coins shall be either locked in the count room or secured in another equivalent manner as approved by the division.

f. At least once per year, in conjunction with the regularly scheduled drop, a complete sweep shall be made of hopper and drop bucket cabinets for loose tokens and coins. Such tokens and coins should be placed in respective

hoppers and drop buckets and not commingled with other machines' hoppers and drop buckets.

g. Once all drop buckets are collected, the drop team shall notify security and surveillance that the drop has ended.

h. At the end of the last gaming day of each calendar month, the licensee's or casino operator's drop shall include drop buckets from all slot machines.

K. The contents of the slot drop shall be counted in a hard count room according to a schedule, submitted to the division, setting forth the specific times for such counts. The hard count process shall be completed as follows:

1. The issuance of the hard count room key shall be witnessed by two gaming employees, who shall be from different departments. Neither of these two employees shall be members of the count team.

2. Access to the hard count room during the slot count shall be restricted to members of the drop and count team, supervisors for resolution of problems, division agents, and authorized observers as approved by the division. Authorized maintenance personnel may enter only when accompanied by security. All persons exiting the count room, with the exception of division agents, shall be examined by security with a properly functioning hand-held metal detector (wand).

3. The slot count process shall be monitored in its entirety and recorded by surveillance including transportation to the count room or other secured area as approved by the division. On at least two days per calendar month that shall be randomly selected, at least one surveillance or internal audit employee shall watch the count process. Surveillance shall document on the surveillance log the times that the count process begins and ends, and any exceptions or variations to established procedures observed during the count, including each time the count room door is opened. If surveillance observes the visibility of the count team's hands or other activity is continuously obstructed at any time, surveillance shall immediately notify the count room employees.

4. Prior to each count, the count team shall perform a test of the weigh scale with varying weights or with varying amounts of previously counted coin for each denomination to ensure the scale is properly calibrated. The results shall be recorded and signed by at least two count team members. The initial weigh and count shall be performed by a minimum of three employees, who shall be rotated on a routine basis. The rotation shall be such that the count team does not consist of only the same three employees more than four days per week.

5. The slot count team shall be independent of the generation of slot revenue and the subsequent accountability of slot count proceeds. Slot department employees can be involved in the slot count or subsequent transfer of the wrap, if they perform in a capacity below the level of slot shift supervisor.

6. The following functions shall be performed in the counting of the slot drop.

a. The slot weigh and wrap process shall be controlled by a count team supervisor. The supervisor shall be precluded from performing the initial recording of the weigh and count unless a weigh scale with a printer is used.

b. Each drop bucket shall be emptied and counted individually. Drop buckets with zero drop shall be individually entered.

c. Contents of each drop bucket shall be recorded on the count sheet in ink or other permanent form prior to commingling the funds with funds from other buckets. If a weigh scale interface is used, the slot drop figures shall be transferred by direct line to computer storage media.

d. The recorder and at least one other count team member shall sign the weigh tape attesting to the accuracy of the initial weigh and count.

e. All employees who participate in the weigh, count or wrap process shall sign the count sheet.

f. The coins shall be wrapped and reconciled in a manner which precludes the commingling of the current slot drop with the next slot drop.

g. Transfers out of the count room shall be recorded on a separate multi-part numbered form, used solely for slot count transfers, which is subsequently reconciled by the accounting department to ensure the accuracy of the reconciled wrapped slot drop. Transfers are counted and signed for by at least two members of the count team, a cage or vault cashier, and someone independent of the count team who is responsible for authorizing the transfer.

h. If the count room serves as a coin room and coin room inventory is not secured so as to preclude access by the count team, there shall be compliance with the following:

i. at the commencement of the slot count:

(a) the coin room inventory shall be counted by at least two employees, one of whom shall be a member of the count team and the other shall be independent of the weigh, count, and wrap procedures; and

(b) the above count shall be recorded on an appropriate inventory form;

ii. upon completion of the wrap of the slot drop:

(a) at least two members of the count team shall count the ending coin room inventory separately and reconcile the two counts;

(b) the above counts shall be recorded on a summary report(s) which evidences the calculation of the final wrap by subtracting the beginning inventory from the sum of the ending inventory and transfers in and out of the coin room;

(c) the same count team members who counted the ending coin room inventory shall compare the calculated wrap to the initial weigh or count, recording the comparison and noting any variances on the summary report;

(d) a member of the cage or vault department counts the ending coin room inventory by denomination. This count shall be reconciled to the beginning inventory, wrap, transfers and initial weigh or count on a timely basis by the cage or vault or other department independent of the slot department and the weigh and wrap procedures; and

(e) at the conclusion of the reconciliation, at least two count team members and the verifying employee shall sign the summary report(s) attesting to its accuracy.

i. If the count room is segregated from the coin room, or if the coin room is used as a count room and the coin room inventory is secured to preclude access by the count team, upon completion of the wrap of the slot drop:



i. at least two members of the count team shall count the final wrapped slot drop independently from each other;

ii. the above counts shall be recorded on a summary report;

iii. the same count team members as discussed above (or the accounting department) shall compare the final wrap to the weigh or count recording the comparison and noting any variances on the summary report;

iv. a member of the cage or vault department shall count the wrapped slot drop by denomination and reconcile it to the count;

v. at the conclusion of the reconciliation, at least two count team members and the cage or vault employee shall sign the summary report attesting to its accuracy; and

vi. the wrapped coins, exclusive of proper transfers, are transported to the cage, vault or coin vault after the reconciliation of the weigh or count to the wrap.

j. The count team shall compare the weigh or count to the wrap count daily. Variances of 2% or greater per denomination between the weigh or count and wrap shall be investigated on a daily basis. The results of such investigation shall be documented and maintained for five years.

k. All slot count and wrap documentation, including any applicable computer storage media, shall be immediately delivered to the accounting department by an employee independent of the cage department. Alternatively, it may be secured until retrieved by the accounting department.

l. Corrections on slot count documentation shall be made by crossing out the error, entering the correct figure, and having at least two count team employees initial the correction. If a weigh scale interface is used, corrections to slot count data shall be made using either of the following:

i. crossing out the error on the slot document, entering the correct figure, and having at least two count team employees initial the correction. If this procedure is used, an employee independent of the slot department and count team enters the correct figure into the computer system prior to the generation of a related slot report(s);

ii. during the count process, correcting the error in the computer system and entering the passwords of at least two count team employees. If this procedure is used, an exception report shall be generated by the computer system identifying the slot machine number, the error, the correction and the count team employees attesting to the corrections.

m. At least three employees shall be present throughout the wrapping of the slot drop. If the slot count is conducted with a continuous mechanical count meter, which is not reset during the count and is verified in writing by at least three employees at the start and end of each denomination count, then this requirement is not applicable.

n. If the coins are not wrapped immediately after being weighed and counted, they shall be secured and not commingled with other coin. The term "wrapped slot drop" includes wrapped, bagged (with continuous metered verification), and racked coins and tokens.

o. If the coins are transported off the property, a second, alternative count procedure shall be performed before the coins leave the property and any variances shall be documented.

L. Each hard count area shall be equipped with a weigh scale to weigh the contents of each slot drop bucket.

1. A weigh scale calibration module shall be secured to prevent unauthorized access and shall have the manufacturer's control to preserve the integrity of the device. Internal audit shall observe testing of the accuracy of the weigh scale and weigh scale interface at a minimum of once per quarter, document the results, and maintain the records for five years. The manufacturer shall calibrate the weigh scale at a minimum of once per year. Someone independent of the cage, vault, slot and count team functions shall be required to be present whenever the calibration module is accessed. Such access shall be documented and maintained. The controller or his designee shall be the only person(s) with access to the weigh calibration keys.

2. If a weigh scale interface is used, it shall be adequately restricted to prevent unauthorized access.

3. If the weigh scale has a "zero adjustment mechanism," it shall be either physically limited to minor adjustments or physically situated such that any unnecessary adjustments to it during the weigh process would be observed by other count team members.

4. If a mechanical coin counter is used, instead of a weigh scale, procedures equivalent to those described in this Section shall be utilized.

M. Each licensee and casino operator shall maintain accurate and current records for each slot machine including:

1. initial meter readings, both electronic and system, including coin in, coin out, drop, total jackpots paid, and games played for all machines. These readings shall be recorded prior to commencement of patron play for both new machines and machines changed in any manner other than changes in theoretical hold;

2. a report produced at least monthly showing month-to-date and year-to-date actual hold percentage computations for individual machines and a comparison to each machine's theoretical hold percentage. If practicable, the report should include the actual hold percentage for the entire time the machine has been in operation. Actual hold equals dollar amount of win divided by dollar amount of coin in. Variances between theoretical hold and actual hold of greater than 2 percent shall be investigated on an annual basis, resolved, and the findings documented;

3. records for each machine which indicate the dates and type of changes made and the recalculation of theoretical hold as a result of the changes;

4. the date the machine was placed into service, the date the machine was removed from operation, the date the machine was placed back into operation, and any changes in machine numbers and designations;

5. system meter readings which:

a. shall be recorded immediately prior to or subsequent to each slot drop;

b. shall be reviewed by the accounting department for reasonableness using pre-established parameters. Meters which do not meet the parameters for reasonableness shall be reviewed with slot department employees and documented. As necessary, meters shall be repaired and clerical errors in the recording of meter readings shall be corrected; and

c. shall be backed up daily and transferred weekly to an off-site secured storage location that is approved by the division;

6. statistical reports, which shall be reviewed by both slot department management and management employees independent of the slot department on a monthly basis;

7. theoretical hold worksheets, which shall be reviewed by both slot department management and management employees independent of the slot department semi-annually;

8. maintenance of the computerized slot monitoring system data files, which shall be performed by a department independent of the slot department. Alternatively, maintenance may be performed by slot supervisory employees if sufficient documentation is generated and it is randomly verified by employees independent of the slot department on a daily basis; and

9. updates to the computerized slot monitoring systems which reflect additions, deletions or movements of slot machines, which shall be made immediately preceding the addition or deletion in conjunction with electronic meter readings and the weigh process.

N. When slot machines are removed from the floor, slot loads, including hopper fills, shall be dropped in the slot drop bucket and routed to the coin room for inclusion in the next hard count.

O. Currency Acceptor Drop and Count Standards

1. Electronic gaming devices accepting U.S. currency and other approved equivalents shall provide a locked drop box whose contents are separately keyed from the drop bucket cabinet.

2. The currency acceptor drop box shall be removed by an employee independent of the slot department according to a schedule, submitted to the division, setting forth the specific times for such drops. Each licensee and casino operator shall notify the division at least five days prior to implementing a change to this schedule, except in emergency situations. Emergency drops, including those for maintenance and repairs, which require removal of the currency acceptor drop box, require written notification to the division within 24 hours detailing date, time, machine number and reason. Prior to emptying or removing any currency acceptor drop box, the drop team shall notify security and surveillance that the drop is beginning.

3. The currency acceptor drop process shall be monitored in its entirety and recorded by surveillance including transportation to the count room or other secured areas as approved by the division. At least one surveillance employee shall monitor the drop process at all times. This employee shall document on the surveillance log the time that the drop begins and ends, as well as any exceptions or variations to established procedures observed during the drop, including each time the count room door is opened.

4. Each licensee and casino operator shall submit its drop transportation route from the gaming area to the count room to the division prior to implementing or changing the route. At the end of the last gaming day of each calendar month, the licensee's or casino operator's drop shall include the currency acceptor drop boxes for all slot machines.

5. The drop team shall collect each currency acceptor drop box and ensure that the correct tag or number is added to each box.

6. Security shall be provided over the currency acceptor drop boxes removed from the electronic gaming devices until received in the count area.

7. Upon removal, the currency acceptor drop boxes shall be placed in a drop box storage rack and locked therein for transportation directly to the count area or other secure place approved by the division and locked in a secure manner until the count takes place.

8. The transporting of currency acceptor drop boxes shall be performed by a minimum of two employees, at least one of whom shall be a security officer.

9. Once all currency acceptor drop boxes are collected, the drop team or security shall notify surveillance and other appropriate personnel that the drop has ended.

10. The currency acceptor count shall be performed in the soft count room and shall be recorded by surveillance. If at any time surveillance observes that the visibility of the count team's hands or other activity is consistently obstructed, surveillance shall immediately notify count room employees. At least one surveillance or internal audit employee shall watch the currency acceptor count process on at least two randomly selected days per calendar month. Surveillance shall document on the surveillance log any exceptions or variations to established procedures observed during the count.

11. The currency acceptor count shall be performed by a minimum of three employees consisting of a recorder, counter and verifier.

12. Currency acceptor count team members shall be rotated on a routine basis. Rotation shall be such that the count team does not consist of only the same three employees more than four days per week.

13. The currency acceptor count team shall be independent of transactions being reviewed and counted, and the subsequent accountability of currency drop proceeds.

14. Daily, the count team shall verify the accuracy of the currency counter by performing a test count. The test count shall be recorded and signed by at least two count team members.

15. The currency acceptor drop boxes shall be individually emptied and the contents separated on the count room table.

16. As the contents of each box are counted and verified, the count shall be recorded on the count sheet in ink or other permanent form of recordation prior to commingling the funds with funds from other boxes.

17. Drop boxes, when empty, shall be shown to another member of the count team or to surveillance.

18. The count team shall compare a listing of currency acceptor drop boxes scheduled to be dropped to a listing of those drop boxes actually counted, to ensure that all drop boxes are accounted for during each drop period.

19. Corrections to information originally recorded by the count team on currency acceptor count documentation shall be made by crossing out the error, entering the correct figure, and having at least two count team employees verify the change by initialing the correction.

20. After the count sheet has been reconciled to the currency from the count, all members of the count team shall attest by signature to the accuracy of the currency acceptor drop count. Three verifying signatures on the count sheet shall be adequate if all additional count team employees sign

a supplemental document evidencing their involvement in the count process.

21. All monies that were counted shall be transferred to the cage cashier, who shall be independent of the count team, or to an employee independent of the revenue generation and the count process for verification, who shall certify by signature as to the accuracy of the currency delivered and received.

22. Access to all drop boxes, whether full or empty, shall be restricted to authorized members of the drop and count teams. In the case of an emergency drop, including those for maintenance and repairs which require access to the currency acceptor box, a slot technician, slot supervisor or other employee approved in writing by the division may have access to the drop boxes with a security escort. However, at no time shall the slot technician have access to the drop box contents key or deviate from normal drop procedures. At least one surveillance employee shall monitor the entire emergency drop process.

23. Access to the soft count room and vault shall be restricted to members of the drop and count teams, supervisors for resolution of problems, division agents, and authorized observers as approved by the division. Authorized maintenance personnel shall enter only when accompanied by security.

24. The count sheet, with all supporting documents, shall be promptly delivered to the accounting department by someone independent of the cashiering department. Alternatively, it may be secured until retrieved by the accounting department.

25. The individual possessing the keys needed to access full currency acceptor drop box contents shall be recorded by surveillance at all times.

26. Currency acceptor drop box release keys shall be maintained by a department independent of the slot department. Only the employee authorized to remove drop boxes from the currency acceptor shall be allowed access to the release keys. The count team members may have access to the release keys during the count in order to reset the drop boxes if necessary. Employees participating in the drop process are precluded from simultaneously possessing both the drop box contents keys and the drop box release keys.

27. An employee independent of the slot department shall be required to accompany the currency acceptor drop box storage rack keys and observe each time the drop boxes are removed from or placed in storage racks. Employees authorized to obtain drop box storage rack keys shall be precluded from having access to drop box contents keys, except the count team.

28. Only count team members shall be allowed access to drop box contents keys. This standard does not affect emergency situations which require currency acceptor drop box access at other than scheduled count times. At least three employees from separate departments, including management, shall participate in these situations. The reason for access shall be documented and verified by the signatures of all participants and observers.

#### P. Computer Records

1. At a minimum, the licensee or casino operator shall generate, review, document this review, and maintain slot reports on a daily basis for the respective system(s) utilized in their operation.

#### Q. Management Information Systems (MIS) Functions

##### 1. Backup and Recovery

a. MIS shall perform backup of system data daily. Backup and recovery procedures shall be written and distributed to all applicable personnel. These policies shall include information and procedures, which includes, at a minimum, a description of the system and system manual(s) that ensure the timely restoration of data in order to resume operations after a hardware or software failure.

b. MIS shall maintain copies of system-generated edit reports, exception reports and transaction logs.

##### 2. Software and Hardware

a. MIS shall maintain a personnel access listing which includes, at a minimum, the employee's name, position, identification number, and a list of functions the employee is authorized to perform including the date authorization is granted. These files shall be updated as employees or the functions they perform change. The licensee and casino operator is responsible for establishing access authority.

b. MIS shall print and review the computer security access report at the end of each month. Discrepancies shall be investigated, documented and maintained for five years.

c. Only authorized personnel shall have physical access to the computer software and hardware.

d. All changes to the system and the name of the individual who made the change shall be documented.

e. Reports and other output generated by the system shall only be available and distributed to authorized personnel.

##### 3. Application Controls

a. Application controls shall include procedures that prove assurance of the accuracy of the data input, the integrity of the processing performed, and the verification and distribution of the output generated by the system. Examples of these controls include:

i. proper authorization prior to data input, for example, passwords;

ii. use of parameters or reasonableness checks; and

iii. use of control totals on reports and comparison of them to amounts input.

b. Documents created from the above procedures shall be maintained for five years.

R. The accounting department shall perform the following audit procedures relative to slot operations:

1. collect jackpot and hopper fill slips, computerized and manual, and other paperwork daily from the locked accounting box and the cashier cage or as otherwise approved by the division;

2. review jackpot and fill slips daily for continuous sequence. Ensure that proper procedures were used to void slips. Investigate all missing slips and errors. Document the investigation and retain the results for a minimum of five years;

3. manually add, on a daily basis, all jackpot and fill slips and trace the totals from the slips to the system-generated totals. Document all variances and retain the documentation for five years;

4. collect the hard count and currency acceptor count results from the count teams and compare the actual count to the system-generated meter reports on a daily basis;

5. prepare reports of their daily comparisons by device, by denomination, and in total of the actual count for hard and soft count to system-generated totals. Report variance(s) of \$100 or greater to the slot department for investigation. Maintain a copy of these reports for five years;

6. compare a listing of slot machine numbers scheduled to be dropped to a listing of slot machine numbers actually counted to ensure that all drop buckets and currency acceptors are accounted for during each drop period;

7. immediately investigate any variance of 2 percent or more per denomination between the weigh or count and wrap. Document and maintain the results of such investigation for five years;

8. compare 10 percent of jackpot and hopper fill slips to signature cards for proper signatures one day each month;

9. compare the weigh tape to the system-generated weigh, as recorded in the slot statistical report at least one drop period per month. Resolve any discrepancies prior to generation and distribution of slot reports to management;

10. review the weigh scale tape of one gaming day each quarter to ensure that:

a. all electronic gaming device numbers were properly included;

b. only valid identification numbers were accepted;

c. all errors were investigated and properly documented, if applicable;

d. the weigh scale correctly calculated the dollar value of coins; and

e. all discrepancies are documented and the documentation is maintained for a minimum of five years;

11. verify the continuing accuracy of the coin-in meter readings as recorded in the slot statistical report at least monthly;

12. compare the "bill-in" meter reading to the currency acceptor drop amount at least monthly. Discrepancies shall be resolved prior to the generation and distribution of slot statistical reports to management;

13. maintain a personnel access listing for all computerized slot systems which includes, at a minimum:

a. employee name;

b. employee identification number, or equivalent; and

c. listing of functions the employee can perform or equivalent means of identifying same;

14. review sensitive key logs. Investigate and document any omissions and any instances in which these keys are not signed out and signed in by the same individual;

15. on a daily basis, review exceptions, jackpot overrides, and verification reports for all computerized slot systems, including tokens, coins and currency acceptors, for propriety of transactions and unusual occurrences. These exception reports shall include the following:

a. cash variance which compares actual cash to metered cash by machine, by denomination and in total;

b. drop comparison which compares the drop meter to weigh scale by machine, by denomination and in total.

#### S. Slot Department Requirements

1. The slot booths, change banks, and change banks incorporated in beverage bars (bar banks) shall be counted down and reconciled each shift utilizing appropriate accountability documentation.

2. The wrapping of loose slot booth and cashier cage coin shall be performed at a time or location that does not interfere with the hard count process or the accountability of that process.

3. A record shall be maintained evidencing the transfers of unwrapped coin.

4. Slot booth, change bank, and bar bank token and chip storage cabinets and drawers shall be constructed to provide maximum security of the chips and tokens.

5. Each station shall have a separate lock and shall be keyed differently.

6. Slot booth, change bank, and bar bank cabinet and drawer keys shall be maintained by the supervisor and issued to the change employee assigned to sell chips and tokens. Issuance of these keys shall be evidenced by a key log, which shall be signed by the change employee to whom the key is issued. All slot booth, change bank, and bar bank keys shall be returned to the supervisor at the end of each shift. The return of these keys shall be evidenced on the key log, which shall be signed by the cage employee to whom the key was previously issued. The key log shall include:

a. the change employee's employee number and signature;

b. the date and time the keys is signed out; and

c. the date and time the key is returned.

7. At the end of each shift, the outgoing and incoming change employee shall count the bank. The outgoing employee shall fill out a count sheet, which shall include opening and closing inventories listing all currency, coin, tokens, chips and other supporting documentation. The count sheet shall be signed by both employees.

8. In the event there is no incoming change employee, the supervisor shall count and verify the closing inventory of the slot booth, change bank, and bar bank.

9. Increases and decreases to the slot booths, change banks, and bar banks shall be supported by written documentation signed by the cage cashier and the slot booth, change bank, or bar bank employee.

10. The slot department or MIS shall maintain documentation of system-related problems, including, but not limited to, system failures, extreme values for no apparent reason, and problems with data collection units, and document the follow-up procedures performed. Documentation shall include at a minimum:

a. date the problem was identified;

b. description of the problem;

c. name and position of person who identified the problem;

d. name and position of person(s) performing the follow up;

e. date the problem was corrected; and

f. how the problem was corrected.

11. The slot department shall investigate all meter variances received from accounting. Copies of the results of the slot department's investigation shall be retained by the accounting department for five years.

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 38:

**§2725. Internal Controls; Poker**

A. Supervision shall be provided during all poker games by personnel with authority greater than those employees conducting the games.

B. Poker area transfers between table banks and the poker bank or casino cage shall be authorized by a supervisor and evidenced by the use of a lammer button or other means approved by the division. Such transfers shall be verified by the poker area dealer and the runner. A lammer is not required if the exchange of chips, tokens, or currency takes place at the table.

C. The amount of the main poker area bank shall be counted, recorded and reconciled on a shift basis by two gaming supervisors or two cashiers, who shall attest to the amount counted by signing the check-out form.

D. At least once per gaming day, the table banks shall be counted by a dealer and a gaming supervisor, or two gaming supervisors, and shall be attested to by signatures of those two employees on the proper form. The count shall be recorded and reconciled at least once per day.

E. The procedure for the collection of poker drop boxes and the count of the contents thereof shall comply with the internal control standards applicable to the table game drop boxes in §2717.

F. Playing cards, both used and unused, shall be maintained in a secure location to prevent unauthorized access and reduce the possibility of tampering.

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 38:

**§2727. Race Book, Riverboat Licensee Only**

A. This Section shall only apply to a licensee as defined in R.S. 27:44 pursuant to R.S. 27:86.

B. Access to the computer system shall be adequately restricted. Adequate restrictions in this context include changing passwords and physically restricting access to computer hardware.

C. Procedures shall be developed prior to commencement of gaming for use in case of hardware failure, power failure, fire, or other similar events.

D. All race book wagers shall be transacted through the computer system. In case of computer failure, tickets may be written up to 24 hours after the failure. In those instances where system failure has occurred and tickets are handwritten, a log shall be maintained which includes:

1. date and time of system failure;
2. reason for failure; and
3. date and time system restored.

E. All handwritten or paid tickets shall be entered into the computer system as soon as possible to verify the accuracy of the write and the payout. This does not apply to purged, unpaid winning tickets. All manually-paid tickets shall be re-graded as part of the end-of-day audit process should the computer system be inoperative.

F. The time generated by the computer during ticket writing shall be tested each day by a supervisor independent of the ticket writing and cashiering function. This person may also be independent of the book.

G. The test, and any adjustments necessary due to discrepancies, shall be documented in a log or in an equivalent manner, which includes the station number, date,

time of test, time per computer, name or signature of the employee performing test, and any other relevant information.

H. All date, time, and numerical sequence stamping machines used by the book for parlay cards, voiding cards/tickets, and payouts shall be directly and permanently wired to the electrical supply system (or in another approved manner).

I. Only maintenance, engineering or security employees/personnel shall have access to fuses or fuse-like devices used in connection with the machines.

J. At least once during each eight hours of operation, each book shall examine and test the stamping machines to ensure their date and time accuracy to the nearest minute. This test shall be performed by someone independent of the ticket writing function.

K. The test, and any adjustments necessary due to discrepancies, shall be documented in a log which includes the station number, date, time of test, time on machine, name or signature of employee performing the test, and any other relevant information.

L. All original and duplicate keys to the date, time and numerical sequence stamping devices are maintained and used by a department or personnel who are independent of the ticket writing and cashiering functions.

M. Whenever a betting station is opened for wagering or turned over to a new writer, the betting ticket writer shall sign on and the computer documents the writer's identity, the date and time, and the fact that the station was opened on either the unused ticket that is first in sequence or in a separate report.

N. Whenever the betting station is closed or the writer is replaced, the writer shall sign off and the computer documents the date and time, and the fact that the station was closed out on either the unused ticket that is next in sequence after the last ticket written or in a separate report.

O. When a wager is accepted, a betting ticket shall be created which consists of at least three parts.

1. An original which shall be transacted and issued through a printer and given to the patron.

2. A copy which shall be recorded concurrently with the generation of the original ticket either on paper or other storage media, for example, tape or diskette.

3. An internally recorded copy to which access by book employees shall be adequately restricted.

P. If a book voids a betting ticket then:

1. the word "Void" shall be immediately written or stamped and the date and time at which the ticket was voided shall be stamped on the original; and

2. a key employee and one other person shall sign the ticket at the time of voiding.

Q. The computer system shall adequately document supervisory approval for appropriate transactions, as applicable.

R. A race wager shall not be accepted after the occurrence of post time.

S. The computer shall be incapable of transacting or accepting a wager subsequent to the above cutoff times.

T. The computer shall be incapable of voiding a ticket subsequent to the cutoff time unless it produces a report which specifically identifies such voided tickets.

U. The computer shall be incapable of establishing or changing a cutoff or starting time to a time that is earlier than the current time of day.

V. Tickets shall not be written or voided after the outcome of an event is known.

W. Prior to patrons receiving payouts on winning tickets, results shall be input into the computer's administrative terminal for computerized grading of all wagers.

X. Prior to making payment on a ticket or crediting the winnings to the patron's account, the cashier shall input the ticket sequence number into the cashier's terminal. Alternatively, the computer system may automatically update the patron's account when the event results are posted.

Y. Upon computer authorization of payment, the patron is paid and the patron's copy shall be marked "paid", noted with the amount of payment, and date stamped.

Z. For all payouts which are made without computer authorization, documentation supporting and explaining such payouts shall be maintained.

AA. The computer shall be incapable of authorizing payment on a ticket which has been previously paid, a voided ticket, a losing ticket, or an unissued ticket.

BB. Within 72 hours following the payment of a winning ticket for net winnings greater than \$10,000 (i.e., payout less initial wager), an employee independent of the ticket verification shall confirm the integrity of the patron's copy by comparing it to, re-grading, and initialing the transaction on the computer sales/transaction report and initialing the patron's copy.

CC. If a progressive pool is used for wagers:

1. adequate documentation shall be retained regarding the rules, increment procedures and any reductions in the progressive amounts;

2. the progressive amount shall be displayed in the book;

3. the progressive liability shall be recorded on a daily basis;

4. audit personnel shall recalculate the progressive increment on a sample basis, at least once a week; and

5. for each writer and cashier station:

a. the system shall indicate the amount of cash that should be in a given drawer; and

b. writers and cashiers shall not be permitted access to this information without supervisory approval.

DD. For each writer station, a summary report shall be completed at the conclusion of each shift including:

1. computation of net cash proceeds for the shift; and

2. signatures of two employees who have verified the net cash proceeds for the shift.

EE. For each cashier station a summary report shall be completed at the conclusion of each shift including:

1. computation of cash turned in for the shift; and

2. signatures of two employees who have verified the cash turned in for the shift.

FF. Employees who write or cash tickets shall not perform administrative or supervisory functions. Administrative functions in this context include setting up events, changing event data, and inputting results at any time. Supervisory functions in this context include

approving void tickets, large wagers and access to cash information in the computer.

GG. Race book employees shall be prohibited from wagering on race events while on duty including during break periods.

HH. At a minimum, the following types of reports shall be maintained, if applicable:

1. write transaction report;

2. payout transaction report;

3. credit transaction report;

4. results report;

5. futures report;

6. unpaid winners report;

7. exception report, which include past-post voids, past-post write, voids, and odds changes;

8. daily recap report; and

9. personnel access listing.

II. The reports shall contain, at a minimum, the following information:

1. daily write, payout and credit transaction reports:

a. ticket number;

b. date/time written/paid;

c. type/amount of wager;

d. horse identification;

e. amount of payout; and

f. total by writer/cashier and day;

2. daily futures report, or when applicable:

a. ticket number;

b. date/time written;

c. amount of wager;

d. future wagers for the day by total and broken out by dates of events; and

e. summary of future wagers by dates of events and in total at the time of revenue recognition;

3. daily unpaid winners report:

a. ticket number;

b. date/time written;

c. amount of wager/payout; and

d. totals;

4. daily exception report:

a. ticket number;

b. date/time written;

c. type/amount of wager;

d. exception;

e. time of exception; and

f. summary by exception, listed and sorted by exception type);

5. daily results report:

a. date and time of event per the cutoff time input to the computer;

b. horse number; and

c. event results and any other relevant payoff data;

6. daily recap report:

a. date; and

b. totals:

i. cash write for the day;

ii. futures written for the day;

iii. futures brought back into revenue for the day's events;

iv. accrual write Clause i less Clause ii plus Clause iii (above);

- v. cash paid out on prior day's events;
  - vi. cash paid out on current day's events;
  - vii. cash payouts for the day;
  - viii. unpaid tickets for the day;
  - ix. accrual payouts Clause vi plus Clause viii (above);
  - x. unpaid winners brought back into revenue;
  - xi. taxable revenue Clause iv less Clause vii or Clause i less Clause vii (above);
  - xii. book (accounting) revenue Clause iv less Clause ix plus Clause x (above);
7. personnel access listing:
- a. name;
  - b. employer identification number; and
  - c. listing of functions employee can perform or equivalent means of identifying same.

JJ. The race book accounting and audit procedures shall be performed by personnel who are independent of the transactions being audited/accounted for.

KK. For a minimum of two writer stations per shift per month, rotated among writers, accounting personnel shall:

- 1. foot the sequentially connected copy of written tickets and trace the totals to those produced by the system; and
- 2. review the connected copies for sequential numbering and document follow-up on missing numbers or blank tickets.

LL. Accounting personnel shall foot the customer copy of paid tickets for a minimum of one cashier station per month and trace the totals to those produced by the system.

MM. The write and payouts shall be compared to the cash proceeds/disbursements with a documented investigation being performed on all large variances, which include overages or shortages greater than \$100 per writer/cashier.

NN. For all winning and voided race book tickets in excess of \$1,000, and for a random sample of 0.2% of all other winning race book tickets:

- 1. the tickets shall be recalculated and re-graded using the computer record of event results;
- 2. the date and starting time of the race per the results report shall be compared to the date and time stamp on the ticket and in the computer sales/transaction report; and
- 3. the terms of the wagers per the computer sales/transaction report or per the results report shall be reviewed and compared to an independent source for extravagant or questionable activity.

OO. For all voided tickets:

- 1. the computer reports which display voided ticket information shall be examined to verify that tickets were properly voided prior to the cutoff times for event wagering; and
- 2. the voided tickets shall be examined for the word "Void" and proper signatures.

PP. The book's computerized summary of events/results report shall be traced to an independent source for 5% of all races to verify the accuracy of starting times and final results, if available from an independent source.

QQ. Exception reports shall be reviewed on daily basis for propriety of transactions and unusual occurrences.

RR. Any investigation performed regarding the exception reports shall be documented.

SS. At least one day per calendar quarter, the computer-generated reports shall be reviewed for proper handling of future wagers and unpaid winners.

TT. Reports shall be maintained for each day, month and year-to-date which indicate the total amount paid out on winning wagers, the net amount won by the book, and the win-to-write percentage.

UU. At least monthly, this information shall be presented to and reviewed by management independent of the race book.

1. Management shall investigate any unusual statistical fluctuations with race book personnel. This review shall be performed by comparing the current period statistics for each type of event with those of applicable prior periods.

2. The results of the investigations shall be documented in writing and maintained for at least five years.

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 38:

**§2729. Internal Controls; Cage, Vault and Credit**

A. Each licensee and casino operator shall have a main bank that serves as the financial consolidation of transactions relating to all gaming activity.

B. Individuals accessing the main bank or casino cages, who are not employees assigned to those areas, shall sign a log maintained in the main bank and casino cages recording:

- 1. name of each person entering;
  - 2. reason each person entered;
  - 3. date and time each person enters and exits;
  - 4. date, time and type of any equipment malfunction;
- and
- 5. a description of any unusual events.

C. All transactions that flow through the main bank or casino cages shall be summarized on a cage accountability form on a per shift basis and signed by the outgoing and incoming cashier after verifying the amounts. Variances of \$50 or greater shall be investigated and the results of the investigation maintained for five years.

D. Increases and decreases to the cage inventory shall be supported by written documentation.

E. Open cage windows, the main bank, and the vault, including the inventory in the coin room, shall be counted by outgoing and incoming cashiers and recorded at the end of each shift during which any activity took place or once per gaming day if no activity took place. This documentation shall be signed by each person who counted the inventory. In the event there is a variance of \$50 or greater, a supervisor shall verify the inventory count and sign the documentation.

F. All net changes in outstanding casino receivables shall be summarized on a cage accountability form or similar document on a daily basis. Such information shall be summarized and posted to the accounting records at least monthly.

G. All cage paperwork shall be transported to the accounting department by an employee independent of the cage.

H. All cashier tips shall be placed in a transparent locked box located inside the cage and shall not be commingled with cage inventory.

I. A licensee or casino operator may issue credit for gaming purposes.

J. Prior to the issuance of gaming credit to a player, the employee extending the credit shall determine if credit is available. If a manual system is used, prior to the issuance of gaming credit to a player, the employee extending the credit shall contact the cashier or other independent source to determine if the player's credit limit has been properly established and remaining credit available is sufficient for the advance.

K. Proper authorization to extend credit in excess of the previously established limit shall be documented.

L. Prior to extending credit, each licensee and casino operator shall obtain and copy a valid driver's license or if a valid driver's license is not available, another generally accepted means of identification, and document that it:

1. received information from a bona fide credit-reporting agency that the patron has an established credit history that meets documented company standards for issuing credit; or

2. received information from a legal business that has extended credit to the patron that the patron has an established credit history that meets documented company standards for issuing credit; or

3. received information from a financial institution at which the patron maintains an account that the patron has an established credit history that meets documented company standards for issuing credit; or

4. examined records of its previous credit transactions with the patron, showing that the patron has paid substantially all of his credit instruments and otherwise documents that it has a reasonable basis for placing the amount or sum placed at the patron's disposal; or

5. obtained information from another licensee that extended gaming credit to the patron that the patron paid substantially all of the debt to the other licensee, and the licensee extending the credit otherwise documents a reasonable basis for the amount of credit it is granting the patron; or

6. is unable to obtain information from any of the sources listed in Paragraphs 1-5 for a patron who is not a resident of the United States. In this case, the licensee or casino operator shall receive in writing, information from an agent or employee of the licensee or casino operator who has personal knowledge of the patron's credit reputation or financial resources that there is a reasonable basis for extending credit in the amount or sum placed at the patron's disposal.

M. Subsection L applies to personal checks and third party checks whether in exchange for cash, chips, tokens, or other cash equivalents or as payment for a previous credit instrument. If the licensee or casino operator utilizes a check guarantee company, the licensee or casino operator is only required to obtain and copy the ID as required in Subsection L, as long as it follows the requirements of the check guarantee company.

N. The following information shall be recorded for patrons who will have credit limits or are issued credit in an amount greater than \$1,000 excluding cashier's checks and traveler's checks:

1. patron's name, current address, and signature;

2. identification verifications, including Social Security number or passport number if patron is a nonresident alien;

3. authorized credit limit;

4. documentation of authorization by an individual designated by management to approve credit limits; and

5. credit issuances and payments.

O. Prior to extending credit, the patron's credit application and any additional documentation shall be examined to determine the following:

1. properly authorized credit limit;

2. whether remaining credit is sufficient to cover the advance;

3. identity of the patron;

4. credit extensions over a specified dollar amount are authorized by personnel designated by management;

5. proper authorization of credit extension over 10 percent of the previously established limit or \$1,000, whichever is greater, is documented; and

6. if cage credit is extended to a single patron in an amount exceeding \$3,000, applicable gaming personnel are notified on a timely basis that the patron is playing on cage credit, the applicable amount of credit issued, and the available balance.

P. The following information shall be maintained either manually or in the computer system for markers:

1. the signature or initials of the individual(s) approving the extension of credit unless such information is contained elsewhere for each issuance;

2. the name of the individual receiving the credit;

3. the date and shift granting the credit;

4. the amount of credit issued;

5. the marker number;

6. the amount of credit remaining after each issuance or the total credit available for all issuances;

7. the amount of payment received and nature of settlement, for example, credit slip number, cash, and chips; and

8. the signature or initials of the individual receiving payment or settlement.

Q. The marker slip shall, at a minimum, be in triplicate form, pre-numbered or numbered by the printer, and utilized in numerical sequence. Manual markers may be issued in numerical sequence by location. The three parts of the cage-issued marker shall be utilized as follows:

1. the original slip shall be maintained in the cage until settled;

2. the payment slip shall be maintained in the cage until the marker is paid; and

3. the issue slip shall be maintained in the cage until forwarded to accounting.

R. The original slip shall include the following information:

1. patron's name and signature;

2. marker number;

3. date of issuance; and

4. amount of credit issued.

S. The issue slip shall include the same number as the original slip, date and time of issuance, and amount of credit issued. The issue slip shall also include the signature of the



individual extending the credit unless this information is included on another document verifying the issued marker.

T. The payment slip shall include the same number as the original slip. When the marker is paid in full, it shall also include, the date and time of payment, the manner of payment, such as cash, chips, or tokens, and amount of payment. The payment slip shall also include the signature of the cashier receiving the payment unless this information is included on another document verifying the payment of the marker.

U. Marker log documentation shall be maintained by numerical sequence, indicating marker number, name of patron, date marker issued, date paid, method of payment, and amount of credit remaining.

V. Voided markers, computer-generated and manual, shall be clearly marked "Void" across the face of all copies. The cashier and supervisor shall print their employee numbers and sign their names on the voided marker. The supervisor who approves the void shall print or stamp the date and time the void is approved and print the reason for the void on the slip. All copies of the voided marker shall be forwarded to accounting for accountability and retention on a daily basis.

W. All portions of markers, both issued and unissued, shall be safeguarded and procedures shall be employed to control the distribution, use and access to the marker forms.

X. The accounting department shall investigate the loss of any part of a numbered marker form immediately upon discovery that the marker form or a part of the marker form is missing. The investigation shall determine the cause and responsibility for the lost form. The results of the investigation shall be documented and maintained for five years. The licensee or casino operator shall notify the division in writing of the loss, disappearance or failure to account for marker forms within 10 days of such occurrence.

Y. All payments received on outstanding credit instruments shall be permanently recorded in the licensee's or casino operator's records.

Z. When partial payments are made on a marker, a new marker shall be completed reflecting the original date, remaining balance, and number of the original marker.

AA. Personal checks or cashier's checks shall only be cashed at the cage and the cashier shall examine and record at least one valid form establishing the patron's identification.

BB. When travelers checks are presented, the cashier must comply with examination and documentation procedures as required by the issuer of the travelers checks.

CC. Payments by mail shall be received by a department independent of credit instrument custody and collection.

DD. Payments received by mail shall be:

1. recorded on a listing indicating the following:
  - a. customer's name;
  - b. amount of payment;
  - c. type of payment including check number or similar identifying number, if applicable; and
  - d. date payment received.
2. applied to credit balances by a different employee from the employee receiving the payments; and
3. reconciled in accordance with the internal controls to ensure all payments received are recorded and applied to the correct account.

EE. Access to credit information, including outstanding credit instruments and credit write-offs, shall be restricted to those positions which require access and are authorized by management. This access shall be noted in the appropriate job descriptions in the internal controls.

FF. All extensions of pit credit transferred to the cage and subsequent payments shall be documented on a credit instrument control form.

GG. Records of all correspondence, transfers to and from outside agencies, and other documents related to issued credit instruments shall be maintained.

HH. Written-off credit instruments shall be authorized in writing. Such authorizations shall be made by at least two management officials from departments independent of the credit transaction.

II. If outstanding credit instruments are transferred to outside offices, collection agencies or other collection representatives, a copy of the credit instrument and a receipt from the collection representative shall be obtained and maintained until such time as the credit instrument is returned or payment is received. A detailed listing shall be maintained to document all outstanding credit instruments which have been transferred to other offices. The listing shall be prepared or reviewed by an individual independent of credit transactions and collections.

JJ. The receipt or disbursement of front money or a customer cash deposit shall be evidenced by at least a two-part document with one copy going to the customer and one copy remaining in the cage file.

1. The multi-part form shall contain the following information:

- a. identical number on all copies;
- b. customer's name and signature;
- c. date of receipt and disbursement;
- d. dollar amount of deposit; and
- e. type of deposit or disbursement, cash, check, or chips.

2. Procedures shall be established to:

- a. maintain a detailed record by patron name and date of all funds on deposit;
- b. maintain a current balance of all customer cash deposits which are in the cage or vault inventory or accountability; and
- c. reconcile this current balance with the deposits and withdrawals at least daily.

KK. The trial balance of casino accounts receivable shall be reconciled to the general ledger at least quarterly.

LL. An employee independent of the cage, credit, and collection departments shall perform all of the following at least three times per year:

1. ascertain compliance with credit limits and other established credit issuance procedures;
2. randomly reconcile outstanding balances of active and inactive accounts on the listing to individual credit records and physical instruments;
3. examine credit records to determine that appropriate collection efforts are being made and payments are being properly recorded; and
4. for a minimum of five days per month, reconcile partial payment receipts to the total payments recorded by the cage for the day.

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 38:

### **§2730. Exchange of Tokens and Chips**

A. A licensee or casino operator may exchange a patron's tokens and chips issued by another licensee, foreign chips and tokens, only for its own tokens and chips. A licensee or casino operator shall not exchange tokens or chips issued by another licensee or casino operator for cash. Licensees and the casino operator shall document the exchange in accordance with their internal controls.

B. The exchange of tokens and chips issued by another licensee or casino operator shall occur only at a casino cage.

C. The total dollar value of the chips or tokens submitted by a patron for exchange shall equal the total dollar value of the tokens or chips issued by the licensee or casino operator to the patron. Tokens or chips shall not be exchanged for a discount or a premium.

D. All foreign tokens and chips received by a licensee or casino operator shall be returned to the issuing licensee or casino operator as an even exchange. A licensee or casino operator shall return foreign chips and tokens at least annually unless the division approves otherwise in writing. Each licensee and casino operator shall document the redemption in accordance with their internal controls.

E. A licensee or casino operator shall not knowingly accept as a wager any foreign token or chip. A licensee or casino operator shall not accept tokens or chips issued by another licensee or casino operator in any manner other than authorized in this Section.

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 38:

### **§2731. Currency Transaction Reporting**

A. Each licensee and casino operator shall be responsible for proper reporting of certain monetary transactions to the federal government as required by the Bank Records and Foreign Transactions Act, commonly referred to as the "Bank Secrecy Act" as codified in Title 31 and Title 12. Specific requirements concerning record keeping and reports are delineated in Title 31 Chapter X and shall be followed in their entirety. The Bank Secrecy Act and the rules and regulations promulgated by the federal government pursuant to the Bank Secrecy Act as they may be amended from time to time, are adopted by reference and are to be considered incorporated herein.

B. Penalties may be assessed against a licensee or casino operator, and any director, partner, official or employee who participated in willful violations of the reporting requirements of the Bank Secrecy Act.

C. All employees of the licensee and casino operator shall be prohibited from providing any information or assistance to patrons in an effort to aid the patron in circumventing any and all currency transaction reporting requirements.

D. A licensee's or casino operator's employees shall be responsible for preventing a patron from circumventing the currency transaction reporting requirements if the employee has knowledge, or through reasonable diligence in performing their duties, should have knowledge of the patron's efforts at circumvention.

E. For each required Currency Transaction Report for Casinos (CTRC) or Suspicious Activity Report for Casinos (SARC), a clear surveillance photograph of the patron shall be taken and attached to the licensee's or casino operator's copy. If a clear photograph cannot be taken at the time of the transaction, a file photograph of the patron, if available, may be used to supplement the required photograph. The licensee or casino operator shall maintain and make available for inspection each CTRC and SARC, with the attached photographs, for a period of five years.

F. One legible copy of each CTRC shall be forwarded to the division in a manner determined by the division, in accordance with Federal deadlines.

G. One legible copy of each SARC shall be forwarded to the division in a manner determined by the division, in accordance with Federal deadlines.

H. The licensee and casino operator shall be responsible for maintaining a single log which aggregates all transactions in excess of \$3,000 from the various multiple transaction logs. The licensee and casino operator shall include in its internal controls the procedures for recording multiple transactions and aggregating the transactions of individuals or on behalf of individuals to ensure compliance with CTRC and SARC requirements. The internal controls shall include, but are not limited to:

1. All cash transactions in excess of \$3,000 shall be recorded on a multiple transaction log and signed by the employee handling the transaction.

2. Any multiple transaction log which reflects no activity shall be signed by the supervisor.

3. The employee handling the transaction shall be responsible for accurate and complete log entries. No log entry shall be omitted. Each log entry shall include the date and time, the amount of the transaction, the location of the transaction, the type of transaction, and the name or physical description of the patron.

4. Once any patron's cash activity has exceeded \$3,000, any and all additional cash activity shall be logged regardless of the amount or location.

5. Personnel of the licensee or casino operator shall coordinate their efforts to ensure all cash transactions in excess of \$3,000 are properly logged and aggregated.

6. Personnel of the licensee or casino operator shall coordinate their efforts to ensure any required currency transaction reports are properly completed.

7. As the \$10,000 amount is about to be exceeded, the employee consummating the transaction shall be responsible for obtaining and verifying the patron's identification prior to completing the transaction.

8. All multiple transaction logs shall be turned in to the cage for submittal to the accounting department daily.

I. The information required to be gathered by this Section shall be obtained from the individual on whose behalf the transaction is conducted, if other than the patron.

J. If a patron is unable or unwilling to provide any of the information required for currency transaction reporting, the transaction shall be terminated until the patron provides the required information.

K. A transaction shall not be completed if it is known that the patron is seeking to avoid compliance with currency transaction requirements.

L. Each licensee and casino operator shall report any administrative or criminal proceedings against it alleging a violation pertaining to a cash transaction report, as defined by the Internal Revenue Service, to the division within 10 days of knowledge by the licensee or casino operator of the alleged violation.

M. Any violation of or any administrative or criminal proceedings alleging a violation of a cash transaction reporting requirement in any jurisdiction by a licensee, the casino operator, casino manager or any of their affiliates including all companies with common ownership, shall be reported to the division within 30 days of the notice of violation or proceedings in the jurisdiction.

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 38:

### **§2735. Net Gaming Proceeds Computations**

A. In this Section and §2736, the term net gaming proceeds shall have the same meaning as:

1. for riverboat licensees, net gaming proceeds;
2. for casino operator or casino manager, gross gaming revenue; and
3. for a licensed eligible facility, net slot machine proceeds.

B. For each table game, net gaming proceeds shall equal the soft count drop, plus or minus the change in table inventory, plus or minus the chip float adjustment. The change in table inventory shall be equal to the beginning table inventory, plus chip fills to the table, less credits from the table, less ending table inventory. The first step in the calculation of the chip float adjustment shall be the daily chip float calculation, which shall be the total chips received to date, (the initial chips received from vendors plus all subsequent shipments of chips received) less the total day's chip count (the sum of chips in the vault, cage drawers, tables, change lockers and all other locations). The daily ending inventory chip count shall at no time exceed the total amount of chips in the total casino chip accountability. If at any time the calculated daily chip float is less than zero, the licensee or casino operator shall adjust to reflect a zero current day chip float. Afterwards, the chip float adjustment shall be calculated daily by subtracting the previous day's chip float from the current day's chip float.

C. For each slot machine, net gaming proceeds shall equal drops less fills to the machine, jackpot payouts, redeemed tickets, plus or minus the token float adjustment. The first step in the calculation of the token float adjustment shall be the daily token float calculation which shall be the total tokens received to date (the initial tokens received from vendors plus all subsequent shipments of tokens received) less the total day's token count (tokens in the hard count room plus tokens in the vault, cage drawers, change lockers, tokens in other locations and initial tokens in hoppers). The daily ending inventory token count shall at no time exceed the total amount of tokens in the total casino token accountability. Foreign tokens and slugs do not constitute a part of token inventory. If at any time the calculated daily token float is less than zero, the licensee or casino operator shall adjust to reflect a zero current day token float. The initial hopper load is not a fill and does not affect net gaming proceeds.

D. For each card game and any other game in which the licensee or casino operator is not a party to a wager, net gaming proceeds shall equal all money received by the licensee or casino operator as compensation for conducting the game, including time buy-ins. A time buy-in is a fixed amount of money charged for the right to participate in certain games for a period of time.

E. If in any day the amount of net gaming proceeds is less than zero, the licensee or casino operator may deduct the excess in the succeeding days, until the loss is fully offset against net gaming proceeds.

F. Slot machine meter readings from the drop process shall not be utilized to calculate net gaming proceeds, unless otherwise approved by the division.

G. All gaming tournaments conducted by or on behalf of the licensee or casino operator are subject to the following requirements:

1. all entry fees, buy-ins, re-buys, and similar payments, paid by or on behalf of tournament participants, shall be included in net gaming proceeds. No cost incurred by the licensee or casino operator associated with holding the tournament shall be deducted from the tournament revenues before calculating the net gaming proceeds. All cash prizes awarded in the tournament may be deducted as payouts up to the amount received from or on behalf of tournament participants. No other deductions shall be made for purposes of calculating net gaming proceeds. If cash prizes awarded exceed revenues received from or on behalf of tournament participants, the licensee or casino operator shall not deduct the excess from net gaming proceeds; and

2. all amounts paid directly or indirectly, by or on behalf of a person playing in a tournament and cash prizes shall be reported on gaming revenue summaries in a manner approved by the division. Copies of source documents such as transfer slips of the participants' entry fees and transfer slips of participants' winnings paid out must accompany the gaming revenue summary on which the entry fee or payout is reported.

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 38:

### **§2736. Treatment of credit for computing net gaming proceeds.**

A. Net gaming proceeds shall include the amount of gaming credit extended to a patron when wagered.

1. The casino operator or casino manager may take a deduction against credit extended for credit instruments and checks, which are uncollectable subject to an annual cap of 4 percent of gross revenue as defined in R.S. 27:205.

B. Each licensee and casino operator shall include in net gaming proceeds all or any portion of an unpaid balance on any credit instrument if the original credit instrument or a substituted credit instrument is not available to support the outstanding balance.

C. A licensee and casino operator shall include in net gaming proceeds the unpaid balance of a credit instrument even if the licensee eventually settles the debt for less than its full amount. The settlement shall be authorized by a person designated to do so in the internal controls, and a settlement agreement shall be prepared within 10 days of the settlement. The agreement shall include:

1. the patron's name;
2. the original amount of the credit instrument;
3. the amount of the settlement stated in words;
4. the date of the agreement;
5. the reason for the settlement;
6. the signatures of the licensee's employees who authorized the settlement; and
7. the patron's signature or in cases when the patron's signature is not on the settlement agreement, documentation which supports the licensee's attempt to obtain the patron's signature.

D. A licensee and casino operator shall include in net gaming proceeds all money and the net fair market value of property or services received by the licensee in payment of credit instruments unless the full dollar amount of the credit instrument was previously included in the calculation of net gaming proceeds.

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 38:

**§2739. Extension of Time for Reporting**

A. The board or division may extend the time for filing any report or document required by this Chapter.

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 38:

**§2741. Petitions for Determination; Procedures**

A. If a licensee or casino operator disputes the division's determination or calculation of taxes and fees owed, it may file a petition with the board requesting a determination of the taxes and fees. A copy of the petition shall be served on the division.

B. Within 30 days of filing a petition, the licensee or casino operator shall:

1. pay all taxes, fees, penalties, and interest not disputed in the petition and submit a schedule to the division that contains its calculation of the interest due on non-disputed assessments;
2. file with the board a memorandum of facts and authorities in support of its petition, and serve a copy of the memorandum on the division; and
3. file with the board a certification that it has complied with the requirements of Subparagraphs 1 and 2.

C. Within 30 days after receipt of the licensee's or casino operator's memorandum, the division shall file a memorandum of facts and authorities in opposition to the licensee's or casino operator's petition and serve a copy on the licensee or casino operator. Within 15 days after service of the division's memorandum, the licensee or casino operator may file a reply memorandum.

D. The division and the licensee or casino operator may stipulate to extend the deadlines specified in this Section if the stipulation is filed with the board before the expiration of the applicable time period. On motion of either the licensee or casino operator or division, the chairman may extend the deadlines in this Section upon a showing of good cause.

E. The board may deny a petition for determination for failure to comply with the requirements of this Section.

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 38:

**§2743. Claims for Refunds; Procedures**

A. If a licensee or casino operator asserts a claim for a refund of taxes or fees paid, it may file a claim for a refund with the board and serve a copy of the claim on the division.

B. A licensee or casino operator shall file with the board a memorandum of facts and authorities in support of the claim within 30 days after the claim is filed. The memorandum shall set forth the legal basis for the claim, the calculations of the amount of the refund, and certification that it has complied with the requirements of this Section. The licensee or casino operator shall serve a copy of the memorandum on the division.

C. The division shall file a memorandum of facts and authorities in opposition to the claim with the board within 30 days after receipt of the licensee's or casino operator's memorandum and serve a copy on the licensee or casino operator. The licensee or casino operator may file a reply memorandum with the board within 15 days after service of the division's memorandum.

D. The division and the licensee or casino operator may stipulate to extend the deadlines specified in this Section if the stipulation is filed with the board before the expiration of the applicable time period. On motion of either the division or the licensee or casino operator, the chairman may extend the deadlines specified in this Section upon a showing of good cause.

E. The board may deny a claim for refund for failure to comply with the requirements of this Section.

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 38:

**Chapter 29. Operating Standards**

Editor's Note: The information for this Chapter was consolidated from corresponding Chapters in Parts VII, IX, and XIII prior to their being repealed.

**§2901. Code of Conduct of Licensees, the Casino Operator and Permittees**

A. General Provisions

1. All licensees, permittees and the casino operator shall comply with all applicable federal, state, and local laws and regulations.

2. All licensees, permittees and the casino operator shall at all times conduct themselves in a professional manner when communicating with the public, the division and the board.

3. Any violation of the provisions of the Act shall also constitute a violation of these rules.

4. All notifications to the board or division required by this Section shall be in writing.

B. Unsuitable Conduct

1. A licensee, casino operator or permittee shall not engage in unsuitable conduct or practices and shall not employ or have a business association with any person, natural or juridical, that engages in unsuitable conduct or practices.

2. For purposes of this Section, unsuitable conduct or practices shall include, but not be limited to, the following:

- a. employment of, in a managerial or other significant capacity as determined by the division or board, business association with, or participation in any enterprise

or business with a person disqualified pursuant to La. R.S. 27:28(B)(1)-(4) or declared unsuitable by the division or board;

b. employment of, association with, or participation in any enterprise or business with a documented or identifiable organized crime group or recognized organized crime figure;

c. failure to provide information or documentation of any material fact or information to the division or board;

d. misrepresentation of any material fact or information to the division or board;

e. engaging in, furtherance of, or profit from any illegal activity or practice, or any violation of these rules or the Act;

f. obstructing or impeding the lawful activities of the board, division or its agents; or

g. persistent or repeated failure to pay amounts due or to be remitted to the state.

3. A licensee, casino operator or permittee shall not engage in, participate in, facilitate, or assist another person in any violation of these rules or the Act or any criminal activity.

#### 4. Notification

a. Any person required to be found suitable or approved in connection with the granting of any license, permit, contract or other approval shall have a continuing duty to notify the division of his arrest, summons, citation or charge for any criminal offense or violation including D.W.I.; however, minor traffic violations need not be included.

b. All licensees and permittees shall have a continuing duty to notify the division of any fact, event, occurrence, matter or action that may affect the conduct of gaming or the business and financial arrangements incidental thereto or the ability to conduct the activities for which the licensee or permittee is licensed or permitted.

c. The notification required by this Paragraph shall be made within 15 calendar days of the arrest, summons, citation, charge, fact, event, occurrence, matter or action.

5. A licensee, casino operator or permittee, or its employee, agent or representative, shall not intentionally make, cause to be made, or aid, assist, or procure another to make, any false statement in any report, disclosure, application, form, or any other document, including improperly notarized documents, submitted to the board or division.

#### C. Additional Causes for Disciplinary Action

1. Further instances of conduct by a licensee, casino operator or permittee for which the division or board may impose sanctions shall include, but are not be limited to:

a. the licensee, casino operator or permittee has been involved in the diversion of gaming equipment for unlawful means;

b. the licensee, casino operator, permittee, or its employee, agent or representative has been involved in activities prohibited by law or the purpose of which was to circumvent or contravene the provisions of the rules or the Act;

c. the licensee, casino operator or permittee has demonstrated a reluctance or inability to comply with the requirements set forth in these rules and the Act;

d. the licensee, casino operator or permittee violates conditions placed upon the licensee, casino operator or permittee by the board or division;

e. the board or division discovers incomplete, untrue or misleading information as to a material or a substantial matter provided on an application, record or any document which affects the decision whether to license, permit or approve the applicant;

f. the board or division discovers substantial, incomplete, untrue or misleading information provided in a report or other required communication;

g. the licensee, casino operator or permittee has failed to timely pay a penalty imposed by the board or division;

h. the licensee, casino operator or permittee submits tardy, inaccurate, or incomplete reports to the division or board;

i. the licensee, casino operator or permittee fails to respond in a timely manner to communications from the board or division;

j. the licensee, casino operator, or permittee, or its employee, agent or representative is not available; and

k. The licensee or casino operator fails to obtain approval from the board or division prior to changing, adding, or altering the casino configuration. For the purpose of this Section, altering the casino configuration does not include the routine movement of EGDs for cleaning or maintenance purposes.

#### D. Specific Provisions

1. Responsibility for the employment and maintenance of suitable methods of operation rests with the licensee, casino operator or permittee and willful or persistent use or toleration of methods of operation deemed unsuitable is cause for administrative action.

2. The board or division may deem any activity on the part of a licensee, casino operator or permittee, their agents, employees or representatives, that is inimical to the public health, safety, morals, good order and general welfare of the people of the state of Louisiana or that would reflect or tend to reflect discredit upon the state of Louisiana or the gaming industry to be an unsuitable method of operation and cause for administrative action.

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 38:

#### §2903. Compliance with Laws

A. Acceptance of a license or permit or renewal thereof constitutes an agreement on the part of the licensee or permittee to be bound by all of the applicable provisions of the Act and the regulations. It is the responsibility of the licensee or permittee to keep informed of the content of all such laws, and ignorance thereof will not excuse violations. Violation of any applicable provision of the Act or the rules by a licensee or permittee or their agent, employee or representative is contrary to the public health, safety, morals, good order and general welfare of the inhabitants of the state of Louisiana and constitutes cause for administrative action.

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 38:

#### **§2904. Record Retention**

A. Unless otherwise provided by the Act or rule or authorized by the division, each licensee and casino operator shall retain all records, reports, logs and documents required to be maintained by the Act or rule for a minimum of five years, including but not limited to variance reports, investigations, security logs, EGD logs and supporting documents.

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 38:

#### **§2905. Weapons in the Designated Gaming Area**

A. No weapons, as defined in the Louisiana Criminal Code, are permitted in the designated gaming area other than those in the possession of full-time commissioned law enforcement officers who are on duty and within their respective jurisdiction or on-duty gaming security personnel who are licensed by the Louisiana State Board of Private Security Examiners.

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 38:

#### **§2909. Emergencies, Riverboat Only**

A. A riverboat may dock at any berth other than its authorized berth in case of emergency. An "emergency" is a call to immediate action including, but not limited to:

1. any circumstance that presents a foreseeable danger to human life;
2. any circumstance declared to be an emergency by any governmental authority; or
3. any circumstance that presents an unreasonable risk of loss or damage to a riverboat, any dock, other vessel, or other property.

B. Should the master of the riverboat determine and certify in writing that the weather conditions or water conditions are such that danger to the riverboat is present, the riverboat may remain docked until such time as the master determines that conditions have diminished enough to proceed or until the authorized excursion has expired.

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 38:

#### **§2910. Passenger Embarkation and Disembarkation, Riverboat Only**

A. Except in the case of emergencies, passengers and crew may embark and disembark from a riverboat only at its authorized berth.

B. In the event that the vessel master, pursuant to the provisions to R.S. 27:65(B)(1)(a), certifies in writing that weather or water conditions make it unsafe for a riverboat to commence or continue on its authorized excursion and gaming activities are conducted while the vessel is at dockside, there shall be no restriction on the embarking or disembarking of passengers.

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 38:

#### **§2911. Accessibility to Premises; Parking**

A. Each licensee and casino operator shall provide parking for exclusive use by the board, division or their

representatives pursuant to the division's specification. Parking shall be in close proximity to the division office and/or the designated gaming area pursuant to the division's specification.

B. Each licensee and casino operator shall ensure that division agents are provided an expedient means for entry and departure in regard to access to private roads, parking lots, buildings, structures, and land which the licensee owns, leases or uses in relationship to the casino operation.

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 38:

#### **§2915. Age Restrictions for the Casino; Methods to Prevent Minors from Gaming Area**

A. No persons under the age of 21 shall:

1. enter the designated gaming area;
2. loiter or be permitted to loiter in or about any room, premises, or designated area where any licensed game or gaming device is located, operated or conducted;
3. play or be allowed to play any game or gaming device; or
4. be employed as a gaming employee or an operator of any game or gaming device.

B. Each licensee and casino operator shall implement methods to prevent minors from entering the designated gaming area. Such methods shall be part of the internal controls and include, but are not limited to, the following:

1. policies and procedures pertaining to documentation relating to proof of age and the examination of such document by a responsible gaming employee or employees of security service providers and to provide suitable security to enforce the policies and procedures;
2. posting signs at all entrances to the gaming area notifying patrons that persons under 21 years of age are not permitted to loiter in or about the gaming area. The signs shall be displayed in English, Spanish, and Vietnamese; and,
3. posting signs or other approved means displaying the date of birth of a person who is 21 years old that date.

C. Each quarter the licensee and casino operator shall report and remit to the division all winnings withheld from customers who are determined to be under the age of 21.

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 38:

#### **§2919. Finder's Fees**

A. No licensee, casino operator, permittee, registered company or applicant for licensing or registration shall pay a finder's fee without the prior approval of the board. An application for approval of payment of a finder's fee shall make a full disclosure of all material facts. Any person to whom the finder's fee is proposed to be paid shall demonstrate that he is suitable.

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 38:

#### **§2921. Collection of Gaming Credit**

A. Only bonded, duly licensed collection agencies; a licensee's or casino operator's employees, independent agents, attorneys, or an affiliated or wholly-owned corporation and their employees; or a permitted junket

representative may collect on the licensee's or casino operator's behalf, for any consideration, gaming credit extended by the licensee or casino operator.

B. Notwithstanding the provisions of Subsection A, no licensee or casino operator shall permit any person who has been found unsuitable; who has been denied a gaming license or permit; or who has had a gaming license or permit revoked, to collect, on the licensee's or casino operator's behalf, for any consideration, gaming credit extended by the licensee or casino operator.

C. Each licensee and casino operator shall maintain records that describe credit collection arrangements including any written contract entered into with persons described in Subsection A unless such persons are the licensee's or casino operator's key employees or permitted junket representatives.

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 38:

### **§2923. Gaming Employee Permit Identification Badge Issuance Equipment**

A. Each licensee and casino operator shall be required to furnish and maintain all necessary equipment for the production and issuance of gaming employee identification/permit badges. The badges shall meet all standards set forth by the division and shall be approved by the division. The equipment shall be housed in or near the casino and shall be capable of printing the gaming employee permit number issued by the division on the identification badge.

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 38:

### **§2927. Advertising; Mandatory Signage**

A. The board may establish procedures for the regulation of advertising of licensed gaming activities. The board may require a licensee or casino operator to advertise or publish specified information, slogans and telephone numbers relating to avoidance and treatment of compulsive or problem gambling or gaming. Each licensee and casino operator shall immediately comply with any order of the board issued pursuant to this regulation.

B. All letters accompanying the toll-free telephone number shall be in capital letters and the same size as the toll-free telephone number. The toll-free telephone number and letters shall appear in conspicuous and legible type in contrast by typography, layout, or color with all other printed material on the advertisement.

C. Exterior print advertising including, but not limited to, billboards, shall display the toll-free telephone number and all accompanying letters in a rectangle. The rectangle shall comprise an area equal to 1/10 of the entire advertisement's height and extend across the entire width of the advertisement. The toll-free telephone number and accompanying letters must be sized to utilize the entire area within the rectangle. In the case of billboards, the rectangle containing the toll-free telephone number shall be a part of the billboard itself and not a separate add-on to the frame.

D. Signs displaying the toll-free number shall be posted at each public entrance to the designated gaming area and at each public entrance into the casino. The toll-free telephone

number and accompanying letters must be sized to utilize the entire area within a rectangle with a height of at least 8 1/2 inches and length of at least 11 inches and the characters shall be of a contrasting color from the background color of the sign. The signs may be either wall mounted or free standing. A licensee or casino operator may include the toll-free telephone number on other interior signage in locations other than the required areas in this subsection in a style and size of its choosing.

E. Print advertising which is handheld or which is customarily viewed by the person holding the advertisement including, but not limited to, newspapers, flyers, coupons and other forms of advertising shall display the toll-free telephone number and all accompanying letters in a rectangle. The rectangle shall comprise an area equal to 1/20 of the entire advertisement's height and extend across the entire width of the advertisement. The toll-free telephone number and accompanying letters must be sized to utilize the entire area within the rectangle.

F. A licensee or casino operator which is required to display the toll-free telephone number may seek approval from the division for particular forms of print advertising on an individual basis. In those instances where the licensee or casino operator seeks approval, the division may in its discretion, approve the print advertisement in writing. The advertisement shall conform to the division's written approval.

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 38:

### **§2931. Assisting in or Notification of Violations**

A. No licensee, casino operator, permittee, or their employee, agent, or representative shall assist another person in violating any provision of the Act or rules; any order, authorization or approval from the board or division; or the internal controls. Such assistance shall constitute a violation of these rules.

B. It is incumbent upon a licensee, casino operator, permittee, or their employee, agent, or representative to promptly notify the division of any possible violation of any federal, state or municipal law, the Act, rules, any order, authorization or approval from the board or division, or the internal controls.

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 38:

### **§2935. Entertainment Activities**

A. No motion picture shall be exhibited within any casino either by direct projection or by closed circuit television which would be classified as obscene material.

B. No live entertainment shall be permitted within a casino which includes:

1. the performance of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;

2. the actual or simulated touching, caressing or fondling of breasts, buttocks, anus or genitals; or

3. the actual or simulated display of the pubic hair, vulva, genitals, anus, female nipple or female areola.

C. No entertainment shall be offered within the designated gaming area unless the licensee or casino operator receives approval from the division to provide such entertainment.

D. The licensee or casino operator shall file a written submission with the division at least five days prior to the commencement of such entertainment which includes, at a minimum, the following information:

1. the date and time of the scheduled entertainment;
2. a detailed description of the type of entertainment to be offered;
3. the number of persons involved in the entertainment;
4. the exact location of the entertainment in the designated gaming area;
5. a description of any additional security measures that will be implemented as a result of the entertainment; and
6. a certification from the licensee or casino operator that the proposed entertainment will not adversely affect security, surveillance, the integrity of the gaming operations and the safety and security of persons in the casino.

E. The submission from Subsection D shall be deemed approved by the division unless the licensee or casino operator is notified in writing to the contrary within five days of filing.

F. The division may at any time after the granting of approval require the licensee or casino operator to immediately cease any entertainment offered within the designated gaming area if the entertainment provided is in any material manner different from the description contained in the submission filed pursuant to Subsection D or in any way compromises the integrity of gaming operations.

G. In reviewing the suitability of an entertainment proposal, the division shall consider the extent to which the entertainment proposal:

1. may unduly interfere with efficient gaming operations;
2. may unduly interfere with the security of the casino or any of the games therein or any restricted casino area, or may unduly interfere with surveillance operations; and
3. may unduly interfere with the safety and security of persons in the casino.

H. The division, in its sole discretion, may grant ongoing approval for scheduled entertainment events that follow a set pattern. The duration of the approval shall be at the discretion of the division.

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 38:

### **§2937. Distributions**

A. Each licensee and casino operator shall submit to the division a report for each fiscal quarter reflecting intercompany financial transactions between the licensee or casino operator and any affiliate. The quarterly report shall set forth any intercompany flow of funds and any intercompany loan(s).

B. Other than repayment of debt that has been approved by the board, debt otherwise deemed approved by these regulations, or transactions that are included in the quarterly

report required by Subsection A above, a licensee or casino operator or its holding company shall provide written notice to the division within five days of the completion of the following transactions:

1. withdrawal of capital in excess of 5 percent of the licensee's net gaming proceeds or net slot machine proceeds or the casino operator's gross gaming revenue for the preceding 12-month period;
2. the granting of a loan or any other extension of credit in excess of 5 percent of the licensee's net gaming proceeds or net slot machine proceeds or the casino operator's gross gaming revenue for the preceding 12-month period;
3. any advance or other distribution of any type of asset in excess of 5 percent of the licensee's net gaming proceeds or net slot machine proceeds or the casino operator's gross gaming revenue for the preceding 12-month period.

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 38:

### **§2939. Action Based upon Order of Another Jurisdiction**

A. The board or division may initiate administrative action against a licensee, casino operator, permittee, registrant, or person required to submit to suitability by the Act or these regulations who, or whose affiliate or parent company, has been subject to administrative action in another jurisdiction for gaming related activity.

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 38:

### **§2941. Access by Board and Division to Licensee Computer Systems**

A. Board and division agents shall have unrestricted access to all records, data, documents and electronically stored media of a licensee. The board or division may require a licensee to place a computer terminal in the board or division room whereby the board and division has contemporaneous access to records, data, documents and electronically stored media relating to the gaming operations. Such data shall include, but are not limited to, credit transactions, amounts wagered and paid to winners, player tracking information and expenses relating to payment of compensation to employees.

B. The casino operator shall provide computer access and accessibility as provided in the casino operating contract.

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 38:

### **§2943. Gaming Employees Prohibited from Gaming or Promotions**

A. A permitted gaming employee is prohibited from participating in any game, gaming activity or promotion where the permittee is employed.

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 38:

#### **§2944. Waivers and Authorizations**

A. All requests to the board or division for waivers, approvals, or authorizations, except matters concerning emergency situations, shall be submitted in writing to the board or division no less than 90 days prior to the licensee's or casino operator's planned implementation date, unless a shorter time is approved by the board or division.

B. No waiver, approval, or authorization is valid until such time as the licensee or casino operator receives written authorization from the board or division which includes an authorization number.

C. The board or division declares the right to determine an emergency situation on a case by case basis.

D. A licensee and casino operator shall adhere to all the requirements and provisions of the authorization. Violation of the terms of a written authorization may be cause for administrative action.

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 38:

#### **§2945. Restricted Areas**

A. Only authorized persons as provided in these regulations, or in the internal controls may enter restricted areas. For the purpose of this Subsection, restricted areas shall include, but are not limited to, the following:

1. cage and cashier areas;
2. pit areas;
3. casino vault;
4. soft count and hard count rooms;
5. surveillance room;
6. card and dice room;
7. computer room; and
8. any other room or area designated by the licensee, casino operator, board, or division.

B. The licensee and casino operator shall implement procedures to insure compliance with this Section. The division may require the licensee and casino operator to erect barriers, stanchions, signage, and other equipment as necessary to prohibit unauthorized persons from entering these areas.

C. The licensee or casino operator may submit for approval to the board or division internal control procedures which allow housekeeping and maintenance personnel access to sensitive areas for maintenance purposes.

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 38:

#### **§2951. Approvals**

A. All approvals shall be in writing and signed by the chairman or supervisor or a division agent authorized to sign on behalf of the supervisor.

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 38:

#### **§2953. Promotions**

A. All promotional programs, including contests and tournaments, conducted by or on behalf of a licensee or casino operator shall comply with the Act and the rules and all federal and state laws and regulations and municipal

ordinances including R.S. 4:701 et seq., the Louisiana Charitable Raffles, Bingo and Keno Licensing Law.

B. The licensee and casino operator are responsible for ensuring that all promotional programs are in compliance with Subsection A of this regulation.

C. Promotional programs, including contests or tournaments, which impair the integrity of the games, the security, surveillance and well-being of persons on the licensee's or casino operator's property or the calculation of gaming revenue are prohibited. Issuance of coupons, scrip, and other cash equivalents used in conjunction with a promotion that does not impact the calculation of gaming revenues shall be considered a promotional expense of the licensee or casino operator. A licensee or casino operator that intends to offer coupons, scrip, and cash equivalents as part of a promotion shall adopt internal controls prior to the implementation of any such programs governing the use and accountability of the coupon, scrip, or cash equivalent.

D. A slot jackpot may be increased as part of a promotional program. The increased portion of the jackpot which results from the promotion shall not be paid out by the machine. The increased portion of the jackpot shall be paid manually and shall be considered a promotional expense of the licensee or casino operator and may not be considered a payout for purposes of calculating net gaming proceeds, net slot machine proceeds, or gross gaming revenue.

E. Any promotional program involving a giveaway of prizes or drawing for cash or prizes shall incorporate the following elements.

1. Only persons 21 years of age and older shall be eligible to participate.

2. Entry forms required in drawings open to the general public shall be displayed in a prominent manner inside the casino.

3. No payment or purchase of anything of value, including chips or tokens from the casino or any other business, shall be required for participation in any giveaway or drawing, nor shall there be a requirement to pay an entry fee.

F. The division may terminate a promotional program at anytime by issuance of an order. This order need not be in writing to be effective but shall be followed by written notice of the action within three business days.

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 38:

#### **§2954. Tournaments**

A. All notifications for gaming tournaments conducted by or on behalf of the licensee or casino operator shall be submitted to the division in a manner approved by the division.

1. A gaming tournament is a contest or event wherein persons play a game or games previously authorized by the division in competition with each other to determine the winner of a prize or prizes.

2. A gaming tournament shall include, but is not limited to, any contest or event wherein an entry fee is paid to play a game previously approved by the division. An entry fee shall include any fee paid, directly or indirectly, by or on behalf of the person playing in the tournament.

3. Gaming tournament notifications shall be made in writing and received by the division prior to the

commencement date of the tournament. The notification shall contain a complete description of the tournament, the manner of entry, a description of those persons eligible to enter the tournament, the entry fee assessed, if any, the prizes to be awarded, the manner in which the prizes are to be awarded and the dates of the tournament. The division may request additional information.

4. Licensees and the casino operator shall maintain all tournament documentation and shall report tournaments on the gaming revenue summary in accordance with §2735.

5. All tournament slot meters shall be read electronically or manually before the machine is enabled for tournament play and again once the tournament has ended. All meter readings shall be recorded and retained in accordance with the division's rules concerning record retention in Chapter 27.

B. The division may waive any of the above requirements upon a showing of good cause.

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 38:

### **§2955. Managerial Representative on Premises**

A. Each licensee and casino operator shall establish a position designated as managerial representative on premises. A managerial representative on premises shall be on the licensee's and casino operator's premises at all times and shall have authority to immediately act on behalf of the general manager in any matter or concern of the board or division. A description of the duties and responsibilities of the managerial representative on premises shall be included in the internal controls.

B. Each licensee and casino operator shall provide, in writing, a current list of all managerial representatives on premises. Each managerial representative on premises shall have a valid current key gaming employee permit and shall be approved by the division.

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 38:

### **Chapter 31. Rules of Play**

Editor's Note: The information for this Chapter was consolidated from corresponding Chapters in Parts VII, IX, and XIII prior to their being repealed.

#### **§3101. Authority and Applicability**

A. The licensee or casino operator may only conduct those games and gaming activities expressly authorized by the Act, the rules or its internal controls.

B. The division may conditionally approve a new game to allow testing and evaluation to insure that approval of such is in the best interest of the public and patrons. A new game authorized pursuant to this Section shall not be conducted unless the internal controls are amended to include the new game and the division has approved the amendment in writing.

C. The games and gaming activities authorized by this Chapter shall be conducted pursuant to these rules and the internal controls.

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 38:

#### **§3103. Rules of Play**

A. Each licensee and casino operator shall submit in writing to the division for review and approval the proposed rules of play prior to the commencement of gaming operations. The rules of play shall be included in the internal controls. The rules of play for each game shall include, but are not limited to:

1. the object of the game and method of play including what constitutes win, loss or tie bets;

2. the requirements of the gaming equipment, gaming table, and gaming table layout;

3. procedures for opening and closing of the gaming table;

4. the permissible wagers and payout odds, the amounts to be paid on winning wagers, the manner in which wagers may be made, the minimum and maximum wagers, and the maximum table payouts, as applicable;

5. rules relating to side wagers;

6. procedures for closing of bets that shall include the dealer announcing "no more bets" while waving his hand across the table from left to right prior to the first card being dealt;

7. inspection procedures for all table games;

8. procedures for shuffling, card cutting, dealing, taking, removing used, damaged, and burning cards;

9. the number of decks, number of cards in deck and the valuation of the cards for each game that uses cards;

10. procedures for collection of bets and payouts including all requirements for Internal Revenue Service purposes;

11. procedures for handling disputes including documentation, forms, and submissions to the division;

12. procedures for handling suspected cheating and irregularities including the immediate notification to the division;

13. procedures for dealers and box persons conducting each game, including relief procedures. These procedures shall include, but are not limited to:

a. the incoming dealer shall tap the shoulder of the dealer being relieved;

b. the outgoing dealer must complete all transactions for the given round of play; and

c. the dealers shall clap their hands and turn palms up before leaving the table and before resuming the game; and

14. procedures describing irregularities of each game.

B. All table games utilizing cards, for which procedures are described above, shall be dealt from a shoe or shuffling device, except card games which have been approved by the division.

C. Any change in the licensee's or casino operator's rules of play including permissible rules, wagers and payout odds must be submitted in writing and approved by the division before implementation.

D. For each game, the licensee and casino operator shall provide a written set of game rules to the division in advance of commencing the game's operation or within such time period as the division may designate.

E. The rules of play shall not be considered confidential and copies shall be made available to all persons.

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 38:

**§3104. Gaming equipment, gaming table, and gaming table layout requirements**

A. Requirements for gaming equipment, gaming table and gaming table layout shall include, but not be limited to:

1. a gaming table shall have designated positions for the players and for the dealer(s);
2. a gaming table cloth covering shall be imprinted with the name of the licensee or casino operator or some other logo approved by the division;
3. a gaming table cloth covering shall be imprinted with the name of the table game, spaces for cards dealt, and designated betting areas;
4. a gaming table shall have other inscriptions on the cloth covering as required or approved by the division;
5. a game's payouts shall be imprinted on the cloth covering of the table or posted on a sign placed on top of the table in full view of patron(s); and
6. a gaming table shall have a locked drop box and a locked transparent token (tip) box attached to it as approved by the division.

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 38:

**§3105. Procedures for opening and closing of the gaming table**

A. The gaming equipment shall be removed from storage and inspected for defects. The tray cover shall be stored and the table bankroll physically counted by the dealer in the presence of a table games supervisor or higher supervisory authority, and verified against the opening table inventory slip. The opening table inventory slip shall then be checked to ensure the following are correct:

1. current date;
2. shift, time and pit, if applicable;
3. game type and number;
4. total amount of each denomination;
5. final total of all denominations; and
6. signatures of the outgoing table games supervisor and dealer.

B. Upon verification of the process set forth in Subsection A, the verifying supervisor and dealer shall sign the opening table inventory slip and the dealer shall drop the appropriate copy of this document in the locked drop box. A table games supervisor shall retain the other copy for the pit clerk.

C. Any discrepancy or variance found on a game opening table inventory slip shall be immediately investigated by the surveillance department. Investigative findings and supporting documents shall be forwarded to and maintained by the accounting and compliance departments

D. The dealer and the table games supervisor, or two table games supervisors, shall complete a table inventory slip. The dealer and the table games supervisor shall sign the table game inventory slip, place the opening table inventory slip in the table chip tray, and cover and lock the chip tray. The dealer shall drop the closing table inventory slip copy in the locked drop box.

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 38:

**§3106. Procedures for Card Games**

A. Shuffling procedures shall include, but are not limited to:

1. cards shall be shuffled:
    - a. at table opening;
    - b. after each round of play;
    - c. every time a new deck is entered into play;
    - d. when the cutting card has been reached;
    - e. when the automatic shuffler malfunctions;
    - f. when instructed by casino supervisor or above;
- and
- g. when instructed by a division agent.

B. Procedures for removing used and damaged cards shall include:

1. if one card is flawed, a table games supervisor may utilize a replacement card from the make-up deck. If more than one card is flawed, or a card is missing, a table games supervisor shall obtain a replacement deck of cards from the pit manager or above. The licensee or casino operator shall conduct an investigation and notify the division;
2. The color of the replacement decks must be different than those being removed from play.

C. Procedures for burning of cards shall include, but are not limited to:

1. cards shall be burned:
  - a. after shuffling the cards;
  - b. when a card has been exposed or dealt by mistake;
  - c. for dead games, prior to resuming play; and
  - d. when a dealer is relieved, the new dealer shall burn the first card prior to resuming play.

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 38:

**§3107. Wagers**

A. All wagers at gaming tables shall be made by placing gaming chips or tokens on the appropriate area of the gaming table layout. In addition, each player shall be responsible for the correct positioning of their wager or wagers on the gaming layout regardless of whether or not they are assisted by the dealer. Each player shall ensure that any instructions they give to the dealer regarding the placement of their wager are correctly carried out.

B. Minimum and maximum wagers and maximum table payouts shall be posted on a sign at each table.

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 38:

**§3109. Game Limits**

A. Each licensee and casino operator shall establish, for each approved game and electronic gaming device, a minimum and maximum amount that can be wagered on each opportunity of play and shall at all times conspicuously display these limits.

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 38:

**§3111. Publication of Payoffs**

A. Payoff schedules or award cards, subject to approval by the division, shall be displayed at all times either in a conspicuous place on or immediately adjacent to every licensed game or gaming device. Payoff schedules or award cards shall accurately state actual payoffs or awards applicable to the particular game or gaming device and must not be worded in such manner as to mislead or deceive the public. Maintenance of any misleading or deceptive matter on any payoff schedule or award card or failure on the part of a licensee or casino operator to make payment in strict accordance with posted payoff schedules or award cards may be deemed a violation of the Act, the rules, or the internal controls.

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 38:

**§3113. Periodic Payments Prohibited**

A. The payment of winnings over a specified period of time is prohibited unless otherwise approved by the division.

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 38:

**Chapter 33. Surveillance**

Editor's Note: The information for this Chapter was consolidated from corresponding Chapters in Parts VII, IX, and XIII prior to their being repealed.

**§3301. Required Surveillance Equipment**

A. Each licensee and casino operator shall install a surveillance system in its casino which meets or exceeds specifications established by the division and shall provide access to the division at all times.

B. All cameras shall be installed in fixed positions with matrix control or with pan, tilt and zoom capabilities, concealed from public and non-surveillance personnel view, to effectively and clandestinely monitor activity in detail, from various vantage points.

C. Color cameras, as approved by the division, shall monitor in detail, from various vantage points, the following:

- 1. the operations conducted at the fills and credit area of the cashier's cage(s);
- 2. roulette tables, in a manner to clearly observe the wagers, patrons, and the outcome of each game; and
- 3. such other areas as designated by the division.

D. Cameras, as approved by the division, shall monitor in detail, from various vantage points, the following:

- 1. the gaming conducted at the electronic gaming devices including, but not limited to, the coin and currency acceptor area, the payout tray, and the designated house number assigned to the device or its location;
- 2. the count processes conducted in the count rooms;
- 3. the movement of cash, chips, drop boxes, token storage boxes, and drop buckets within the casino and any area of transit of uncounted tokens, chips, cash and cash equivalents;
- 4. any area where cash or cash equivalents can be purchased or redeemed;
- 5. the entrance and exits to the casino and the count rooms;
- 6. for all live games regardless of patron or employee position:

- a. hands of all gaming patrons and dealers;
- b. tray; and
- c. the overall layout of the table area capable of capturing clear individual images of gaming patrons and dealers, inclusive of, without limitation, facial views and the playing surface so that the outcome of each game may be clearly observed; and

7. such other areas as designated by the division.

E. All cameras shall be equipped with lenses of sufficient magnification to allow the operator to clearly distinguish the value of the chips, tokens and playing cards.

F. All video monitors shall meet or exceed the resolution requirement for video cameras with solid state circuitry, and have time and date insertion capabilities for recording what is being viewed by any camera in the system. Each video monitor screen must measure diagonally at least 12 inches.

G. All photo printers shall be capable of adjustment and possess the capability to instantly generate, upon command, a clear, color or black and white, copy of the image depicted on the recording.

H. All date and time generators shall be based on a synchronized, central or master clock, recorded and visible on any monitor when recorded.

I. The surveillance system and power wiring shall be tamper resistant.

J. The system shall be supplemented with a back-up gas or diesel generator power source which is automatically engaged in case of a power outage and capable of returning to full power within 7 to 10 seconds. The surveillance room shall be notified when the backup system is in operation.

K. The system shall have an additional uninterrupted power supply system so that time and date generators remain active and accurate, and switching gear memory and video surveillance of all casino entrances and exits and cage areas is continuous.

L. Video switchers shall be capable of both manual and automatic sequential switching for the appropriate cameras.

M. Videotape recorders, as approved by the division, shall be capable of producing high quality first generation pictures and recording on a standard 1/2-inch VHS tape with high speed scanning and flickerless playback capabilities in real time, or other medium approved by the division. Such videotape recorders must possess time and date insertion capabilities for recording what is being viewed by any camera in the system.

N. The system shall have audio capability in the soft count and surveillance rooms.

O. The casino shall have adequate lighting in all areas where camera coverage is required. The lighting shall be of sufficient intensity to produce clear recording and still picture production, and correct color correction where color camera recording is required. The video must demonstrate a clear picture, in existing light under normal operating conditions.

P. At all times during the conduct of gaming, the licensee or casino operator shall have a reserve of six back-up cameras and appropriate recording equipment as approved by the division to be used as replacements in the event of failure.

Q. The division may allow alternative surveillance equipment at the supervisor's discretion.

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 38:

### **§3302. Digital Video Recording Standards**

A. As used in this Section, a digital video (DV) shall mean: visual images of the natural world converted into numbers and stored on tape, digital video disk, or other storage medium, for later reproduction.

B. In addition to the requirements of §3301, the use of digital recording equipment may be authorized if the following requirements are met.

1. All DV equipment and systems used by a licensee or casino operator in its surveillance system shall:

a. record and replay activity in all gaming areas where cash is handled including, but not limited to, cages, vaults, count rooms, table games, and the drop process, at a minimum of 30 frames per second and in real time; and in all other gaming areas, a minimum number of frames per second as specified in the internal controls;

b. record, review and download simultaneously;

c. have visual image resolution of a minimum of 4CIF (common intermediate format) and shall be of sufficient clarity to meet division requirements;

d. maintain for a period of not less than seven days, or additional period as specified by the division, all images obtained from the video cameras;

e. have a failure notification system that provides an audible and a visual notification of any failure in the surveillance system or the DV media storage system;

f. have a media storage system that is configured so that a failure of any single component will not result in the loss of any data from the media storage system; and

g. be connected to an uninterruptible power source to ensure the safe shutdown of the system in the event of a power loss, and shall reboot in the record mode.

2. For areas where gaming is conducted, cameras not specifically addressed by the surveillance standards shall operate at a minimum frames per second as specified by the division.

3. Any part of the licensee's or casino operator's surveillance system that uses DV shall not use quads or multi-view devices to record activity in gaming related areas. In areas where the use of quads or multi-view devices are authorized, no more than four cameras shall be recorded on one DV device.

4. If the licensee or casino operator uses a network for the digital recording equipment, it shall be a closed network with limited access. The licensee or casino operator shall seek authorization from the division prior to implementation. The licensee or casino operator shall provide written policies on the administration of the network including employee access levels which set forth the location and to whom access is being provided other than surveillance personnel and key employees, and certifies that the transmission is encrypted, fire-walled on both ends, and password protected.

5. If remote access to its network by the provider is requested by the licensee or casino operator, written procedures shall be submitted to the division for approval. The remote access shall be encrypted, fire-walled on both ends, and password protected. A written report shall be generated weekly indicating the person given access, date, beginning and ending time, and reason for access. This report shall be reviewed at each end of the system to ensure

that there has not been any unauthorized access. The reviewer shall initial and date this report.

6. All digital video disks or other storage media produced from the DV system shall have a visual resolution of 640 x 480 pixels or greater unless the division determines that an alternate visual resolution is capable of achieving the clarity required to meet the purposes of this Section; and shall contain the data with the time and date it was recorded superimposed, the media player that has the software necessary to view the DV images and a video verification encryption code or watermark.

7. Pursuant to the division's specifications and at the licensee's or casino operator's costs, the licensee or casino operator shall provide the division with the necessary software and hardware, to review a downloaded recording and the video verification encryption code or watermark, before the division's inspection and approval of the DV system. A watermark will be required to authenticate dates and times and validity of live and archived data.

8. The licensee and casino operator shall be responsible for the training of surveillance employees in the use of the digital system and the downloading of recordings for evidentiary purposes.

9. Surveillance room equipment shall have override capability over all surveillance equipment located outside the surveillance room excluding the division's surveillance room.

10. The division's surveillance room shall be equipped as specified by the division and fully functional with total override capabilities

11. Any failure of a DV storage media system, resulting in loss of data or picture, shall be immediately reported to the division, and shall be repaired or replaced within eight hours of the failure.

12. All DV equipment shall be located in the surveillance room of the licensee or casino operator, or other areas as approved by the division, and the Surveillance Department shall be ultimately responsible for its proper operation and maintenance.

13. A licensee or casino operator shall obtain prior authorization from the division before changing any portion of their surveillance system from an analog to a digital format. The request for authorization shall describe the change including when the change will occur and how the change will affect their surveillance system as a whole.

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 38:

### **§3303. Surveillance System Plans**

A. An applicant for a license or the casino operator shall submit to the division for approval a surveillance system plan no later than 90 days prior to the commencement of gaming operations. The surveillance system plan shall include a floor plan indicating the placement of all surveillance equipment and a detailed description of the casino surveillance system and its equipment. The plan shall also include a detailed description of the layout of the surveillance room and the configuration of the monitoring equipment. The plan may include other information that evidences compliance with this Subsection by the applicant including, but not limited to, a casino configuration detailing the location of all gaming devices and equipment.

B. Any changes to the surveillance room or the surveillance system shall be submitted to the division for prior approval.

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 38:

#### **§3304. Surveillance Personnel Employment Provisions**

A. Surveillance department employees shall be independent of all other departments and shall report directly to the general manager or higher corporate official.

B. Employees of the licensee or casino operator assigned to monitoring duties in the surveillance room are prohibited from being concurrently employed in any other capacity by that licensee or casino operator or any affiliate of the licensee or casino operator.

C. An employee with monitoring duties in the surveillance room may work in the same capacity at an affiliate of the licensee or casino operator.

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 38:

#### **§3305. Surveillance and Division Room Requirements**

A. There shall be rooms approved by the division for monitoring and recording purposes.

1. The room for the exclusive use of the division shall be designated the division room. The room for the use of the employees of the licensee or casino operator shall be designated the surveillance room.

2. A riverboat licensee shall provide a secure and segregated room at the dock site for the exclusive use of division agents. This room shall be in addition to the division room provided for division agents on the riverboat. The dock site room shall be furnished with all necessary furniture and fixtures as specified by the division.

B. All equipment that is utilized to monitor or record must remain solely accessible to the surveillance room personnel and the division and be used exclusively for surveillance, except when such equipment is being repaired or replaced, unless otherwise approved by the division.

C. Employees of the licensee or casino operator assigned to monitoring duties in the surveillance room shall have no other duties.

D. The interior of the division room and the surveillance room shall not be visible to the public.

##### **E. Room Requirements**

1. Each riverboat and the casino operator shall have a minimum of 10 monitors in the surveillance room and three monitors in the division room.

2. Each eligible facility shall have a minimum of five monitors in the surveillance room and two monitors in the division room.

3. Each room shall have appropriate switching capabilities to insure that all surveillance cameras are accessible to monitors in both rooms. The equipment in the division room shall be able to monitor and record, without being overridden, anything visible by monitor to employees of the licensee or casino operator.

4. The casino operator shall equip the division room with two stations with switching capabilities and a video printer with capabilities outlined in §3301 of these regulations.

F. The division shall have absolute, unfettered access to the surveillance room at all times and the division shall have the right to take control of the room. Upon request, the division shall be provided copies of recorded activities and copies of any images.

G. The division room shall be furnished with all necessary furniture and fixtures as specified by the division, be equipped with a security radio and house telephone, and shall house a dedicated computer which provides computer accessibility for division agents to review, monitor and record data with the same functionality and specifications as provided in §4205.

H. The surveillance room shall be manned at all times by a sufficient number of surveillance operators as approved in the internal controls. The division may require additional surveillance personnel should it be determined that an inadequacy of surveillance monitoring exists.

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 38:

#### **§3307. Segregated Telephone Communication**

A. A segregated telephone communication system shall be provided for use by division agents in the division room.

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 38:

#### **§3309. Surveillance Logs**

A. The licensee and the casino operator shall maintain a division approved surveillance log. The log shall be maintained by surveillance room personnel in the surveillance room. The division shall have access to the log at all times. A log entry shall be made in the surveillance log of each surveillance activity. Each log entry shall include the following:

1. the identity of any person entering and exiting the surveillance room;
2. a summary, including date, time and duration, of each surveillance activity;
3. a record of any equipment or camera malfunctions;
4. a description of any unusual events occurring; and
5. any additional information as required by the division.

B. The surveillance logs required by this Section shall be retained and stored by month and year.

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 38:

#### **§3311. Storage and Retrieval**

A. All video recordings shall be retained for at least seven days, unless otherwise provided for in these rules or required by the division. All video recordings shall be listed on a log by surveillance personnel with the date, times, and identification of the person monitoring or changing the recording media. Original videotaped or downloaded digital recordings shall be released to the division upon demand.

B. Any video recording of illegal or suspected illegal activity shall, upon completion of the recording, be removed from the recorder and etched with date, time and identity of surveillance personnel. The video recording shall be placed in a separate, secure area and the division shall be notified.

The video recording shall be preserved until the division notifies the licensee or casino operator that it is no longer needed.

C. All video recordings relating to the following shall be retained in a secure area approved by the division for at least 15 days and shall be listed on a log maintained by surveillance personnel:

1. all count room areas;
2. the vault area;
3. all credit and fill slip confirmation recordings; and
4. all cage areas.

D. All video recordings relating to the following shall be retained in a secure area approved by the division for at least 30 days and shall be listed on a log maintained by surveillance personnel:

1. all check cashing activity; and
2. all credit card advance activity.

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 38:

### **§3315. Maintenance and Testing**

A. All surveillance equipment shall be subject to unscheduled testing of minimum standards of resolution and operation by the division.

B. The division shall be notified immediately of the malfunction of surveillance equipment.

C. Any malfunction of surveillance equipment shall necessitate the immediate replacement of the faulty equipment. If immediate replacement is not possible, alternative live monitoring shall be provided by security personnel.

D. The division shall determine if gaming should continue with live monitoring and shall have authority to cease gaming operations not monitored by the surveillance system.

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 38:

### **§3317. Surveillance System Compliance**

A. A licensee and the casino operator shall have a continuing duty to review its surveillance system plan to ensure the surveillance system plan remains in compliance with the Act and the rules.

B. A licensee and the casino operator shall submit any modification to its surveillance system plan required to bring the surveillance system plan in compliance with a new rule or a rule amendment within 30 days of the effective date.

C. The division shall review any amendments submitted pursuant to this Section and issue a decision approving, approving with conditions, or disapproving the amendments.

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 38:

### **Chapter 34. Security**

Editor's Note: The information for this Chapter was consolidated from corresponding Chapters in Parts VII, IX, and XIII prior to their being repealed.

#### **§3403. Security Plans**

A. An applicant for a license shall submit to the division a security plan no later than 90 days prior to the

commencement of gaming operations. The security plan shall include, at a minimum, the following:

1. a detailed description by position of each security officer or employee which includes their duties, assignments and responsibilities;
2. the number of security employees assigned by shift;
3. general procedures for handling incidents requiring the assignment of a security officer;
4. radio protocol and a description of authorized radio codes to be used;
5. training requirements and procedures; and
6. other information required by the division that evidences compliance with this Chapter by the applicant.

B. Modifications to the security plan shall be submitted to the division for approval prior to implementation.

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 38:

#### **§3409. Security Logs**

A. The licensee and casino operator shall maintain a security log of all unusual incidents. Each incident without regard to materiality, shall be assigned a sequential number and an entry made in the log containing, at a minimum, the following information:

1. the assignment number;
2. the date;
3. the time;
4. the nature of the incident;
5. the person involved in the incident; and
6. the security department employee assigned.

B. The security logs required by this Section shall be retained and stored by month and year.

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 38:

### **Chapter 35. Patron Disputes**

Editor's Note: The information for this Chapter was consolidated from corresponding Chapters in Parts VII, IX, and XIII prior to their being repealed.

#### **§3501. Patron Dispute Form**

A. Whenever a licensee or casino operator and a patron are unable to resolve a dispute regarding the payment of winnings, the licensee or casino operator shall provide the patron a patron dispute form.

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 38:

#### **§3502. Licensee Duty to Provide Patron Dispute Information**

A. Within seven days of the licensee or casino operator being notified of a written patron dispute, the licensee or casino operator shall provide the division, in writing, the identity of the parties involved in the dispute and all facts regarding the dispute.

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 38:

### **Chapter 39. Public and Confidential Records**

Editor's Note: The information for this Chapter was consolidated from corresponding Chapters in Parts VII, IX, and XIII prior to their being repealed.

### **§3901. Public Records**

A. Except as provided in R.S. 27:21, records of the board and division shall be public records.

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 38:

### **§3905. Sealing of Documents**

A. The board or hearing officer may allow any party to an administrative action to file a document or portions of a document with the board or hearing office under seal if:

1. the document or portions of the document contain information that is confidential pursuant to the Act or these rules;

2. the party makes a request in writing or on the record of an administrative hearing to allow the filing of the document or portions of the document under seal, setting forth the reasons that such filing under seal should be permitted;

3. the party requesting the filing of the document or portions of the document under seal has, to the extent practicable, segregated the portions of the document containing confidential information from the remainder of the document so that no more of the document than is necessary is filed under seal; and

4. the board or hearing officer finds that the public interest in maintaining the confidentiality of the information outweighs the public interest in making the information public.

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 38:

### **§3907. Access to Public Records**

A. A request for access to public records shall be made in accordance with R.S. 44:1 et seq.

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 38:

### **§3909. Access to Confidential Records**

A. The board or division may only release confidential records pursuant to lawful order from a court of competent jurisdiction or pursuant to an intelligence sharing, reciprocal use or restricted use agreement executed between the board or division and a gaming regulatory or law enforcement agency.

B. All requests for access to confidential records must be made in writing to the board or division.

C. Pursuant to a written request, as described in Subsection B, from any duly authorized agent of any agency of the United States Government, any state, or any political subdivision of this state which has executed the requisite information sharing agreement with the board or division, the board or division may release confidential records to the agency requesting them upon a finding by the board or division that the release is consistent with the policy of this state as reflected in the Act.

D. The board or division may require any party receiving confidential information to agree in writing or on the record of any hearing to any limitations that the board or division deems necessary prior to giving that party the confidential information.

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 38:

### **§3911. Unauthorized Procurement of Records Prohibited**

A. An applicant, licensee, casino operator, or permittee shall not, directly or indirectly, procure or attempt to procure from the division or board information or records that are not made available by proper authority. Any violation of this regulation constitutes reasonable cause for administrative action or to deny any application.

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 38:

### **Chapter 40. Designated Check Cashing Representatives**

Editor's Note: The information for this Chapter was consolidated from corresponding Chapters in Parts VII, IX, and XIII prior to their being repealed.

#### **§4001. Designated Check Cashing Representative; Permit**

A. A person who conducts check cashing and credit card services for a licensee shall obtain a non-gaming supplier permit prior to providing the services.

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 38:

#### **§4002. Application for Permit for Designated Check Cashing Representative; Additional Requirements; Summary of Proposed Operations**

A. The division may require any applicant who conducts services pursuant to the provisions of this Chapter to provide the division with a summary describing the financial, internal, and security aspects of the proposed check cashing and credit card advance operations including, but not limited to:

1. accounting and financial controls, including the procedures to be utilized in counting, banking, storage and handling of cash;

2. procedures, forms, expense and overhead schedules, cash equivalent transactions, salary structure and personnel practices;

3. job descriptions and a system of personnel and chain of command, establishing a diversity of responsibility among employees engaged in operations and identifying primary and secondary supervisor positions for areas of responsibility;

4. procedures within the check cashing cage for the receipt, storage, and disbursal of cash and other cash equivalents;

5. procedures and security for the counting and recordation of transactions;

6. procedures for the cashing and recordation of checks exchanged by customers of the designated check cashing representative; and

7. procedures governing the utilization of the licensee's or casino operator's security force within the check cashing cage.

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 38:

**§4003. Cash Transaction Reporting for Designated Check Cashing Representative**

A. A designated check cashing representative shall report a cash transaction reporting violation to the division immediately upon obtaining knowledge of the violation.

B. Violation of cash transaction reporting requirements in any other jurisdiction by a designated check cashing representative shall be reported to the division within 30 days of the notice of violation in the other jurisdiction.

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 38:

**§4004. General Requirements**

A. The check cashing cage may be accessed by security personnel of the licensee or casino operator and personnel from the division upon presentation of proper identification.

B. The designated check cashing representative shall be a single source provider for these services and its responsibilities shall not be assigned or subcontracted to any party.

C. The designated check cashing representative shall not issue credit or credit instruments, chips, markers, counter checks, tokens or electronic cards which may be used directly in gaming.

D. The designated check cashing representative shall be located in the casino.

E. The designated check cashing representative shall not participate in management or operation of the casino or gaming activities.

F. The designated check cashing representative shall be located in a designated check cashing cage.

G. No employee of the designated check cashing representative shall be an employee of any licensee or casino operator.

H. The designated check cashing representative shall maintain detailed records of all returned checks.

I. The designated check cashing representative shall maintain work papers supporting the daily reconciliation of cash and cash equivalent accountability.

J. The designated check cashing representative shall maintain detailed records as required by the division.

K. The division may review records of the designated check cashing representative at any time upon request.

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 38:

**§4005. Imposition of Actions for Designated Check Cashing Representatives**

A. Any administrative action authorized by the Act and the rules for violation of the designated check cashing representative's internal controls may be initiated.

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 38:

**§4006. Record Retention for Designated Check Cashing Representatives**

A. Each designated check cashing representative shall provide the division, upon its request, with the records required to be maintained by the Act or these rules.

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 38:

**§4007. Designated Check Cashing Representative's Clothing Requirements**

A. Designated check cashing representative's employees shall not bring purses, handbags, briefcases, bags or any other similar item into the check cashing cage unless it is transparent.

B. No employee shall wear clothing with pockets or other compartments.

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 38:

**§4008. Internal Controls; Designated Check Cashing Representative**

A. Each designated check cashing representative shall describe, in such manner as the division may approve or require, its administrative and accounting procedures in detail in a written system of internal controls. Each designated check cashing representative shall submit a copy of its internal controls to the division for approval prior to commencement of the designated check cashing representative's operations. The internal controls shall reasonably ensure that:

1. all assets are safeguarded;
2. financial records are accurate and reliable;
3. transactions are performed only in accordance with the designated check cashing representative's internal controls;
4. access to assets is permitted only in accordance with the designated check cashing representative's internal controls;
5. functions, duties and responsibilities are appropriately segregated and performed in accordance with sound practices by competent, qualified personnel.

B. The internal controls shall include:

1. an organizational chart depicting appropriate segregation of functions and responsibilities;
2. a description of the duties and responsibilities of each position shown on the organizational chart;
3. a detailed, narrative description of the administrative and accounting procedures designed to satisfy the requirements of Subsection A;
4. a written statement signed by an officer of the designated check cashing representative attesting that the system satisfies the requirements of this Section;
5. other information as the division may require; and
6. a flow chart illustrating the information required in Paragraphs 1, 2 and 3 above.

C. Each designated check cashing representative shall establish and provide, at the request of the division, the following:

1. an income statement summarizing the revenue and expenses of the entire check cashing cage operation;

2. summary credit card cash advance transaction information:

- a. number of transactions per day;
- b. total amount advanced by day; and
- c. fee revenue generated by day;

3. summary check cashing transaction information:

- a. number of transactions per day;
- b. total amount advanced by day; and
- c. fee revenue generated by day;

4. return check information:

- a. total amount of returned checks per month; and
- b. total amount of collections per month.

D. The designated check cashing representative shall not implement its initial internal controls unless the division determines that the designated check cashing representative's proposed internal controls satisfy Subsection A, and approves the system in writing.

E. The designated check cashing representative shall provide to the division a monthly report detailing all insufficient fund checks. The report required under this Subsection shall be submitted to the division within 15 days of the end of each month.

F. Prior to changing any procedure required by this Chapter to be included in the designated check cashing representative's internal controls, the designated check cashing representative shall obtain written approval by the division in the manner prescribed for obtaining approvals in Chapter 29.

G. The internal controls adopted by the designated check cashing representative and approved by the division shall be incorporated into the licensee's or casino operator's internal controls. A violation of any part of the approved internal controls committed by an employee of the designated check cashing representative shall constitute a violation by the designated check cashing representative and shall also constitute a violation by the licensee or casino operator. The licensee or casino operator may be sanctioned in the same manner as the designated check cashing representative for such violation.

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 38:

#### **§4009. Internal Controls; Designated Check Cashing Representative Cage and Credit**

A. Each check cashing cage shall comply with the following minimum requirements.

1. All transactions that flow through the check cashing cage shall be summarized on a cage accountability form on a per shift basis.

2. Personal checks or cashier checks shall be cashed at the cage cashier or at the check cashing cage by the designated check cashing representative and subjected to the following procedures:

- a. examine and record at least one item of patron identification;
- b. record a bank number and Social Security number on all check transactions.

3. The cashier or designated check cashing representative shall comply with examination and documentation procedures as required by the issuer.

B. The requirements of this Section shall be included in the designated check cashing representative's internal controls.

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 38:

#### **§4010. Designated Check Cashing Representative Currency Transaction Reporting**

A. Each designated check cashing representative shall be responsible for proper reporting of certain monetary transactions to which it is a party to the federal government as required by the Bank Records and Foreign Transactions Act (Public Law 91-508), (Bank Secrecy Act) as codified in Title 31, §§5311-5323, and Title 12, §§1730.d, 1829, and 1951-1959. Specific requirements concerning record keeping and reports are delineated in Title 31 Chapter X and shall be followed in their entirety. The Bank Secrecy Act and the rules and regulations promulgated by the federal government pursuant to the Bank Secrecy Act as they may be amended from time to time, are adopted by reference and are to be considered incorporated in this Chapter.

B. Civil and criminal penalties may be assessed by the federal government for willful violations of the reporting requirements of the Bank Secrecy Act. These penalties may be assessed against the designated check cashing representative, as well as any director, partner, official or employee that participated in the above referenced violations.

C. All employees of the designated check cashing representative shall be prohibited from providing any information or assistance to patrons in an effort to aid the patron in circumventing any and all currency transaction reporting requirements to which it is a party.

D. Designated check cashing representative employees shall be responsible for preventing a patron from circumventing the currency transaction reporting requirements if the employee has knowledge, or through reasonable diligence in performing their duties, should have knowledge of the patron's efforts at circumvention.

E. For each required currency transaction report, a surveillance photograph of the patron shall be taken and attached to the licensee's, casino operator's, or the designated check cashing representative's copy of the currency transaction report. The employee consummating the transaction shall be responsible for contacting a surveillance department employee. The designated check cashing representative shall maintain and make available for inspection all copies of currency transaction reports, with the attached photographs, which it has prepared. The designated check cashing representative shall be responsible for maintaining a transaction log in compliance with all requirements of §2731.G.

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 38:

#### **§4011. Internal Controls Compliance**

A. The designated check cashing representative shall have a continuing duty to review its internal controls to ensure the internal controls remain in compliance with the Act and these rules.

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 38:

#### **§4012. Servant of Licensee**

A. The designated check cashing representative shall be considered a servant of the licensee or casino operator for the limited purpose of R.S. 27:101 and shall not cash any of the checks identified in that Section and will be subject to the enforcement provisions of that Section.

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 38:

#### **§4013. Violations by the Designated Check Cashing Representative**

A. A violation of any applicable statute or rule by the designated check cashing representative shall constitute a violation of such statute or rule by the licensee or casino operator.

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 38:

#### **Chapter 41. Board Orders**

Editor's Note: The information for this Chapter was consolidated from corresponding Chapters in Parts VII, IX, and XIII prior to their being repealed.

##### **§4101. Orders**

A. An order may be issued by the chairman, or at the direction of the chairman, the supervisor or his designee when circumstances necessitate action to protect the public health, safety, welfare or the interests of the state of Louisiana. The chairman, or at the direction of the chairman, the supervisor or his designee may also issue emergency orders when extraordinary situations require immediate action.

B. An order shall be in writing and signed by the chairman, or at the direction of the chairman, the supervisor or his designee and set forth the grounds upon which it is issued.

C. An order is effective immediately upon issuance and service to the licensee, casino operator or permittee. Service of the order may be made by hand delivery, certified mail or electronic transmission. If the circumstances of an emergency necessitate immediate action, the order need not be in writing to be effective, but shall be reduced to writing and served as soon as is practicable thereafter.

D. An emergency order will expire in 10 days unless a shorter period is specified in the order. An emergency order may be reissued after 10 days if the circumstances for the emergency remain unresolved.

E. Any violation of an order is subject to administrative action as set forth in these regulations.

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 38:

#### **Chapter 42. Electronic Gaming Devices**

Editor's Note: The information for this Chapter was consolidated from corresponding Chapters in Parts VII, IX, and XIII prior to their being repealed.

##### **§4201. Division's Central Computer System (DCCS)**

A. Pursuant to R.S. 27:30.6, all electronic gaming devices on licensed riverboats and slot machines at live

racing facilities shall be linked by telecommunications to the division's central computer system (DCCS).

B. The DCCS shall be located within and administrated by the division,

C. The DCCS shall be capable of monitoring and reading financial aspects of each electronic gaming device including, but not limited to, coin in, coin out, coins to the drop, games played, hand paid jackpots, bills and paper currency accepted, and bills and paper currency by denomination accepted. This information shall be reported to the DCCS.

D. Any device malfunction that causes any meter information to be altered, cleared, or otherwise inaccurate may require immediate disablement of the electronic gaming device from patron play as instructed by the division. The licensee shall report the malfunction to the division within four hours after the occurrence.

E. No electronic gaming device that is required by a division agent to be disabled shall be enabled for patron play after a meter malfunction until authorized by a division agent;

F. A communication test shall be performed on the electronic gaming device that malfunctioned to ensure all required data is being sent to the slot monitoring system and that accounting totals are consistent with actual game play and game transactions. Upon successful completion of the communications test, all final meter information shall be documented in a manner prescribed by the division.

G. The DCCS shall provide for the monitoring and reading of exception code reporting to ensure direct scrutiny of conditions detected and reported by the electronic gaming device including any tampering, device malfunction, and any door opening to the drop areas.

1. Exception or event codes that signal illegal door opening(s) may necessitate an investigation by a division agent, which may result in an administrative action against the licensee.

2. All events that can be reported by an electronic gaming device shall be transmitted to the DCCS. The events reported include, but are not limited to, the following:

- a. machine power loss;
- b. main door open or closed;
- c. BVA or stacker accessed;
- d. hard drop door open or closed;
- e. logic board accessed;
- f. reel tilt;
- g. hopper empty;
- h. excess coin dispensed by the hopper;
- i. hopper jam;
- j. coin diverter error;
- k. battery low;
- l. jackpot win;
- m. jackpot reset; and
- n. logic board failure.

3. In the event of any exception or event code, or combination thereof reported to the DCCS, the division may require the disablement of the electronic gaming device.

H. No EGD monitoring system shall be authorized for operation unless it meets the minimum requirements of this Section.

I. The DCCS shall not provide for the monitoring or reading of personal or financial information concerning any patron's gaming activities.

J. The annual fee required by R.S. 27:30.6 shall be paid prior to operation of each new electronic gaming device placed on line and enabled for patron play.

K. The payment of the electronic gaming device fee required by R.S. 27:30.6 shall be made in such manner as prescribed by the division.

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 38:

#### **§4202. Approval of Electronic Gaming Devices;**

A. Applications and Procedures; Manufacturers and Suppliers

1. A manufacturer or supplier shall not sell, lease or distribute EGDs or equipment in this state and a licensee or casino operator shall not offer EGDs for play without first obtaining the requisite permit or license and obtaining prior approval by the board or division for such action.

B. Applications for approval of a new EGD shall be made and processed in such manner and using such forms as the division may prescribe. A licensee or casino operator may apply for approval of a new EGD. Each application shall include:

1. a complete, comprehensive, and technically accurate description and explanation in both technical and lay language of the manner in which the device operates, signed under penalty of perjury;

2. a statement, under penalty of perjury, that to the best of the applicant's knowledge, the EGD meets the standards set forth in this Chapter; and

3. any other items or information required by the division.

C. No game or EGD other than those specifically authorized in this Chapter may be offered for play or played in a casino.

D. Approval shall be obtained from the division prior to changing, adding, or altering the casino configuration once such configuration has received final approval. For the purpose of this Section, altering the casino configuration does not include the routine movement of EGDs for cleaning or maintenance purposes.

E. All components, tools, and test equipment used for installation, repair or modification of EGDs shall be stored in the slot technician repair office or in a division approved locked storage area. Such office or storage area shall be kept secure and only authorized personnel shall have access.

F. Any compartment or room that contains communications equipment used by the EGDs and the EGD monitoring system shall be kept secure.

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 38:

#### **§4203. Minimum Standards for Electronic Gaming Devices**

A. All EGDs submitted for approval:

1. shall be electronic in design and operation and shall be controlled by a microprocessor or micro-controller or the equivalent;

2. shall theoretically pay out a mathematically demonstrable percentage of all amounts wagered, which

shall be at least 80 percent and less than 100 percent for each wager available for play on the device;

3. shall use a random selection process to determine the game outcome of each play of a game. The random selection process shall meet 99 percent confidence limits using a standard chi-squared test for goodness of fit and:

a. each possible permutation or combination of game elements which produce winning or losing game outcomes shall be available for random selection at the initiation of each play; and

b. the selection process shall not produce detectable patterns of game elements or detectable dependency upon any previous game outcome, the amount wagered, or upon the style or method of play;

4. shall display an accurate representation of the game outcome. After selection of the game outcome, the EGD shall not make a variable secondary decision which affects the result shown to the player;

5. shall display the rules of play and payoff schedule;

6. shall not automatically alter pay-tables or any function of the device based on internal computation of the hold percentage;

7. shall be compatible with on-line data monitoring;

8. shall have the control circuit board and the program storage media locked and secured within the device;

9. shall be able to continue a game with no data loss after a power failure;

10. shall have the ability to recall the data from the current and previous two games;

11. shall have a complete set of nonvolatile meters including coins-in, coins-out, coins dropped and total jackpots paid;

12. shall contain a surge protector on the line that feeds power to the device. The battery backup or an equivalent backup shall be kept within the locked logic board compartment and shall be capable of maintaining the accuracy of all required information for 180 days after power is discontinued from the device.

13. shall have an on/off switch that controls the electrical current used in the operation of the device which shall be located in an accessible place within its interior;

14. shall be designed so that it is not adversely affected by static discharge or other electromagnetic interference;

15. may have at least one electronic coin acceptor and may be equipped with an approved currency acceptor. Coin and currency acceptors shall be designed to accept designated coins and currency and reject others. The coin acceptor on a device shall be designed to prevent the use of cheating methods such as slugging, stringing, or spooning. All types of coin and currency acceptors are subject to the approval by the division. The control program shall be capable of handling rapidly fed coins so that occurrences of inappropriate "coin-ins" are prevented;

16. shall not contain any unsecured hardware switches that alter the pay-tables or payout percentages in its operation. Hardware switches may be installed to control graphic routines, speed of play, and sound;

17. shall have a non-removable identification plate on the exterior of the device displaying the manufacturer, serial number and model number;

18. shall have a communications data format from the EGD to the EGD monitoring system approved by the division;

19. shall be capable of continuing the current game with all current game features after a malfunction is cleared. This does not apply if a device is rendered totally inoperable. The current wager and all credits appearing on the screen prior to the malfunction shall be returned to the patron;

20. may have an attached locked compartment separate from any other compartment of the device for housing a drop bucket. The compartment shall be equipped with a switch or sensor that provides detection of the drop door opening and closing by signaling to the EGD monitoring system;

21. shall have a locked compartment for housing currency if equipped with a currency acceptor;

22. shall, at a minimum, be capable of detecting and displaying the following error conditions:

- a. coin-in jam;
- b. coin-out jam;
- c. currency acceptor malfunction or jam;
- d. hopper empty or time-out;
- e. program error;
- f. hopper runaway or extra coin paid out;
- g. reverse coin-in;
- h. reel error; and
- i. door open;

23. shall use a communication protocol which ensures that erroneous data or signal will not adversely affect the operation of the device;

24. shall have a mechanical, electrical, or electronic device that automatically precludes a player from operating the device after a jackpot requiring a manual payout; and

25. shall be outfitted with any other equipment required by this Chapter or the Act.

B. Pursuant to R.S. 27:364, no electronic gaming device offered for play in the designated gaming area of a pari-mutuel eligible facility shall offer a game which resembles a game the play of which requires, or typically includes, the participation of another natural person.

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 38:

#### **§4204. Progressive Electronic Gaming Devices**

A. This Section authorizes the use of progressive EGDs among gaming operations licensed pursuant to the provisions of R.S. 27:51 et seq., R.S. 27:201 et seq. and R.S. 27:351 et seq., within one casino, provided that the EGDs meet the requirements stated in this Chapter and any additional requirements imposed by the Act, rules, the board, or the division.

B. Wide area progressive games that link EGDs located in more than one casino shall be approved by the board or division on a case-by-case basis.

C. 1. A progressive jackpot may be won where certain pre-established conditions, which do not have to be a winning combination, are satisfied.

2. A bonus game where certain circumstances are required to be satisfied prior to awarding a fixed bonus prize, or a prize that does not appear to increase with play, is not a progressive EGD and is not subject to this Chapter.

#### **D. Transferring of Progressive Jackpot Which Is in Play**

1. All transfers of progressive jackpots require prior written authorization from the division.

2. A progressive jackpot which is currently in play may be transferred to another progressive EGD in the casino in the event of:

- a. an EGD malfunction;
- b. an EGD replacement; or
- c. division approval of a transfer for any other reason deemed appropriate to ensure compliance with this Chapter.

3. The licensee or casino operator shall distribute the incremental amount to another progressive jackpot at the casino provided that:

a. the licensee or casino operator documents the distribution;

b. any machine offering the jackpot to which the licensee or casino operator distributes the incremental amount does not require that more money be played on a single play to win the jackpot than the machine from which the incremental amount is distributed;

c. any machine offering the jackpot to which the incremental amount is distributed complies with the minimum theoretical payout requirement of §4203.A.2; and

d. the distribution is completed within 30 days after the progressive jackpot is removed from play or within such longer period as the division may for good cause approve.

The division may approve a reduction, elimination, distribution, or procedure not otherwise described in this Subsection, which approval is confirmed in writing; and

e. the licensee or casino operator preserves and maintains the records required by this Section.

4. Unless otherwise approved by the division, all progressive jackpot transfers shall be prominently posted at or near the applicable EGD at least 14 days in advance of the requested transfer date.

5. If the events set forth above do not occur, the progressive award shall be permitted to remain until it is won by a player or transfer is approved by the division.

#### **E. Recording, Keeping and Reconciliation of Jackpot Amount**

1. The licensee and casino operator shall maintain a record of the amount shown on a progressive jackpot meter on the premises. The progressive jackpot meter information shall be read and documented for each tier of the progressive jackpot, at a minimum, every 24 hours. Electronic meter information shall be recorded when a primary jackpot occurs on an EGD.

2. Supporting documents shall be maintained to explain any reduction in the payoff amount from a previous entry.

3. The licensee or casino operator shall confirm and document, on a quarterly basis, that proper communication was maintained on each EGD linked to the progressive controller during that time.

4. The licensee or casino operator shall record the progressive liability on a daily basis.

5. The licensee or casino operator shall review, on a quarterly basis, the incremented rate and reasonableness of the progressive liability by completing a communications test, generating slot or progressive system documentation, or other method approved by the division.

6. Each licensee and casino operator shall formally adopt the manufacturer's division approved internal controls for wide area progressive EGDs as part of the licensee's or casino operator's internal controls.

#### F. The Progressive Meter

1. The EGD shall be linked to a progressive meter or meters showing the current payoff to all individuals playing an EGD who may potentially win the progressive amount. A meter that shows the amount of the progressive jackpot shall be conspicuously displayed at or near the machines to which the jackpot applies.

#### G. Consistent Odds on Linked EGDs

1. When two or more progressive gaming devices are linked together, each device on the link shall have a probability of winning the progressive award which is within 1 percent of every other device on the same link. The probability shall be in proportion to the amount wagered. The method of equalizing the expected probability of winning any progressive award shall be conspicuously displayed on each device connected to the system.

#### H. Operation of Progressive Controller-Normal Mode

1. During the normal operating mode of the progressive controller, the controller or another attached approved component or system shall:

- a. continuously monitor each EGD attached to the controller to detect inserted coins or credits wagered; and
- b. determine the correct amounts to apply to the progressive jackpot.

2. The progressive display shall be constantly updated as play on the link is continued. A slight delay in the update is acceptable if the jackpot amount is shown immediately when a jackpot is triggered.

#### I. Operation of Progressive Controller-Jackpot Mode

1. When a progressive jackpot is recorded on an EGD which is attached to the progressive controller or another attached approved component or system, "progressive controller", the progressive controller shall:

- a. display the winning amount; and
- b. display the EGD identification that caused the progressive meter to activate if more than one EGD is attached to the controller.

2. The progressive controller is required to send to the EGD the amount that was won. The EGD is required to update its electronic meters to reflect the winning jackpot amount consistent with this Chapter.

3. When more than one progressive EGD is linked to the progressive controller, the progressive controller shall automatically reset to the reset amount and continue normal play. During this time, the progressive meter or another attached approved component or system shall display:

- a. the identity of the EGD that caused the progressive meter to activate;
- b. the winning progressive amount; and
- c. the new normal mode amount that is current on the link.

4. A progressive EGD where a jackpot of \$500,000 or more is won shall automatically enter into a non-play mode which prohibits additional play on the device after a primary jackpot has been won on the device. Upon the conclusion of necessary inspections and tests as required by the division, the device may be offered for play.

#### J. Alternating Displays

1. When the rules require multiple items of information to be displayed on a progressive meter, it is sufficient to have the information displayed in an alternating fashion.

#### K. Security of Progressive Controller

1. Each progressive controller linking two or more progressive EGDs shall be housed in a double keyed compartment in a location approved by the division. All keys shall be maintained in accordance with Chapter 27 of these rules.

2. Only employees approved by the division may have access to the progressive controller.

#### L. Progressive Controller

1. A progressive controller entry authorization log shall be maintained within each controller. The log shall be in a form prescribed by the division and completed by each individual who gains entrance to the controller.

2. The progressive controller shall keep the following information in nonvolatile memory which shall be displayed upon demand:

- a. the number of progressive jackpots won on each progressive level if the progressive display has more than one winning amount;
- b. the cumulative amounts paid on each progressive level if the progressive display has more than one winning amount;
- c. the maximum amount of the progressive payout for each level displayed;
- d. the minimum amount or reset amount of the progressive payout for each level displayed; and
- e. the rate of progression for each level displayed.

#### M. Limits on Jackpot of Progressive EGDs

1. A licensee or casino operator may impose a limit on the jackpot of a progressive EGD if the limit imposed is greater than the possible maximum jackpot payout on the EGD at the time the limit is imposed. The licensee and casino operator shall inform the public with a prominently posted notice of progressive EGDs and their limits.

#### N. Reduction or Elimination of Progressive Jackpots

1. A licensee and casino operator shall not reduce the amount displayed on a progressive jackpot meter or otherwise reduce or eliminate a progressive jackpot unless:

- a. a player wins the jackpot;
- b. the licensee or casino operator adjusts the progressive jackpot meter to correct a malfunction or to prevent the display of an amount greater than a limit imposed pursuant to §4204.M and the licensee or casino operator documents the adjustment and the reasons for it;
- c. the licensee's or casino operator's gaming operations at the establishment cease for any reason other than a temporary closure where the same licensee or casino operator resumes gaming operations at the same establishment within a month; or
- d. the licensee or casino operator distributes the incremental amount to another progressive jackpot at the establishment and:

- i. obtains prior written authorization from the division;
- ii. the licensee or casino operator documents the distribution;

iii. any machine offering the jackpot to which the licensee or casino operator distributes the incremental amount does not require that more money be played on a single play to win the jackpot than the machine from which the incremental amount is distributed;

iv. any machine offering the jackpot to which the incremental amount is distributed complies with the minimum theoretical payout requirement of §4203.A.2; and

v. the distribution is completed within 30 days after the progressive jackpot is removed from play or within such longer period as the division may for good cause approve. The division may approve a reduction, elimination, distribution, or procedure not otherwise described in this Subsection.

#### O. Individual Progressive EGD Controls

1. Individual EGDs shall have a minimum of seven electronic meters, including a coin-in meter, drop meter, jackpot meter, win meter, hand paid jackpot meter, progressive hand paid jackpot meter and a progressive meter.

#### P. Link Progressive EGD Controls

1. When a progressive jackpot is hit on a machine in the group, all other machines shall be locked out. If an individual progressive meter unit is visible from the front of the machine then the progressive control unit shall lock out only the machine in the progressive link that hit the jackpot and all other progressive meters in the group shall show the current progressive jackpot amount.

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 38:

### **§4205. Computer Monitoring Requirements of Electronic Gaming Devices**

A. The licensee and casino operator shall have a computer connected to all EGDs in the casino to record and monitor the activities of such devices. No EGDs shall be operated unless it is on-line and communicating to a computer monitoring system approved by a designated gaming laboratory specified by the division or board. Such computer monitoring system shall provide on-line, real-time monitoring and data acquisition capability in the format and media approved by the division.

1. Any occurrence of malfunction or interruption of communication between the EGDs and the EGD monitoring system shall immediately be reported to the division for determination of further action to be taken. These malfunctions include, but are not limited to, system down for maintenance or malfunctions, zeroed meters, invalid meters and any variance between EGD drop meters and the actual count of the EGD drop.

2. Prior written approval from the division is required before implementing any changes to the computerized EGD monitoring system or adopting manual procedures to utilize when the computerized EGD monitoring system is down.

3. Each modification of the software shall be approved by a designated gaming laboratory specified by the division or board.

B. The computer required in Subsection A shall be designed and operated to automatically perform and report functions relating to EGD meters, and other functions and reports including, but not limited to:

1. record the number and total value of cash equivalents placed in the EGD for the purpose of activating play;

2. record the total value of credits received from the currency acceptor for the purpose of activating play;

3. record the number and total value of cash equivalents deposited in the drop bucket of the EGD;

4. record the number and total value of cash equivalents automatically paid by the EGD as the result of a jackpot;

5. record the number and total value of cash equivalents to be paid manually as the result of a jackpot. The system shall be capable of logging in this data if such data is not directly provided by EGD;

6. have an on-line computer alert and alarm monitoring capability to insure direct scrutiny of conditions detected and reported by the EGD including any device malfunction, any type of tampering, and any open door to the drop area. Any person opening the EGD or the drop area, except the drop team, shall complete the machine entry authorization log including time, date, machine identity and reason for entry;

7. be capable of logging in and reporting any revenue transactions not directly monitored by the token meter including tokens placed in the EGD as a result of a fill and any tokens removed from the EGD in the form of a credit;

8. record date, time and EGD identification number of any EGD taken off-line or placed on-line; and

9. report the time, date and location of open doors or events specified in §4201.G.2 by EGD.

C. The licensee and casino operator shall store, in machine-readable format, all information required by Subsection B for a period of five years. The licensee and casino operator shall store all information in a secure area and certify that this information is complete and unaltered. This information shall be available upon request by a division agent in the format and media approved by the division.

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 38:

### **§4206. Employment of Individual to Respond to Inquiries from the Division**

A. Slot system and EGD manufacturers shall employ or retain an individual who understands their equipment design and function. This employee shall respond within the time specified by the division to any inquiries. On or before December 31 of each year, manufacturers shall report in writing the name of the individual designated pursuant to this Section. Manufacturers shall report in writing any change in the designation within 15 days of the change.

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 38:

### **§4207. Evaluation of New Electronic Gaming Devices**

A. The division may require transportation of not more than two working models of a new EGD or associated equipment to a designated gaming laboratory for review and inspection. The manufacturer or supplier seeking approval of

the device or associated equipment shall pay the cost of the inspection and investigation. The designated gaming laboratory may dismantle the models and may destroy electronic components in order to fully evaluate the device.

B. The division may require the manufacturer or supplier seeking approval to provide specialized equipment or the services of an independent technical expert to evaluate the device or equipment, and may employ an outside designated gaming laboratory to conduct the evaluation.

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 38:

#### **§4208. Certification by Manufacturer**

A. After completing its evaluation, the gaming laboratory shall send a report of its evaluation to the division and the manufacturer seeking approval. The report shall include an explanation of the manner in which the device or equipment operates. The manufacturer shall return the report to the lab within 15 days and shall either:

1. certify, under penalty of perjury, that to the best of its knowledge the explanation is correct; or

2. make appropriate corrections, clarifications, or additions to the report and certify, under penalty of perjury, that to the best of its knowledge the explanation is correct as amended.

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 38:

#### **§4209. Approval of New Electronic Gaming Devices**

A. After completing its evaluation of a new EGD, the division shall determine whether the application for approval of the new EGD should be granted. In considering whether a new EGD will be given final approval, the division shall consider whether approval of the new EGD is consistent with this Chapter. The division's approval of an EGD does not constitute certification of the device's safety.

##### **1. Equipment Registration and Approval**

a. All EGDs shall be approved by the division or its approved designated gaming laboratory and registered by the division prior to use.

b. The following shall not be used for gaming by any licensee or casino operator without prior written approval of the division:

- i. bill acceptors or bill validators;
- ii. coin acceptors;
- iii. progressive controllers;
- iv. signs depicting payout percentages, odds, and rules of the game; and
- v. associated gaming equipment as specified in this Chapter.

c. The licensee's, casino operator's or manufacturer's request for approval shall describe with particularity the equipment or device for which the division's approval is requested.

d. The division may request additional information or documentation prior to issuing written approval.

##### **2. Testing**

a. The following shall be tested prior to registration or approval for use:

- i. all EGDs;
- ii. EGD monitoring systems;

iii. any other device or equipment the division deems necessary.

##### **3. Designated Gaming Laboratory**

a. The division may employ the services of a designated gaming laboratory to conduct testing.

b. Any new EGD not presently approved by the division shall first meet the approval and testing criteria of the designated gaming laboratory, which shall evaluate and test the product and issue a written opinion to the division of all test results.

c. The licensee, casino operator, manufacturer or supplier shall incur all costs associated with the testing of the product. This may include costs for field test, travel, laboratory test, and other associated costs. Failure on the part of the requesting party to timely pay these costs may be grounds for the denial of the request and cause for administrative action by the division.

d. Recommendations of approval by the designated gaming laboratory with regard to program approval(s) may constitute division approval and may not require separate written approval by the division. These approvals may be subject to additional conditions by the division.

e. In situations wherein the need for specific guidelines and internal controls are required, the division will work in concert with the designated gaming laboratory to develop guidelines for each licensee and casino operator. Licensees and casino operators shall be required to comply with these guidelines which shall become part of the internal controls. At no time shall an unauthorized program, gaming device, associated equipment or component be installed, stored, possessed, or offered for play by a licensee, casino operator, permittee, its agent, representative, employee or other person in the Louisiana gaming industry.

##### **4. Costs of Testing**

a. Registration and approval shall not be issued unless payment for all costs of testing is current.

##### **5. Registration**

a. Registration, approval, or the denial of EGDs, or any other device or equipment shall be issued in accordance with these rules.

##### **6. Specifications**

a. EGDs shall meet all specifications as required in §4203 and shall meet the following security and audit specifications:

- i. be controlled by a microprocessor;
- ii. be connected and communicating to an approved on-line EGD monitoring system;
- iii. have an internal enclosure for the circuit board which is locked or sealed, or both, prior to and during game play;
- iv. be able to continue a game with no loss of data after a power failure;
- v. have game data recall for the current game and the previous two games;
- vi. have a random selection process that satisfies the 99 percent confidence level using the following tests which shall not be predictable by players:
  - (a) standard chi-squared;
  - (b) runs; and
  - (c) serial correlation;
- vii. clearly display applicable rules of play and the payout schedule;



viii. display an accurate representative of each game outcome utilizing:

- (a). rotating wheels;
- (b). video monitoring; or
- (c). any other type of display mechanism that accurately depicts the outcome of the game.

#### 7. Registration Sticker

a. All EGDs shall be registered with the division and shall have a registration sticker affixed on the inside portion of the device. Each licensee and casino operator shall ensure that the registration sticker is properly affixed and is valid. In the event the registration sticker becomes damaged or voided, the licensee or casino operator shall immediately notify the division in writing. The division shall issue a replacement sticker and re-register the device as soon as practical.

#### 8. Location of EGDS

a. All EGDs shall be located within the designated gaming area. This is inclusive of all "free pull" machines or similar devices. A device which is not in use may be stored in a secured area if approved in writing by the division.

#### 9. Inventory Report

a. The licensee and casino operator shall maintain a current inventory report of all EGDs and equipment. The inventory report shall include, but is not limited to, the following:

- i. the serial number assigned to the EGD by the manufacturer;
- ii. the registration number issued by the division;
- iii. the type of game for which the EGD is designed and used;
- iv. the denomination of tokens or coins accepted by each EGD;
- v. the location of EGDs equipped with bill validators;
- vi. the manufacturer of the EGD; and
- vii. the location or house number of the EGD.

b. Upon request by the division, this inventory report shall be submitted to the division in a format prescribed by the division.

#### 10. House Number

a. All EGDs offered for play shall be given a house number by the licensee or casino operator. This house number shall not be altered or changed without prior written approval from the division. The licensee or casino operator shall issue the house numbers in a systematic manner which provides for easy recognition and location of the device. This number shall be a part of the licensee's or casino operator's EGD monitoring system, and shall be displayed, in part, on all on-line system reports. Each EGD shall have its respective house number and location code attached to the device in a manner which allows for easy recognition by division personnel and surveillance cameras.

#### 11. Control Program Requirements

a. EGD control programs shall test themselves for possible corruption caused by failure of the program storage media.

b. The test methodology shall detect 99.99 percent of all possible failures.

c. The control program shall allow for the EGD to be continually tested during game play.

d. The control program shall reside in the EGD which is contained in a storage medium not alterable through any use of the circuitry or programming of the EGD itself.

e. The control program shall check the following:

- i. corruption of RAM locations used for crucial EGD functions;
- ii. information relating to the current play and final outcome of the two prior games;
- iii. random number generator outcome; and
- iv. error states.

f. The control RAM areas shall be checked for corruption following game initiation, but prior to display of the game outcome to the player.

g. Detection of corruption is a game malfunction that shall result in a tilt condition which identifies the error and causes the EGD to cease further function.

h. The control program shall have the capacity to display a complete play history for the current game and the previous two games.

i. The control program shall display an indication of the following:

- i. the game outcome or a representative equivalent;
- ii. bets placed;
- iii. credits or coins paid;
- iv. credits or coins cashed out; and
- v. any error conditions.

j. The control program shall provide the means for on-demand display of the electronic meters via a key switch or other mechanism on the exterior of the EGD.

#### 12. Accounting Meters

a. All EGDs shall be equipped with electronic meters.

b. All electronic meters shall have at least ten digits.

c. All EGDs shall tally totals to ten digits and be capable of rolling over when the maximum value is reached.

d. The required electronic meters are:

i. the coin-in meter shall cumulatively count the number of coins wagered by actual coins inserted or credits bet, or both;

ii. the coin-out meter shall cumulatively count the number of coins or credits that are paid as a result of a win, or credits that are won, or both;

iii. the coins-dropped meter shall maintain a cumulative count of the number of coins that have been diverted into a drop bucket and credit value of all bills inserted into the bill validator for play;

iv. the jackpots-paid meter shall reflect the cumulative amounts paid by an attendant for all jackpots;

v. the games-played meter shall display the cumulative number of games played (handle pulls);

vi. the drop door meter shall display the number of times the drop door was opened;

vii. if the EGD is equipped with a bill validator, the device shall be equipped with a bill validator meter that records:

- (a). the total number of bills that were accepted;
- (b). a breakdown of the number of each denomination of bill accepted; and
- (c). the total dollar amount of bills accepted.

e. EGDs shall be designed so that replacement of parts, modules, or components required for normal maintenance does not affect the electronic meters.

f. EGDs shall have meters which continuously display the following information relating to the current play or monetary transaction:

i. the number of coins or credits wagered in the current game;

ii. the number of coins or credits won in the current game, if applicable;

iii. the number of coins or credits paid for a credit cash out or a direct pay from a winning outcome; and

iv. the number of credits available for wagering, if applicable.

g. Electronically stored meter information required by this Section shall be preserved after power loss to the EGD by battery backup and be capable of maintaining accuracy of electronically stored meter information for a period of at least 180 days.

### 13. Clearing of Accounting Meters

a. No EGD may have a mechanism that causes the electronic accounting meters to clear automatically when an error occurs.

b. Clearing of the electronic accounting meters, other than due to a malfunction, may be done only if approved in writing by the division. Meter readings, as prescribed by the division, shall be recorded before and after any electronic accounting meter is cleared or a modification is made to the device.

### 14. Hopper

a. If a hopper is utilized on an EGD it shall be designed to detect the following and force the EGD into a tilt condition if one of the following occurs:

i. jammed coins;

ii. extra coins paid out;

iii. hopper runaways; or

iv. hopper empty conditions.

b. The EGD control program shall monitor the hopper mechanism, if utilized, for these error conditions in all game states in accordance with this Chapter.

c. All coins paid from the hopper mechanism, if utilized, shall be accounted for by the EGD including those paid as extra coins during hopper malfunction.

d. Hopper pay limits shall be designed to permit compliance by the licensee and casino operator with all applicable taxation laws, rules, and regulations.

### 15. Communication Protocol

a. An EGD which is capable of a bi-directional communication with internal or external associated equipment shall use a communication protocol which ensures that erroneous data or signals will not adversely affect the operation of the EGD.

### 16. Inspection

a. EGDs installed or modified shall be inspected and tested by the division or its designee, or a licensee or casino operator approved by the division to self test its EGDs, prior to offering these devices for live play. No device shall be operated unless and until each regulated program storage media has been tested and sealed into place by the division or person approved by the division.

b. The security tape or seal shall at all times remain intact and unbroken. The licensee and casino operator shall routinely inspect every device to ensure compliance with this procedure.

c. In the event a licensee or casino operator discovers that the security tape or seal has been broken or tampered with, the power to the EGD shall be immediately turned off, surveillance shall be immediately notified and shall take a photograph of the logic board. The logic board shall be maintained in the surveillance office until a division agent or person approved by the division has the opportunity to inspect the logic board. A copy of the device's "MEAL" book shall be made and shall accompany the logic board.

### 17. EGD Modification

a. No licensee, casino operator or other person shall modify an EGD without prior written approval from the division. A request shall be made by completing form(s) prescribed by the division and filing it with the respective division field office. The licensee and casino operator shall ensure that the information listed on the EGD form(s) is true and accurate. Any misstatement or omission of information shall be grounds for denial of the request and may be cause for administrative action.

b. Modifications to an EGDs program shall be considered only if the new program has been approved by a designated gaming laboratory.

### 18. Hold Percentages

a. EGDs shall meet the following minimum and maximum theoretical percentage payout during the expected lifetime of the EGD:

i. the EGD shall pay out at least 80 percent and less than 100 percent of the amount wagered;

ii. the theoretical payout percentage shall be determined using standard methods of the probability theory. The percentage shall be calculated using the highest level of skill where player skill impacts the payback percentage;

iii. an EGD shall have a probability of obtaining the maximum payout greater than one in 50,000,000; and

iv. an EGD shall be capable of continuing the current play with all the current play features after an EGD malfunction is cleared.

### 19. EGD Field Trial

a. A licensee or casino operator shall be allowed to test, on a limited basis, newly approved programs. The licensee and casino operator shall file an EGD 96-01 Form and indicate in the appropriate field that the request is for a 90-day trial period.

### 20. Denomination Change

a. When an approved denomination change is made to an EGD which used or uses tokens, the licensee or casino operator shall make necessary adjustments to the initial hopper fill listed on the gaming revenue summary. An adjustment shall be made to the gaming revenue summary to reflect the change in the initial hopper fill each time an EGD is taken off the floor or out of play. A final drop shall be made for that machine, including the hopper. The initial hopper load should be deducted to determine the final net drop for the device.

### 21. Randomness Events and Randomness Testing

a. Events in EGDs are occurrences of elements or particular combinations of elements which are available on the particular EGD.

b. A random event has a given set of possible outcomes which has a given probability of occurrence called the distribution.

c. Two events are called independent if the following conditions exist:

i. the outcome of one event has no influence on the outcome of the other event; and

ii. the outcome of one event does not affect the distribution of another event.

d. An EGD shall be equipped with a random number generator to make the selection process. A selection process is considered random if the following specifications are met:

i. the random number generator satisfies at least 99 percent confidence level using chi-squared analysis;

ii. the random number generator does not produce a measurable statistic with regard to producing patterns of occurrences. Each reel position is considered random if it meets at least the 99 percent confidence level with regard to the runs test or any similar pattern testing statistic; and

iii. the random number generator produces numbers which are independently chosen.

## 22. Safety Requirements

a. Electrical and mechanical parts and design principles of EGDs and component parts shall not subject a player to physical hazards.

b. Spilling a conductive liquid on the EGD shall not create a safety hazard or alter the integrity of the EGDs performance.

c. The power supply used in an EGD shall be designed to generate make minimum leakage of current in the event of an intentional or inadvertent disconnection of the alternate current power ground.

d. A surge protector shall be installed on each EGD. Surge protection can be internal or external to the power supply.

e. A battery backup device shall be installed and capable of maintaining accuracy of required electronic meter information after power is disconnected from the EGD. The device shall be kept within the locked or sealed logic board compartment and be capable of sustaining the stored information for 180 days.

## 23. Power Switch

a. A switch that controls the electrical current used to operate the EGD shall be located in an accessible place and within the interior of the EGD.

## 24. Power Supply Filter

a. EGD power supply filtering shall be sufficient to prevent disruption of the EGD by a repeated fluctuation of alternating current.

## 25. Error Conditions and Automatic Clearing

a. EGDs shall be capable of detecting and displaying the following conditions:

i. power reset;

ii. door open;

iii. inappropriate coin-in if the coin is not automatically returned to the player.

b. The conditions listed in this Paragraph shall be automatically cleared by the EGD upon initiation of a new play sequence, if possible.

## 26. Error Conditions; Clearing by Attendant

a. EGDs shall be capable of detecting and displaying the following error conditions which an attendant may clear:

i. coin-in jam;

ii. coin-out jam;

iii. hopper empty or timed-out;

iv. RAM error;

v. hopper runaway or extra coin paid out;

vi. program error;

vii. reverse token-in;

viii. reel spin error of any type including a mis-index condition for rotating reels. The specific reel number shall be identified in the error indicator;

ix. low RAM battery, for batteries external to the RAM itself, or low power source.

b. A description of EGD error codes and their meanings shall be affixed inside the EGD.

## 27. Coin Acceptors

a. EGDs, which have coin acceptors installed, shall meet all the following requirements.

i. All acceptors shall be approved by the division or the designated gaming laboratory.

ii. Coin acceptors shall be designed to accept designated coins and to reject others.

iii. The coin acceptor on an EGD shall be designed to prevent the use of cheating methods, including, but not limited to, slugging, stringing, or spooning.

iv. Coins which are accepted but not credited to the current game shall be returned to the player by activation of the hopper or credited toward the next play of the EGD control program. The coin acceptor shall be capable of handling rapidly fed coins so that frequent occurrences of this type are prevented.

v. EGDs shall have suitable detectors for determining the direction and speed of the coin(s) travel in the receiver. If a coin traveling at improper speed or direction is detected, the EGD shall enter an error condition and display the error condition which shall require attendant intervention to clear.

b. EGDs which do not utilize a coin acceptor or do not have the coin acceptor installed shall have the coin head removed and have a permanent or non-removable plate affixed over the coin head opening. The coin head opening shall be covered in a manner which, at all times, prevents the insertion of any type of object, tool, or equipment into the interior of the device.

## 28. Bill Validators

a. EGDs may contain a bill validator that will accept the following:

i. \$1 bills;

ii. \$5 bills;

iii. \$10 bills;

iv. \$20 bills;

v. \$50 bills;

vi. \$100 bills.

b. The bill acceptors may be for single denomination or combination of denominations.

c. Bill validators may accept other items as approved by the division.

### 29. Automatic Light Alarm

a. A light shall be installed on the top of the EGD that automatically illuminates when the door to the EGD is opened or associated equipment that may affect the operation of the EGD is exposed. This does not apply to bartop EGDs.

### 30. Access to the Interior

a. The internal space of an EGD shall not be readily accessible when the door is closed.

b. The following shall be in a separate locked or sealed area within the EGDs:

- i. logic boards;
- ii. ROM;
- iii. RAM;
- iv. program storage media.

c. No access to the logic area is allowed without prior notification to the licensee's or casino operator's surveillance room. Unauthorized tampering or entrance into the logic area without prior notification is grounds for administrative action.

d. The division shall be allowed immediate access to the locked or sealed area. Keys to EGDs shall be maintained in accordance with these rules and the internal controls. A licensee or casino operator shall provide the division a master key to the door of an approved EGD, if so requested.

### 31. Tape Sealed Areas

a. An EGD's logic boards and any program storage media in a locked area within the EGD shall be sealed with the division's security tape. The security tape shall be affixed by a division agent or person approved by the division. The security tape may only be removed by, or with approval from, a division agent or person approved by the division.

b. The division shall ensure, by utilizing security tape or other approved method, that all other program storage media which may affect the game outcome, game security, jackpot distribution, or proper communication with the monitoring system, is secured in a manner which does not allow tampering or unauthorized modifications.

### 32. Hardware Switches

a. No hardware switches may be installed which alter the pay tables or payout percentage in the operation of an EGD.

b. Hardware switches may be installed to control the following:

- i. graphic routines;
- ii. speed of play;
- iii. sound;
- iv. other approved cosmetic play features.

### 33. Display of Rules of Play

a. The rules of play for EGDs shall be displayed on the face or screen of all EGDs. Rules of play shall be approved by the division prior to play.

b. The division may reject the rules of play if they are:

- i. incomplete;
- ii. confusing;
- iii. misleading; or
- iv. for any other reason stated by the division.

c. Rules of play shall be kept under glass or other transparent substance and shall not be altered without prior approval from the division.

d. Stickers or other removable devices shall not be placed on the EGD face unless their placement is approved by the division.

### 34. Manufacturer's Operating and Field Manuals and Procedures

a. Subject to the rules, each licensee and casino operator shall comply with written guidelines and procedures concerning installations, modifications, and upgrades of components and associated equipment established by the manufacturer of an EGD, component, on-line system, software, and associated equipment.

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 38:

### §4210. Electronic Gaming Device Tournaments

A. EGD tournaments may be conducted by a licensee or casino operator upon written notification to the division.

B. All tournament play shall be on machines which have been tested and approved by the division, and for which the tournament feature has been enabled.

C. All EGDs used in a single tournament shall utilize the same electronics and machine settings. The licensee or casino operator shall utilize, and each device shall be equipped with, an approved program which allows for tournament mode play to be enabled by a switch key (reset feature) or total replacement of the logic board, with an approved tournament board. Replacement of program storage media is not permissible for tournament play only. Form(s) approved by the division are required to be submitted for each device used in tournament play when the non-tournament logic board is removed. The licensee or casino operator shall submit written procedures regarding the storage and security of tournament and non-tournament boards when not in use.

D. EGDs enabled for tournament play shall not accept or pay out coins. The EGDs shall utilize credit points only.

E. Tournament credits shall have no cash value.

F. Tournament play shall not be credited to accounting or electronic (soft) meters of the EGD.

G. At the licensee's or casino operator's discretion, and in accordance with applicable laws and rules, the licensee or casino operator may establish qualification or selection criteria to limit the eligibility of players in a tournament.

#### H. Rules of Tournament Play

1. The licensee or casino operator shall submit rules of tournament play to the division in accordance with §2954. The rules of play shall include, but are not limited to, the following:

a. the amount of points, credits, and playing time players will begin with;

b. the manner in which players will receive EGD assignments and how reassignments are to be handled;

c. how players are eliminated from the tournament and how the winner or winners are to be determined;

d. the number of EGDs each player will be allowed to play;

e. the amount of entry fee for participating in the tournament;

f. the number of prizes to be awarded;

g. an exact description of each prize to be awarded;

h. any additional house rules governing play of the tournament;

i. any rules deemed necessary by the division to ensure compliance with this Chapter.

2. The rules of tournament play shall be provided to all tournament players and each member of the public who requests a copy of the rules.

1. The division may waive any of the requirements of this Section upon a showing of good cause.

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 38:

#### **§4211. Duplication of Program Storage Media**

##### **A. Personnel and Certification**

1. Only the personnel defined in the internal controls shall be allowed to duplicate program storage media.

2. Upon request by the division, the licensee or casino operator shall provide the division with documentation, from the manufacturer or copyright holder of the duplicated program storage media, certifying that the duplication of the program storage media is authorized.

3. The licensee and casino operator shall comply with all rules and regulations regarding copyright infringement.

4. Each duplicated program storage media shall match the designated gaming laboratory's electronic signature for that program storage media.

##### **B. Required Documentation**

1. Each licensee and casino operator shall maintain a program storage media duplication log which shall contain:

a. the name of the program storage media manufacturer and the program storage media identification number of each program storage media to be erased;

b. serial number of program storage media eraser and duplicator;

c. printed name and signature of individual performing the erasing and duplication of the program storage media;

d. identification number of the new program storage media;

e. the number of program storage media duplicated;

f. the date of the duplication;

g. machine number (source and destination);

h. reason for duplication;

i. disposition of permanently removed program storage media.

2. Corporate internal auditors shall verify compliance with program storage media duplication procedures at least twice annually.

##### **C. Program Storage Media Labeling**

1. Each duplicated program storage media shall have an attached adhesive label containing the following:

a. manufacturer's name and serial number of the new program storage media;

b. designated gaming laboratory's electronic signature;

c. date of duplication;

d. initials of personnel performing duplication.

##### **D. Storage of Program Storage Media, Duplicator, and Eraser**

1. Program storage media duplication equipment shall be stored with the security department or other department approved by the division.

2. Equipment shall be released only to the personnel defined in the internal controls.

3. At no time shall the personnel defined in the internal controls leave the program storage media duplication equipment unattended.

4. Program storage media duplication equipment shall only be released from the security department, or other department approved by the division, for a period not to exceed four hours within a 24-hour period.

5. An equipment control log shall be maintained by the licensee and casino operator and shall include the following:

a. date, time, name of employee taking possession of, or returning equipment, and

b. date, time, name of the individual assigned to the security department, or other department approved by the division, taking possession of, or releasing equipment.

6. All program storage media shall be kept in a secure area and the licensee and casino operator shall maintain an inventory log of all program storage media.

##### **E. Internal Controls**

1. The licensee and casino operator shall adopt internal controls which are in compliance with this Section prior to duplicating program storage media.

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 38:

#### **§4212. Marking, Registration, and Distribution of Gaming Devices**

A. No manufacturer, supplier, casino operator or licensee may ship or otherwise transfer a gaming device into this state, out of this state, or within this state unless:

1. a serial number, which shall be the same number as given the device pursuant to the provisions of 15 U.S.C. 1173 of the Gaming Device Act of 1962, is permanently stamped or engraved in lettering no smaller than 5 millimeters on the metal frame or other permanent component of the EGD and on a removable metal plate attached to the cabinet of the EGD;

2. forms, as prescribed by the division, are filed before receiving authorization to ship a device for use in the Louisiana gaming industry;

3. a per device registration fee of \$100.00 is paid by company check, money order, or certified check made payable to State of Louisiana, Department of Public Safety. This fee is not required on devices which are currently registered with the board or division and display a valid registration certificate. This fee is applicable only to gaming devices destined for use in Louisiana by licensees, the casino operator or suppliers; and,

4. division authorization is received prior to shipping a gaming device.

B. Prior to receiving a shipment of a gaming device, the licensee or casino operator shall notify the division of the arrival date. The licensee or casino operator shall verify that the shipper's manifest or other shipping documents correspond to the division's letter of authorization for that shipment. The shipment shall be sealed at the point of origin or the last point of shipment. The seal number shall be recorded on the shipping documents and attached to the licensee's or casino operator's copy of the division's letter of authorization.

C. The shipment, once properly received, shall be stored in a dual locked containment area secure from other

equipment. The containment area shall have been inspected and approved in writing by the division prior to any EGD storage. All electronic control boards and/or program storage media shall be securely stored in a separate containment area from the EGDs. The containment area shall be inspected and approved in writing by the division prior to any electronic control board and/or program storage media storage.

D. Each manufacturer or supplier shall maintain a list of the date of each distribution, the serial numbers of the devices, the division approval number, and the name, state of residence, addresses and telephone numbers of the person to whom the gaming devices have been distributed and shall provide such list to the division immediately upon request.

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 38:

#### **§4213. Approval to Sell or Dispose of Gaming Devices**

A. No gaming device registered by the division shall be destroyed, scrapped, or otherwise disassembled without prior written approval of the division. A licensee and casino operator shall not sell or deliver a gaming device to a person other than its affiliated companies or a permitted manufacturer or supplier without prior written approval of the division. Applications for approval to sell or dispose of a registered gaming device shall be made, processed, and determined in such manner and using such forms as the division may prescribe.

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 38:

#### **§4214. Maintenance of Electronic Gaming Devices**

A. A licensee and casino operator shall not alter the operation of an approved EGD except as provided in these rules and shall maintain the EGDs as required by this Chapter. Each licensee and casino operator shall keep a written list of repairs made to the EGD offered for play to the public that require a replacement of part(s) that affect the game outcome, and any other maintenance activity on the EGD. The list shall be available for inspection by the division upon request. The written list of repairs shall be logged in the machine's M.E.A.L. book which shall be kept in the EGD.

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 38:

#### **§4215. Analysis of Questioned Electronic Gaming Devices**

A. If the operation of any EGD is questioned by any licensee, casino operator, patron, or division agent, and the question cannot be resolved, the questioned device shall be examined in the presence a division agent and a representative of the licensee or casino operator. If the malfunction can not be resolved to the satisfaction of the division, the patron, the casino operator or the licensee, the EGD shall be disabled and be subjected to a program storage media memory test to verify "signature" comparison by the division. While waiting for the division agent to test the EGD, the EGD shall be removed from service and shall not be tampered with by any person. Upon successful verification of the "signature" of the program storage media

and all malfunctions resolved, the EGD in question may be enabled for patron play with approval by the division.

B. In the event that the malfunction cannot be determined and corrected by this testing, the EGD may be removed from the designated gaming area and secured in a remote, locked compartment. The division may require that the EGD be transported to a designated gaming laboratory selected by the division where the device shall be fully analyzed to determine the status and cause of the malfunction. All costs for transportation and analysis shall be borne by the licensee or casino operator.

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 38:

#### **§4216. Summary Suspension of Approval of Electronic Gaming Devices**

A. The board or division may issue an order suspending approval of an EGD if it is determined that the EGD does not operate in the manner certified by the designated gaming laboratory pursuant to this Chapter. After issuing an order, the board or division may seal or seize all models of that EGD not in compliance with this Chapter.

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 38:

#### **Chapter 43. Specifications for Chips, Tokens, Cards, and Dice**

Editor's Note: The information for this Chapter was consolidated from corresponding Chapters in Parts VII, IX, and XIII prior to their being repealed.

#### **§4301. Approval of Chips and Tokens; Applications and Procedures**

A. A licensee or casino operator shall not issue, sell, or redeem any chips, tokens, or modifications of chips or tokens unless approved in writing by the division.

B. Applications for approval of chips, tokens, and modifications to previously approved chips or tokens must be submitted in such manner and using such forms as the division may prescribe. Only licensees, the casino operator and suppliers may apply for such approval. Each application must include:

1. an exact drawing or electronic file, in color, of each side and the edge of the proposed chip or token, drawn to actual size or drawn to larger than actual size and in scale, and showing the measurements of the proposed chip or token in each dimension;
2. written specifications for the proposed chips or tokens;
3. the name and address of the manufacturer;
4. the licensee's or casino operator's intended use for the proposed chips or tokens; and
5. such other items or information as the division may require.

C.1. The licensee, casino operator or supplier shall be notified in writing if the proposed chips or tokens conform to the requirements of this Chapter. The licensee, casino operator or supplier shall then submit a sample of the proposed chips or tokens in final manufactured form.

2. The licensee, casino operator or supplier shall be notified in writing of the division's approval or rejection of the submitted chips or tokens.

3. The division may retain the sample chips and tokens submitted pursuant to this Subsection.

4. the licensee, casino operator or supplier shall be notified in writing of the division's approval or rejection to ship submitted chips or tokens.

5. Approved chips and tokens shall be used as prescribed by the division.

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 38:

#### **§4303. Specifications for Chips and Tokens**

A. Chips and tokens shall be designed, manufactured, and constructed in compliance with all applicable statutes, regulations, and policies of the United States, Louisiana, and other states to prevent counterfeiting of the chips and tokens to the extent reasonably possible. Chips and tokens shall not resemble any current or past coinage of the United States or any other nation.

B. In addition to other specifications as the division may approve, all chips and tokens shall contain:

1. the name of the issuing gaming establishment inscribed on each side of each chip and token;

2. the city, or other locality, and the state where the establishment is located inscribed on at least one side of each chip and token unless the division approves otherwise;

3. the value of the chip or token inscribed on each side of each chip and token except for chips used exclusively at roulette; and

4. the manufacturer's name or a distinctive logo or other mark identifying the manufacturer inscribed on at least one side of each chip or token.

C. Each chip or token shall be designed so that when stacked with chips or tokens of other denominations and viewed on closed circuit, black and white televisions, the denominations can be distinguished from that of the other chips or tokens in the stack.

D. Electronic chips shall contain other additional specifications as the division may approve.

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 38:

#### **§4305. Specifications for Chips**

A. Unless the division approves otherwise, chips shall be disk-shaped, shall be 0.130 inch thick, and shall have a diameter of:

1. 1.55 inches for chips used at games other than baccarat;

2. 1.55 inches or 1.6875 inches for chips used at baccarat; and

3. 1.6875 inches for chips used exclusively at race books or other counter games.

B. Each side of each chip issued exclusively for use at a race book, or a particular game, shall bear an inscription clearly indicating that use of the chip is so restricted.

C. Each denomination of value chip(s) shall have a different primary color. The primary color to be utilized by the licensee or casino operator for each denomination of value chip(s) shall be:

1. \$.50 light blue;
2. \$1 white;
3. \$2.50 pink;

4. \$5 red;

5. \$25 green;

6. \$100 black;

7. \$500 purple;

8. \$1,000 fire orange;

9. \$5,000 gray;

10. \$10,000 yellow;

11. \$25,000 bright blue;

12. \$100,000 gold.

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 38:

#### **§4307. Specifications for Tokens**

A. Unless the division approves otherwise, tokens shall be disk-shaped and shall measure as follows:

1. \$.25 tokens shall be from 0.983 through 0.989 inches in diameter, from 0.064 through 0.070 inches thick, and if the token has reeds or serrations on its edges, the number of reeds or serrations shall not exceed 100;

2. \$1 denomination tokens shall be from 1.459 through 1.474 inches in diameter, from 0.095 through 0.115 inch thick, and, if the token has reeds or serrations on its edges, the number of reeds or serrations shall not exceed 150;

3. \$5 denomination tokens shall be 1.75 inches in diameter, from 0.115 through 0.135 inch thick, and, if the token has reeds or serrations on its edges, the number of reeds or serrations shall not exceed 175;

4. \$25 denomination tokens shall be larger than 1.75 inches but no larger than 1.95 inches in diameter, except that such tokens may be 1.654 inches (42 millimeters) in diameter if made of 99.9% pure silver, shall be 0.10 inch thick, and, if the token has reeds or serrations on its edges, the number of reeds or serrations shall not exceed 200; and

5. tokens of other denominations shall have such measurements and edge reeds or serrations as the division may approve or require.

B. Tokens shall not be manufactured from material possessing sufficient magnetic properties so as to be accepted by a coin mechanism, other than that of an electronic gaming device.

C. Tokens shall not be manufactured from a three-layered material consisting of a copper-nickel alloy clad on both sides of a pure copper core, nor from a copper-based material, unless the total of zinc, nickel, aluminum, magnesium, and other alloying materials is at least 20% of the token's weight.

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 38:

#### **§4309. Use of Chips and Tokens**

A. A licensee or casino operator that uses chips or tokens at its gaming establishment shall:

1. comply with all applicable statutes, regulations, and policies of Louisiana and of the United States pertaining to chips or tokens;

2. sell chips and tokens only to patrons of its gaming establishment and only at their request;

3. promptly redeem its own chips and tokens from its patrons;

4. post conspicuous signs at its establishment notifying patrons that federal law prohibits the use of the tokens, and that state law prohibits the use of the chips, outside the establishment for any monetary purpose; and

5. take reasonable steps, including examining chips and tokens and segregating those issued by another licensee or casino operator, to prevent sales of chips and tokens issued by another licensee or casino operator.

B. A licensee and casino operator shall not accept chips or tokens as payment for any goods or services offered at the gaming establishment with the exception of the specific use for which the chips or tokens were issued, and shall not give chips or tokens as change in any other non-gaming transaction.

C. A licensee and casino operator shall promptly redeem its chips and tokens if presented by:

1. a patron;

2. another licensee or casino operator who represents that it redeemed the chips and tokens from its patrons or received them unknowingly, inadvertently, or unavoidably;

3. an employee of the licensee or casino operator who presents the chips and tokens in the normal course of employment; or

4. an employee of the licensee or casino operator who received the chip or token as gratuity or tip.

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 38:

#### **§4311. Receipt of Gaming Chips or Tokens from Manufacturer or Supplier**

A. When chips or tokens are received from the manufacturer or supplier thereof, they shall be opened and checked by at least two employees of the licensee or casino operator from different departments. Any deviation between the invoice accompanying the chips or tokens and the actual chips or tokens received or any defects found in such chips or tokens shall be reported promptly to the division. A division agent shall be notified of the time of delivery of any chips or tokens to the licensee or casino operator.

B. After checking the chips received, the licensee or casino operator shall document in a chip inventory ledger the denomination of the chips received, the number of each denomination of chips received, the number and description of all non-value chips received, the date of such receipt and the signature of the individuals who checked such chips.

C. If any of the chips received are to be held in reserve and not utilized either at the gaming tables or at a cashier's cage, they shall be stored in a separate locked compartment either in the vault or in a cashier's cage and shall be recorded in the chip inventory ledger as reserve chips.

D. Any chips received that are part of the secondary set of chips of the licensee or casino operator shall be recorded in the chip inventory ledger as such and shall be stored in a locked compartment in the casino vault separate from the reserve chips.

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 38:

#### **§4313. Inventory of Chips**

A. Chips shall be taken from or returned to either the reserve chip inventory or the secondary set of chips in the presence of at least two individuals. The denominations, number and amount of chips so taken or returned shall be recorded in the chip inventory ledger together with the date and signatures of the individuals conducting this process.

B. On a daily basis, the licensee or casino operator shall compute and record the unredeemed liability for each denomination of chips in circulation and cause the result of such inventory to be recorded in the chip inventory ledger. On a monthly basis, each licensee or casino operator shall inventory chips in reserve and the result of such inventory shall be recorded in the chip inventory ledger. The procedures to be utilized to compute the unredeemed liability and to inventory chips in circulation and reserve shall be included in the internal controls. A physical inventory of chips in reserve shall be required annually if the inventory procedures incorporate the sealing of the locked compartment.

C. During non-gaming hours all chips in the possession of the licensee or casino operator shall be stored in the chip bank, in the vault, or in a locked compartment in a cashier's cage except that chips may be locked in a transparent compartment on gaming tables provided that there is adequate security as approved by the division.

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 38:

#### **§4315. Redemption and Disposal of Discontinued Chips and Tokens**

A. A licensee or casino operator that permanently removes from use or that replaces approved chips or tokens at its casino, or that ceases operating its casino, shall prepare a plan for redeeming discontinued chips and tokens that remain outstanding at the time of discontinuance. The licensee or casino operator shall submit the plan in writing to the division not later than 30 days before the proposed removal, replacement, or cessation of gaming operations, unless the cause for discontinuance of the chips or tokens cannot be reasonably anticipated, in which event the licensee or casino operator shall submit the plan as soon as reasonably practicable. The division may approve the plan or require reasonable modifications as a condition of approval. Upon approval of the plan, the licensee or casino operator shall implement the plan as approved.

B. In addition to such other reasonable provisions as the division may approve or require, the plan shall provide for:

1. redemption of outstanding or discontinued chips and tokens, in accordance with this Subsection, for at least 120 days after the removal or replacement of the chips or tokens, for at least 120 days after operations cease, or for a period as the division may approve or require;

2. redemption of the chips and tokens at the casino or at such other location as the division may approve;

3. publication of notice of the discontinuance of the chips and tokens, the redemption period and the redemption location with times of operation in at least two newspapers of general circulation in Louisiana. The notice shall be



published at least twice during each week of the redemption period and shall be subject to the division's approval of the form of the notice, the newspapers selected for publication, and the specific days of publication;

4. conspicuous posting of the notice described in Paragraph B.3 at the casino or other redemption location; and

5. destruction or such other disposition of the discontinued chips and tokens as the division may approve or require.

C. The destruction or disposition of discontinued chips and tokens shall be to the satisfaction of the division.

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 38:

#### **§4317. Destruction of Counterfeit Chips and Tokens**

A. Unless a court of competent jurisdiction orders otherwise, a licensee and casino operator shall destroy or otherwise dispose of counterfeit chips and tokens discovered at their establishments in such manner as the division may approve or require.

B. Unless a court of competent jurisdiction orders otherwise, a licensee and casino operator shall dispose of coins of the United States or any other nation discovered to have been unlawfully used at their establishments by including them in their coin inventories or, in the case of foreign coins, by exchanging them for United States currency or coins and including same in their currency or coin inventories, or by disposing of them in any other lawful manner.

C. In addition to such other information as the division may require, each licensee and casino operator shall record:

1. the number and denominations, actual and purported, of the coins and counterfeit chips and tokens destroyed or otherwise disposed of pursuant to this Section;

2. the month during which they were discovered;

3. the date, place, and method of destruction or other disposition, including, in the case of foreign coin exchanges, the exchange rate and the identity of the bank, exchange company, or other business or person at which or with whom the coins are exchanged; and

4. the names of the persons carrying out the destruction or other disposition on behalf of the licensee or casino operator.

D. Each licensee and casino operator shall maintain each record required by this Subsection.

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 38:

#### **§4318. Promotional and Tournament Chips or Tokens**

A. Promotional and tournament chips or tokens shall be designed, manufactured, approved, and used in accordance with the provisions of these rules applicable to chips or tokens, except as follows:

1. promotional and tournament chips or tokens shall be of such shape and size and have such other specifications as the division may approve or require; and

2. each side of a promotional and tournament chip or token shall conspicuously bear the inscription "no cash value."

B. Promotional and tournament chips or tokens shall not be used, and the licensee and casino operator shall not permit their use, in transactions other than the promotions or tournaments for which they are issued.

C. The provisions of the redemption and destruction regulations in this Chapter do not apply to promotional and tournament chips or tokens.

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 38:

#### **§4319. Approval and Specifications for Dice**

A. Unless otherwise approved by the division, each die used by a licensee or casino operator in its casino shall meet the following specifications:

1. be formed in the shape of a perfect cube and of a size no smaller than 0.750 of an inch on each side nor any larger than 0.775 of an inch on each side, or 0.625 of an inch on each side for Pai Gow Poker;

2. be manufactured to an accuracy tolerance of no greater than 0.0002 of an inch;

3. be transparent and made exclusively of cellulose except for the spots, name of the casino and serial numbers or letters contained thereon;

4. have the surface of each of its sides perfectly flat and the spots contained in each side perfectly flush with the area surrounding them;

5. have all edges and corners perfectly square, that is forming perfect 90 degree angles;

6. have the texture and finish of each side exactly identical to the texture and finish of all other sides;

7. have its weight equally distributed throughout the cube and no side of the cube heavier or lighter than any other side of the cube;

8. have its six sides bearing white circular spots from one to six respectively with the diameter of each spot equal to the diameter of every other spot on the die;

9. have spots arranged so that the side containing one spot is directly opposite the side containing six spots, the side containing two spots is directly opposite the side containing five spots and the side containing three spots is directly opposite the side containing four spots;

10. have the name of the casino, city and state in which the die is being used imprinted or impressed thereon;

11. have each spot placed on the die by drilling into the surface of the cube and filling the drilled out portion with a compound equal in weight to the weight of the cellulose drilled out and which will form a permanent bond with the cellulose cube; and

12. have each spot extend into the cube exactly the same distance as every other spot extends into the cube to an accuracy tolerance of 0.004 of an inch.

B. The licensee, casino operator or supplier shall be notified in writing if the proposed dice conform to the requirements of this Chapter. The licensee, casino operator or supplier shall then submit a sample of the proposed dice in final, manufactured form.

C. The licensee, casino operator or supplier shall be notified in writing of the division's approval or rejection of the submitted dice.

D. The division may retain the sample dice submitted pursuant to this Subsection.

E. The licensee, casino operator or supplier shall be notified in writing of the division's approval or rejection to ship submitted dice.

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 38:

#### **§4321. Approval and Specifications for Cards**

A. Unless otherwise approved by the division, cards used by a licensee or casino operator in its casino must meet the following specifications:

1. Cards used for play shall be in decks of 52 cards with each card identical in size and shape to every other card in the deck.

2. Each deck shall be composed of four suits: diamonds, spades, clubs and hearts.

3. Each suit shall be composed of 13 cards: ace, king, queen, jack, 10, 9, 8, 7, 6, 5, 4, 3, and 2.

4. The back of each card in the deck shall be identical and no card shall contain any marking, symbol or design that will enable a person to know the identity of any element printed on the face of the card or that will in any way differentiate the back of that card from any other card in the deck.

5. The backs of all cards in the deck shall be designed so as to diminish as far as possible the ability of any person to place concealed markings thereon.

6. The design to be placed on the backs of cards shall be submitted to the division for approval prior to use of such cards in gaming activity and shall include the name and city of the casino or another logo approved by the division.

7. Each deck of cards shall be packaged separately and shall contain a seal affixed to the opening of such package.

B. Nothing in this Section shall prohibit a manufacturer from manufacturing decks of cards with jokers contained therein provided such jokers are not used by the licensee or casino operator in the play of the games.

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 38:

#### **§4323. Cards and Dice; Receipt, Storage, Inspections and Removal from Use**

A. When cards or dice for use in the casino are received from the manufacturer or supplier, they shall immediately be inspected by a member of the security department and a table games supervisor to verify that the seals on each box meet the following criteria: are intact, unbroken and free from tampering. Boxes satisfying these criteria shall be placed for storage in a locked cabinet or storage area. Boxes that do not satisfy these criteria shall either be returned to the manufacturer or supplier, or inspected to verify that the cards or dice conform to division standards and are in a condition to ensure fair play and then placed for storage in a locked cabinet or storage area.

B. The cabinet or storage area shall be located in a secure, controlled area, the location and physical characteristics of which shall be approved by the division prior to use.

C. The storage areas will be used exclusively for the cards and dice.

D. A licensee's or casino operator's card and dice inventory log shall include:

1. the balance of cards and dice on hand;
2. the cards and dice removed from storage;
3. the cards and dice returned to storage or received from the manufacturer;
4. the date of the transaction; and
5. the signatures of the individuals involved.

E. A licensee and casino operator shall perform a physical inventory of the cards and dice at least once every three months.

1. this inventory shall be performed by a compliance, internal audit or accounting employee and shall be verified to the balance of cards and dice on hand; and

2. any discrepancies shall immediately be reported to the division.

F. The licensee and casino operator shall include in its internal controls procedures for cancellation and marking techniques for cards and dice removed from play.

G. The licensee and casino operator shall retain the work papers developed and utilized for a physical inventory of the cards and dice for a period of three years commencing on the day of completion of the inventory.

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 38:

#### **Chapter 45. Labor Organizations**

Editor's Note: The information for this Chapter was consolidated from corresponding Chapters in Parts VII, IX, and XIII prior to their being repealed.

#### **§4501. Labor Organization Registration Required**

A. Each labor organization, union or affiliate representing or seeking to represent employees permitted by the board or division and employed by a licensee or casino operator, shall register with the board annually.

B.1. The board may exempt any labor organization, union or affiliate from registration requirements if it determines that such labor organization, union or affiliate:

a. is not the certified bargaining representative of any employee permitted by the board or division or employed by a licensee; and

b. is neither involved nor seeking to be involved actively, directly, or substantially in the control or direction of the representation of any such employee.

2. The exemption shall be subject to revocation upon disclosure of information which indicates that the labor organization, union or affiliate does not or no longer meets the standards for exemption.

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 38:

#### **§4503. Registration Statement**

A. A labor organization, union or affiliate shall file with the board a "Labor Organization Registration Statement" on a form prescribed by the board. The registration statement shall be completed and filed with the board prior to the labor organization becoming the certified bargaining representative for employees occupationally licensed to work for a licensee or casino operator.

B. The registration statement shall include, without limitation, the following:

1. the names of all labor organizations affiliated with the registrant;

2. information as to whether the registrant is involved or seeking to be involved actively, directly or substantially in the control or direction of the representation of any employee licensed by the board or division and employed by a licensee or casino operator;

3. information as to whether the registrant holds, directly or indirectly, any financial interest whatsoever in the licensee or casino operator whose employees it represents;

4. the names of any pension and welfare systems maintained by the registrant and all officers and agents of such systems;

5. the names of all officers, agents and principal employees of the registrant; and

6. all written assurances, consents, waivers and other documentation required of a registrant by the board.

C. The effective date of the registration statement shall be the date the completed Labor Organization Registration Statement is filed with the division.

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 38:

#### **§4505. Registration Renewal**

A. A labor organization registration shall be effective for one year. The registration may be renewed upon filing of an updated "Labor Organization Registration Statement" no later than 120 days prior to the expiration of the current registration.

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 38:

#### **§4507. Continuing Duty to Disclose**

A. Every registered labor organization shall be under a continuing duty to promptly disclose any change in the information contained in the "Labor Organization Registration Statement" or otherwise requested by the board or division.

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 38:

#### **§4509. Federal Reports Exception**

A. Notwithstanding the reporting requirements imposed by the regulations of the board, no labor organization, union, affiliate or person shall be required to furnish any information which is included in a report filed by any labor organization, union, affiliate or person with the secretary of labor, pursuant to 29 U.S.C., section 431 et seq., (Labor-Management Reporting and Disclosure Act) if a copy of such report, or if the portion thereof containing such information, is furnished to the board pursuant to the aforesaid federal provisions.

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 38:

#### **§4511. Qualification of Officers, Agent, and Principal Employees**

A. The board shall have the authority to call forth any officer, agent or employee of the labor organization who has the ability to exercise significant influence over a licensee or

casino operator and such person shall be subject to the suitability and qualification requirements of the Act.

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 38:

#### **Chapter 47. Landbased Casino Gaming**

Editor's Note: The provisions contained in this Chapter have been consolidated from provisions in Chapters 19, 21, 29 and 41 in Part IX prior to their being repealed.

#### **§4701. General Provision and Definitions**

A. The regulations contained in this chapter are applicable only to the casino operator, casino manager and other persons licensed, permitted or determined suitable pursuant to chapter 5 of the Act.

B. The following words and terms shall have the following meanings:

*Annual Audit*—the audit performed each fiscal year by the independent CPA of the fiscal year financial statements of the casino operator performed in accordance with the requirements of the casino operating contract.

*Books and Records*—all financial statements, revenue, expense and other accounting or financial documents or records, including general ledgers, accounts receivable, accounts payable, invoices, payroll records, ownership records, expense records, income records and other documents or records required by the internal control system (including detailed records by game, drop and shift) and all other documents or records maintained by the casino operator or the casino manager whether in print, electronic, magnetic, optical, digital or other media form relating to or concerning the official gaming establishment.

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 38:

#### **§4703. Suitability of Casino Operator**

A. The following persons shall demonstrate their suitability and qualification to the board by clear and convincing evidence:

1. a casino operator;
2. a casino manager;
3. an affiliate of the casino operator;
4. certain holders of debt or equity interest in one or more of the casino operator and its affiliates;

5. all other persons, who either alone or in combination with others, have the ability to significantly and directly affect or influence the affairs of a casino operator or casino manager;

6. a person with respect to whom a finding of suitability is necessary in order to insure that the policies of the Act and the integrity of gaming operations are protected; and

7. any other person that the board, in its sole discretion, directs to demonstrate its suitability and qualifications.

B. For the purpose of this section, any persons holding, owning or controlling a direct or beneficial interest, including any rights created by a counter-letter, option, convertible security or similar instrument, in the following persons shall be presumed to have the ability to significantly and directly influence or affect affairs of a casino operator or casino manager unless the presumption is rebutted by clear and convincing evidence:

1. any persons holding, owning or controlling a 5 percent or more equity interest or outstanding voting securities (including holdings in trust) in a non-publicly traded casino operator, casino manager, holding company or intermediary company of the casino operator or casino manager; or

2. any persons holding, owning or controlling a 5 percent or more equity interest or outstanding voting securities or rights in a publicly traded casino operator, casino manager or any publicly traded holding company or intermediary company of the casino operator or casino manager.

C. Notwithstanding the provisions in subsection B, a holder or owner of a security or other interest that is convertible or exercisable into an equity or ownership interest in a publicly traded holding or intermediary company of the casino operator or casino manager shall not be automatically deemed to have the ability to significantly or directly influence the affairs of the casino operator or casino manager. A holder or owner of a convertible interest shall seek the approval of the board before exercising the conversion rights unless, after conversion, such person will hold, own or control less than 5 percent of the total outstanding equity or ownership interests in the holding or intermediary company of the casino operator or casino manager.

D. A person who is a passive institutional investor who does not, directly or indirectly, influence or affect the affairs of the casino operator or casino manager may be presumed suitable if:

1. the person is an institutional investor as defined in the Act, and

2. within 60 days of acquiring a 5 percent or greater equity interest in the casino operator, casino manager, or a holding company or intermediary company of the casino operator or casino manager, files a petition with the board that requests a granting of a presumption of suitability and contains a statement that such person does not, and has no intention of, directly or indirectly influencing the affairs of the casino operator or casino manager.

E. The provisions of Subsection D shall not prevent the institutional investor from voting on matters put to vote by the outstanding shareholders.

F. The board may in its sole discretion rescind the presumptions of suitability set forth in this section and require any person, including institutional investors, to demonstrate suitability in accordance with the Act and rules.

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 38:

#### **§4705. Suitability of Certain Lenders**

A. Any person holding a security interest in immovable or movable property used in gaming operations shall be required to demonstrate suitability to the board.

B. The following lenders may be presumed suitable in connection with any transaction which is otherwise in compliance with the rules:

1. an institutional lender as defined in the Act; or

2. a person previously found suitable and approved by the board.

C. The board, in its sole discretion, may rescind the presumption of suitability provided in this section and

require any lender to demonstrate its suitability in accordance with the Act and rules.

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 38:

#### **§4707. Safe Harbor**

A. If at any time the board finds that an affiliate of the casino operator or casino manager or a holder of a debt or equity interest in the casino operator, the casino manager or a respective affiliate that is required to be and remain suitable has failed to demonstrate suitability, the board may, consistent with the Act and the casino operating contract, take any action it deems necessary to protect the public interest. The board shall take no action to declare the casino operator, casino manager or an affiliate unsuitable based upon such finding if the casino operator, casino manager or the affiliate takes immediate good-faith action, including the prosecution of all legal remedies, and complies with any order of the board to cause such person failing to demonstrate suitability to dispose of such person's interest in the casino operator, casino manager or affiliate, and, pending such disposition and upon receipt of notice from the board of a finding of failure to demonstrate suitability, the casino operator, casino manager or the affiliate ensures that the person failing to demonstrate suitability:

1. does not receive dividends or interest on the securities of the casino operator, casino manager or the affiliate;

2. does not exercise, directly or indirectly, including through a trustee or nominee, any right conferred by the securities of the casino operator, casino manager or the affiliate;

3. does not receive any remuneration from the casino operator, casino manager or the affiliate;

4. does not receive any economic benefit for the casino operator, casino manager or the affiliate; and

5. subject to the disposition requirements of this section, does not continue in ownership or economic interest in the casino operator, casino manager or the affiliate, or remain as a manager, officer, director, partner, employee, consultant or agent of the casino operator, casino manager or the affiliate.

B. Nothing contained in this section shall prevent the board from taking any action against the casino operator if the casino manager fails to be or remain suitable. Nothing contained in this section shall prevent the board from taking regulatory action against the casino operator, casino manager, or the affiliate if the casino operator, casino manager or the affiliate:

1. had actual or constructive knowledge of the facts that are the basis of the board's regulatory action and failed to take appropriate action; or

2. is so tainted by the person failing to demonstrate suitability so as to affect the suitability of the casino operator, casino manager or the affiliate under the standards of the Act and rules; or

3. cannot meet the suitability standards contained in the Act and rules.

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 38:

**§4709. Additional Reporting Requirements; Floor Plans**

A. The casino operator shall be responsible, in addition to the casino manager, for all reporting and approval obligations imposed upon the casino manager by rule or assumed by the casino manager in connection with the casino management agreement.

B. Pursuant to the casino operating contract, the casino operator shall deliver to the board updated copies of scale drawings of the floor plan of the official gaming establishment as changes are made in the use of any room or enclosed area.

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 38:

**§4711. Hotel Restriction**

A. To the extent permitted by the Act, the casino operator or casino manager shall be allowed to offer lodging provided that no such lodging may be located within the official gaming establishment. Lodging may be offered and provided by the casino operator or its agents or designees in facilities other than the official gaming establishment even if those facilities provide tunnels, walkways and other passageways for ingress and egress to and from the official gaming establishment.

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 38:

**§4713. Permissible Food Service**

A. The casino operator may offer food and restaurant services in non-gaming space in the official gaming establishment as permitted by the Act, including the following.

1. Employee Cafeteria. The casino operator may provide cafeteria style food services with seating for the employees provided that the cafeteria is not accessible to the general public and is limited to the employees of the casino operator and casino manager.

2. Buffet Cafeteria. The casino operator may offer a cafeteria-buffet style food service for patrons not to exceed 400 seats provided that no food shall be given away or discounted at this facility except as provided in the Act.

3. Restaurants. The casino operator may offer a single restaurant facility with table food service not to exceed 150 seats within the official gaming establishment. The casino operator may lease space on the second floor of the official gaming establishment to unaffiliated third parties for no more than two restaurants with total seating not to exceed 350 seats in the aggregate.

4. Local Food Concessions. The casino operator may lease space for food service to area restaurant owners and food preparers in a kiosk area of the official gaming establishment. The seating for such kiosk areas shall be limited to 100 seats in the aggregate which shall be used only for kiosk food service seating. Kiosk areas may include food carts, food courts or such other food service areas approved by the board. For purposes of this Section, area restaurant owners and food preparers shall mean any restaurant or food preparer located in New Orleans or within the state of Louisiana.

B. Except for targeted customers as defined in the Act, the casino operator may not offer or advertise

complimentary or discounted food offerings to the general public within the state of Louisiana or a 50-mile radius of the official gaming establishment.

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 38:

**§4715. Capital Replacement Fund**

A. The casino operator shall establish a capital replacement account to be funded in the manner mandated by the casino operating contract. In the event the contract upon which the funding requirements are established expires or terminates, the casino operator shall fund the capital replacement account as ordered by the board.

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 38:

**§4717. Nondiscrimination and Minority Programs**

A. The casino operator and the casino manager shall adopt written policies, procedures and regulations to allow the participation of businesses owned by minorities in all design, engineering, construction, banking and maintenance contracts and any other projects initiated by the casino operator or casino manager. The written policies, procedures and regulations shall provide for the inclusion of businesses owned by minorities to the maximum extent practicable consistent with applicable law.

B. All businesses or vendors selected by the casino operator or the casino manager for any purpose shall strictly adhere to the nondiscrimination policies and practices embodied in applicable federal, state and local law.

C. The casino operator and the casino manager shall, as nearly as practicable, employ minorities at least consistent with the population of the state and consistent with applicable law.

D. No employee shall be denied the equal protection of the law. No regulation or policy shall discriminate against an employee because of race, religious ideas, beliefs or affiliations. No regulation or policy shall arbitrarily, capriciously or unreasonably discriminate against an employee because of age, sex, culture, physical condition, political ideas or affiliations.

E. In furtherance of the mandate set forth in the preceding subsections, the board shall monitor the casino operator and casino manager's hiring and contracting practices and exercise enforcement authority as follows.

1. Within five days of submission to the city of New Orleans, the casino operator and casino manager shall file with the board copies of all reports that it files with the city of New Orleans pursuant to any program or plan undertaken. Should the casino operator no longer be required to submit the reports to the city of New Orleans, the information contained in the reports will still be required by the board to be submitted in a format as determined by the board.

2. The casino operator or casino manager shall submit any additional information or record the board requires to assist in determining compliance.

3. In the event that the board has reason to believe that the reports submitted provide information that the casino operator or casino manager's employment practices are not in compliance with the Act, the chairman shall issue a notice of concern to the casino operator and casino manager prior

to taking formal action against the casino operator or casino manager.

a. The notice of concern shall describe the alleged area of non-compliance and set a date for a meeting with the chairman for the purpose of discussing areas of concern. The meeting shall be held within 10 days of receipt of the notice unless the chairman agrees to extend the date for a longer period of time.

b. At the meeting with the chairman, the casino operator and casino manager shall present any information that it believes is relevant to the issues raised in the notice of concern.

c. If the chairman does not receive information to his satisfaction concerning the alleged areas of non-compliance he may:

i. take the matter directly to the board;

ii. inform the casino operator and casino manager of the steps deemed necessary to bring the casino operator and casino manager into compliance with the Act and establish a timetable for pursuing and completing such action; or

iii. take other action as he deems appropriate including but not limited to civil penalties and the imposition of a plan that, in the discretion of the board, meets the objectives of the Act and rules and is otherwise consistent with law.

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 38:

#### **§4719. Detention and Ejection**

A. In order to effectuate the policies of the Act related to maintaining the integrity of gaming operations and protecting the safety of persons within the official gaming establishment, the casino operator and casino manager and their employees and agents shall at all times cooperate and assist the board and the division in connection with maintaining order and preventing suspected activity which threatens the safety or welfare of patrons or others within the official gaming establishment.

B. The casino operator or casino manager and their employees and agents may escort a person to security personnel employed by the casino operator or casino manager for questioning and, if necessary, notification and turnover to regulatory or law enforcement authorities including, without limitation, the New Orleans Police Department, the board or the division when there is reasonable cause to believe that the person:

1. has violated any provisions of the Act, rules or other criminal laws of the state;

2. is subject to exclusion pursuant to the Act and rules;

3. is subject to removal pursuant to Subsection D of this Section; or

4. is threatening the safety or welfare of any patron or employee within the official gaming establishment.

C. In connection with any questioning of a person as provided in subsection B, the casino operator or casino manager may take such person into custody, make a reasonable search of such person in accordance with the circumstance for weapons or suspected contraband of suspected criminal activity and detain such person within the official gaming establishment in a reasonable manner and for a reasonable amount of time. The casino operator or casino

manager shall ensure that there is adequate surveillance coverage of the detention area and shall provide notice to the detainee that the area is under surveillance. The casino operator or casino manager may take a photograph of any person detained for questioning.

D. The casino operator and casino manager and their employees and agents may exclude or remove a person from the official gaming establishment when there is reasonable cause to believe the person attempting to enter the casino or located within the casino is:

1. under the age of 21;

2. visibly intoxicated;

3. a threat to the safety or welfare of other persons;

4. a prostitute or panhandler;

5. a person who has been detained or ejected from the official gaming establishment in the past 24 month period; or

6. does not otherwise meet any house rules established for entry into the official gaming establishment.

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 38:

#### **§4721. Extension of Credit**

A. When extending credit to a patron in the form of markers or other lines of credit, the casino operator and casino manager shall adhere to the following rules. These rules shall not apply to check cashing provided such check cashing is performed consistent with the casino operator's internal controls and as otherwise provided by rule.

B. A credit file for each person shall be prepared by the casino operator's or casino manager's cage cashier or credit department representative with no incompatible functions either manually or by computer prior to the casino operator's or casino manager's approval of a person's credit limit. All credit limits and changes thereto shall be supported by the information obtained in the credit file. All information recorded in the credit file shall be in accordance with the casino operator's or casino manager's system of internal controls.

C. Prior to the casino operator's or casino manager's approval of a person's credit limit, a credit department representative with no incompatible functions shall:

1. ensure that the person to whom the credit is extended signs the credit instrument prior to receiving the extension;

2. obtain, record and verify the person's address prior to extending the credit; and

3. document that the casino operator or casino manager:

a. has received information from a bona fide credit reporting agency that the person has an established credit history that is not derogatory; or

b. has received information from a legal business that has extended credit to the person that the person has an established credit history that is not derogatory; or

c. has received information from a financial institution at which the person maintains an account that the person has an established credit history that is not derogatory; or

d. has examined records of its previous credit transactions with the person showing that the person has paid substantially all of his credit instruments and otherwise

documents that it has a reasonable basis for placing the amount or sum at the person's disposal; or

e. if no credit information was available from any of the sources listed in Paragraph C.3.a-d above for a person who is not a resident of the United States, the casino operator or casino manager has received, in writing, information from an agent or employee of the casino operator or casino manager, limited to those listed in §4723, who has personal knowledge of the person's credit reputation or financial resources that there is a reasonable basis for extending credit in the amount or sum placed at the person's disposal; or

f. has, in the case of third party checks for which cash, chips, or tokens have been issued to the person or which were accepted in payment of another credit instrument, either examined and photocopied the person's valid driver's license, or if a driver's license cannot be obtained, examined and photocopied some other document normally acceptable as a means of identification when cashing checks to be kept in the person's credit file and has, for the check's maker or drawer, performed and documented one of the credit checks set forth in this Subsection.

D. Credit limit extensions, not to exceed \$1,000, may be approved without performing the requirements of Subsections B and C if such credit extensions are temporary and are noted as being for this trip only (TTO) in the credit file. Temporary credit extensions shall be limited to the strict guideline of the approved internal control system.

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 38:

#### **§4723. Credit Approval Authorization**

A. Any credit limit, and any changes thereto, must be approved by any one or more of the individuals identified in the internal controls, or holding the job positions of the vice president of casino operation, credit manager, assistant credit manager, credit shift manager, credit executive or a credit committee composed of casino key employees with no incompatible functions which may approve credit as a group but whose members may not approve credit individually unless such person is included in the job position referenced above, or in the approved internal controls.

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 38:

#### **§4725. Credit Limit Increases**

A. Prior to approving a credit limit increase, a representative of the credit department shall:

1. obtain a written request from the person;
2. verify the person's current casino limits and outstanding balances;
3. verify the person's outstanding indebtedness and personal checking account information;
4. consider the person's player rating based on a continuing evaluation of the amount and frequency of play subsequent to the person's initial receipt of credit. The person's player rating shall be readily available to the credit department prior to their approving a person's request for a credit limit increase;

a. for table game play, the information for the person's player rating shall be recorded on a player rating

form by casino department supervisors or put directly into the casino operator's or casino manager's computer system pursuant to an approved submission; and

b. for slot play, the information for the person's player rating shall be recorded on a player rating form by slot department supervisors, or put directly into the casino operator's or casino manager's system pursuant to an approved submission, or generated by insertion of a card, by a person, into a card reader attached to a slot machine;

5. include the information and documentation required by Paragraphs A.1-6 above and the person's player rating indicated at the time the credit increase is approved in the person's credit file.

B. The casino operator or casino manager shall establish procedures for safeguarding used player rating forms. Such procedures shall be incorporated in the system of internal controls approved by the division.

C. Credit limit increases may be approved without performing the requirements of Paragraphs A.2 and A.3 above if the increases are temporary and are noted as being for this trip only (TTO) in the credit file. Temporary increases shall be limited to the strict guideline of the approved internal control system.

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 38:

#### **§4727. Additional Requirements**

A. The casino operator's or casino manager's credit department shall either verify the person's address, current casino credit limits and any outstanding indebtedness, or suspend the person's credit privileges, whenever:

1. a person's credit file has been inactive for a 12-month period; or
2. a person has failed to completely pay off his credit balance at least once within a 12-month period; or
3. a credit instrument is returned to the casino operator or casino manager by a person's bank; or
4. information is received by the casino operator's or casino manager's credit department which reflects negatively in the person's continued credit worthiness; or
5. the information in the person's credit file has not been updated or verified for a 12-month period;

B. If a person's credit privileges have been suspended, the procedures required by subsection A above shall be performed before that person's credit privileges are reinstated provided, however, if the suspension is the result of a return check by the person's bank, the casino operator or casino manager may alternatively reinstate the person's credit privileges by complying with the requirements of §4729 of these regulations.

C. The casino operator or casino manager shall verify the person's name and banking information whenever the casino operator or casino manager has reason to believe that this information has changed.

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 38:

#### **§4729. Suspension of Credit Privileges**

A. Any person having a check returned to the casino operator or casino manager unpaid by the person's bank shall have his credit privileges suspended until such time as the

returned check has been paid in full or the reason for the derogatory information has been satisfactorily explained. If the casino operator or casino manager desires to continue the person's credit privileges on the basis of a satisfactory explanation having been obtained for the returned check, it may do so if the casino operator or casino manager records the explanation for its decision in the credit file before accepting any further checks from the person along with the signature of the credit department representative accepting the explanation.

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 38:

#### **§4731. Record Keeping**

A. All transactions affecting a person's outstanding indebtedness including all issuances of credit and payments thereof, to the casino operator or casino manager shall be recorded in chronological order in the person's credit file and credit transactions shall be segregated from the safekeeping deposit transactions.

B. Player rating cards, evidence of credit worthiness and related documents shall be retained for a minimum of five years, or as long as the debt remains unpaid, whichever is longer.

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 38:

#### **§4733. Disallowed Deductions**

A. The casino operator or casino manager shall not be entitled to a deduction if the minimum payment required under the casino operating contract has not been satisfied.

B. The casino operator or casino manager may not be entitled to a deduction if a particular credit was, in the sole opinion of the division, issued in a manner inconsistent with the internal controls.

C. The casino operator or casino manager shall not knowingly compromise and credit collection amount with any person that has an outstanding debt with any affiliate or subsidiary of the casino operator or casino manager without the approval of the division.

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 38:

#### **§4735. Grounds for Disciplinary Action against the Casino Operator, Casino Manager or Affiliates**

A. The board and division deems any activity on the part of the casino operator, casino manager or affiliates, and their agents or employees, as well as all permittees, that is inimical to the public health, safety, morals, good order and general welfare of the people of the state of Louisiana, or that would reflect or tend to reflect negatively upon the state of Louisiana or the gaming industry, to be an unsuitable method of operation and shall constitute grounds for disciplinary action by the board in accordance with the Act and rules. Without limiting the generality of the foregoing, the following acts or omissions may be determined to be unsuitable methods of operation:

1. failing to disclose, misstating or otherwise misleading the board or division with respect to any material fact contained in an application;

2. committing, attempting to commit or conspiring to commit any acts or omissions prohibited by the Act or rules;

3. failing to maintain suitability as provided in the act and rules;

4. failure to exercise discretion and sound judgment to prevent incidents which might reflect on the reputé of the state of Louisiana and the Act as a detriment to the development of the gaming industry;

5. knowingly permitting persons who are visibly intoxicated to participate in gaming activity;

6. complimentary service of intoxicating beverages in the casino area to persons visibly intoxicated;

7. failure to conduct advertising and public relations activities in accordance with decency, dignity, good taste, honesty and inoffensiveness;

8. knowingly catering to, assisting, employing or associating with, either socially, or in business affairs, persons of notorious or unsavory reputation or persons who have extensive police records, or persons who have defied congressional investigative committees or other officially constituted bodies acting on behalf of the United States, or any state, or persons who are associated with or supportive of subversive movements;

9. the employing either directly or through a contract, or any other means, of any firm or individual in any capacity where the reputé of the state of Louisiana or the gaming industry is liable to be damaged because of the unsuitability of the firm or individual or because of the unethical methods of operation of the firm or individual;

10. employing in a position for which the individual could be required to be a permitted employee or key management or key gaming employee pursuant to these rules, any person who has been denied a permit or approval on the grounds of unsuitability or has failed or refused to apply for a permit as an employee, key management or key gaming employee as requested by the board;

11. employing any person who has been found guilty of cheating or using a cheating device in connection with any game, whether as a permittee or player;

12. employing any person whose conduct resulted in the revocation or suspension of his permit unless such permit was reinstated or otherwise reissued;

13. failure to comply with, or make provision for compliance with, all applicable federal, state and local laws and regulations including, without limiting the generality of the foregoing, payment of all fees and taxes and compliance with all procedures and forms prescribed by the secretary of the Department of Revenue. The board, in the exercise of its sound discretion, can make its own determination of whether or not the person has failed to comply with the aforementioned, but such determination shall make use of the established precedents in interpreting language of the applicable statutes;

14. possessing or permitting to remain in or upon the premises of the official gaming establishment any cards, dice, or mechanical device which is not in compliance with, or was obtained in a manner that was not in compliance with the Act or rules;

15. conducting, carrying on, operating or dealing with any cheating device on the premises;

16. failure to conduct gaming operations in accordance with the proper standards of custom, decorum and decency,



or permit any type of conduct in the official gaming establishment which reflects or tends to reflect negatively on the repute of the state of Louisiana;

17. failure to have an employee of the casino operator or casino manager on the premises to supervise any game;

18. issuing credit to a patron to enable the patron to satisfy a debt owed to another person;

19. denying any board member or representative or division agent, upon proper and lawful demand, access to, any portion or aspect of the official gaming establishment;

20. failing to comply with any provision of these regulations or the casino operator's approved internal controls systems, approved rules of games, or any other order or approval;

21. failing to take all reasonable steps necessary to prevent persons under the age of 21, unless otherwise permitted under applicable law, to:

a. play or be allowed to play any game or gaming device at the casino;

b. loiter or be permitted to loiter in or about any room, premises, or designated area where any game or gaming device is located, operated or conducted at the casino;

c. serve or be served, consume or be allowed to consume any alcoholic beverage at the casino;

22. failing to draft and implement policies and procedures designed to satisfy the requirements of Paragraph 21 above.

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 38:

#### **§4737. Disciplinary Action against Employees and Agents**

A. The board may take disciplinary action against any employee or agent of the casino operator or casino manager who:

1. failed to disclose, misstated or otherwise misled the board with respect to any material fact contained in his application for a permit or finding of suitability;

2. committed, attempted to commit, or conspired to commit any acts or omissions prohibited by the Act or any rule;

3. knowingly permitted to remain in play, at the official gaming establishment, any cheating device;

4. concealed or refused to disclose any material fact in any investigation by the board or division;

5. committed, attempted to commit, or conspired to commit theft or embezzlement against the casino operator;

6. been convicted of any gaming related offense in any gaming jurisdiction;

7. accepted employment without prior board or division approval in a position for which he is required to be permitted under the Act or these rules, after having been denied a permit for a reason involving suitability or after failing to apply for a permit upon being requested to do so by the board or division;

8. been refused the issuance or renewal or had suspended or revoked any gaming license or permit, or manufacturing and distribution permit, or any pari-mutual permit in any other gaming jurisdiction;

9. been prohibited, by governmental action from being on the premises of any gaming establishment in Louisiana or any other gaming jurisdiction; or

10. been determined in the sole discretion of the board, to be a person whose prior activities, criminal record, reputation, habits, and associations pose a threat to the public interest to this state or create or enhance the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of gaming operation at the official gaming establishment;

11. failed to maintain suitability as provided in the Act and rules;

12. failed to comply with any provision of these rules.

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 38:

#### **§4739. Gaming by Owners, Directors, Officers and Key Employees**

A. Except as provided in Subsection B, no officer, director, owner or key management or key gaming employee of the casino operator shall play or place a wager at any game or slot machine which is exposed to the public for play or wagering by the casino operator or at any casino in the state of Louisiana which is owned or operated in whole or in part by the casino operator.

B. This prohibition shall not apply to the playing of or the wagering on poker or panguingui.

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 38:

#### **§4741. Disciplinary Action against Manufacturers, Distributors and Other Vendors**

A. The board may take disciplinary action against any manufacturer, distributor or other vendor of gaming devices or gaming supplies and any non gaming vendor if the vendor has:

1. failed to disclose, misstated or otherwise misled the board with respect to any material fact contained in his application for a permit, registration or finding of suitability;

2. committed, attempted to commit or conspired to commit any acts or omissions prohibited by the Act or rules;

3. concealed or refused to disclose any material fact in any investigation by the board or division;

4. committed, attempted to commit, or conspired to commit theft or embezzlement against the casino operator;

5. been convicted of any gaming related offense in any gaming jurisdiction;

6. conducted business with the casino operator prior to being permitted under the Act or rules. This prohibition shall not apply to vendors not required to be permitted under the Act or rules;

7. been refused the issuance or renewal or had suspended or revoked any gaming license or permit, or manufacturing and distribution permit, or any pari-mutual permit in any other gaming jurisdiction;

8. been determined in the sole discretion of the board, to be a person whose prior activities, criminal record, reputation, habits and associations pose a threat to the public interest to this state or, create or enhance the dangers of

unsuitable, unfair or illegal practices, methods and activities in the conduct of gaming operations at the official gaming establishment;

9. failed to maintain suitability as provided in the Act and rules;

10. failed to comply with any provision of the rules.

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 38:

#### **§4743. Criminal Conviction as Grounds for Disciplinary Action**

A. The board may discipline any person found suitable, including revoking or suspending his permit, registration, approval or finding of suitability, if the person, or if the person is a corporation or partnership, any person owning 5 percent or more interest in the profits or losses of such entity, is convicted of a crime, even though the convicted person's post-conviction rights and remedies have not been exhausted, if the crime or conviction discredits or tends to discredit the state of Louisiana or the gaming industry.

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 38:

### **Part VII. Pari-Mutuel Live Racing Facility Slot Machine Gaming**

#### **Chapter 17. General Provisions**

Editor's Note: The provisions contained in this chapter may have been consolidated into a corresponding chapter in Part III.

##### **§1701. Definitions**

Repealed.

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 26:728 (April 2000), amended LR 29:362 (March 2003), LR 34:2645 (December 2008), repealed LR 38:

##### **§1703. Ownership of Licenses and Permits**

Repealed.

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 26:732 (April 2000), repealed LR 38:

##### **§1705. Transfers of Licenses or Permits**

Repealed.

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 26:732 (April 2000), repealed LR

#### **Chapter 19. Administrative Procedures and Authority**

Repealed.

Editor's Note: The provisions contained in this chapter may have been consolidated into a corresponding chapter in Part III.

##### **§1907. Issuance and Construction of Regulations and Administrative Matters**

Repealed.

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 26:732 (April 2000), repealed LR 38:

#### **Chapter 21. Licenses and Permits**

Editor's Note: The provisions contained in this chapter may have been consolidated into a corresponding chapter in Part III.

##### **§2101. General Authority of the Board and Division**

Repealed.

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 26:732 (April 2000), amended LR 29:362 (March 2003), repealed LR 38:

##### **§2103. Applications in General**

Repealed.

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 26:732 (April 2000), repealed LR 38:

##### **§2105. Investigations**

Repealed.

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 26:733 (April 2000) repealed LR 38:

##### **§2107. Applicants in General; Restrictions**

Repealed.

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 26:733 (April 2000), repealed LR 38:

##### **§2108. Non-Gaming Suppliers**

Repealed.

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 26:733 (April 2000), amended LR 34:2465 (December 2008), repealed LR 38:

##### **§2109. Suitability Determination**

Repealed.

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 26:734 (April 2000), repealed LR 38:

##### **§2110. Plans and Specifications**

Repealed.

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 26:734 (April 2000), repealed LR 38:

##### **§2111. License or Permit Disqualification Criteria**

Repealed.

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 26:735 (April 2000), repealed LR 38:

**§2113. License and Permits; Suitability**

Repealed.

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 26:735 (April 2000), repealed LR 38:

**§2114. Tax Clearances Required of an Applicant for a License**

Repealed.

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 26:735 (April 2000), repealed LR 38:

**§2115. Tax Clearances**

Repealed.

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 26:735 (April 2000), repealed LR 38:

**§2116. Cash Transaction Reporting**

Repealed.

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 34:2646 (December 2008), repealed LR 38:

**§2121. Form of Application for a License**

Repealed.

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 26:735 (April 2000), repealed LR 38:

**§2123. Additional Type A Application Information Required**

Repealed.

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 26:736 (April 2000), repealed LR 38:

**§2125. Access to Applicants' Premises and Records**

Repealed.

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 26:736 (April 2000), repealed LR 38:

**§2127. Information Constituting Grounds for Delay or Denial of Application; Amendments**

Repealed.

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 26:736 (April 2000), repealed LR 38:

**§2129. Other Considerations for Licensing**

Repealed.

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 26:736 (April 2000), repealed LR 38:

**§2131. TimeTable for Financing and Construction**

Repealed.

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 26:737 (April 2000), repealed LR 38:

**§2133. License Term and Filing of Application**

Repealed.

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 26:737 (April 2000), repealed LR 38:

**§2137. Fingerprinting**

Repealed.

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 26:737 (April 2000), repealed LR 38:

**§2141. Renewal Applications**

Repealed.

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 26:737 (April 2000), repealed LR 38:

**§2143. Conduct of Investigation; Time Requirements**

Repealed.

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 26:737 (April 2000), repealed LR 38:

**§2146. Subpoenas and Subpoenas Duces Tecum**

Repealed.

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 26:737 (April 2000), repealed LR 38:

**§2151. Waiver of Privilege**

Repealed.

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 26:737 (April 2000), repealed LR 38:

**§2155. Withdrawal of Application**

Repealed.

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 26:737 (April 2000).

**§2157. Application after Denial**

Repealed.

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 26:738 (April 2000), repealed LR 38:

**§2158. Criteria for the Issuances of Permits**

Repealed.

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 26:738 (April 2000), repealed LR 38:

#### **§2159. Gaming Employee Permits Required**

Repealed.

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 26:738 (April 2000), amended LR 35:84 (January 2009), repealed LR 38:

#### **§2161. Application for Gaming Employee Permit; Procedure**

Repealed.

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 26:738 (April 2000), repealed LR 38:

#### **§2165. Display of Gaming Identification Badge**

Repealed.

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 26:738 (April 2000), repealed LR 38:

### **Chapter 23. Compliance, Inspections and Investigations**

Repealed.

Editor's Note: The provisions contained in this chapter may have been consolidated into a corresponding chapter in Part III.

#### **§2301. Applicability and Resources**

Repealed.

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 26:738 (April 2000), repealed LR 38:

#### **§2303. Inspections and Observations**

Repealed.

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 26:738 (April 2000), repealed LR 38:

#### **§2305. Inspections during Construction**

Repealed.

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 26:738 (April 2000), repealed LR 38:

#### **§2307. Investigations**

Repealed.

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 26:739 (April 2000), repealed LR 38:

#### **§2309. Investigative Powers of the Board and Division**

Repealed.

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 26:739 (April 2000), repealed LR 38:

#### **§2311. Seizure and Removal of Gaming Equipment and Devices**

Repealed.

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 26:739 (April 2000), repealed LR 38:

#### **§2315. Seized Equipment and Devices as Evidence**

Repealed.

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 26:739 (April 2000), repealed LR 38:

#### **§2317. Subpoenas in Connection with Investigative Hearings**

Repealed.

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 26:739 (April 2000), repealed LR 38:

#### **§2319. Contempt**

Repealed.

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 26:739 (April 2000), repealed LR 38:

#### **§2321. Investigative Hearings**

Repealed.

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 26:740 (April 2000), repealed LR 38:

#### **§2323. Interrogatories**

Repealed.

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 26:740 (April 2000), repealed LR 38:

#### **§2325. Sanctions**

Repealed.

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 26:1321 (June 2000), amended LR 27:2255 (December 2001), LR 28:1028 (May 2002), repromulgated LR 28:2371 (November 2002), amended LR 29:362 (March 2003), LR 31:1603 (July 2005), LR 33:856 (May 2007), repealed LR 38:

#### **§2327. Proof of Compliance**

Repealed.

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 26:740 (April 2000), repealed LR 38:

**§2329. Notification of Vendor Recommendations or Solicitations**

Repealed.

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 26:740 (April 2000), repealed LR 38:

**§2331. Supplier Permit Criteria**

Repealed.

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 26:740 (April 2000), repealed LR 38:

**Chapter 25. Transfers of Interest in Licensees and Permittees; Loans and Restrictions**

Editor's Note: The provisions contained in this chapter may have been consolidated into a corresponding chapter in Part III.

**§2501. Transfers in General**

Repealed.

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 26:740 (April 2000), repealed LR 38:

**§2503. Requirements of Full Disclosure**

Repealed.

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 26:741 (April 2000), repealed LR 38:

**§2505. Prior Approval of Transfers Required**

Repealed.

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 26:741 (April 2000), repealed LR 38:

**§2507. Transfer of Economic Interest among Licensees and/or Permittees**

Repealed.

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 26:741 (April 2000), repealed LR 38:

**§2509. Transfer of Economic Interest to Nonlicensee or Nonpermittee**

Repealed.

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 26:741 (April 2000), repealed LR 38:

**§2511. Statement of Restrictions Concerning Transfers**

Repealed.

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 26:742 (April 2000), repealed LR 38:

**§2513. Emergency Situations**

Repealed.

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 26:742 (April 2000), repealed LR 38:

**§2515. Emergency Procedures**

Repealed.

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 26:742 (April 2000), repealed LR 38:

**§2517. Emergency Permission to Participate; Investigation**

Repealed.

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 26:743 (April 2000), repealed LR 38:

**§2519. Effect of Emergency Permission to Participate; Withdrawal**

Repealed.

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 26:743 (April 2000), repealed LR 38:

**§2527. Escrow Accounts**

Repealed.

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 26:744 (April 2000), repealed LR 38:

**Chapter 27. Accounting Regulations**

Editor's Note: The provisions contained in this chapter may have been consolidated into a corresponding chapter in Part III.

**§2701. Procedure for Reporting and Paying Taxes and Fees**

Repealed.

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 26:745 (April 2000), amended LR 34:2647 (December 2008), repealed LR 38:

**§2703. Accounting Records**

Repealed.

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 26:745 (April 2000), repealed LR 38:

**§2705. Records of Ownership**

Repealed.

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 26:745 (April 2000), repealed LR 38:

**§2707. Record Retention**

Repealed.

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 26:746 (April 2000), amended LR 34:2647 (December 2008), LR 36:1018 (May 2010), repealed LR 38:

#### **§2709. Standard Financial Statements**

Repealed.

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 26:746 (April 2000), amended LR 34:2647 (December 2008), repealed LR 38:

#### **§2711. Audited Financial Statements**

Repealed.

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 26:746 (April 2000), amended LR 34:2647 (December 2008), repromulgated LR 35:82 (January 2009), repealed LR 38:

#### **§2713. Cash Reserve and Bonding Requirements; General**

Repealed.

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 26:748 (April 2000), repealed LR 38:

#### **§2715. Internal Control; General**

Repealed.

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 26:748 (April 2000), amended LR 26:2305 (October 2000), LR 34:2647 (December 2008), LR 36:1018 (May 2010), repealed LR 38:

#### **§2716. Clothing Requirements**

Repealed.

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 26:750 (April 2000), repromulgated LR 26:2305 (October 2000), repealed LR 38:

#### **§2719. Internal Controls; Handling of Cash**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Gaming Control Board, LR 26:750 (April 2000) amended LR:26:2305 (October 2000), repealed LR 38:

#### **§2721. Internal Controls; Tips or Gratuities**

Repealed.

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 26:750 (April 2000), repealed LR 38:

#### **§2723. Internal Controls; Slots**

Repealed.

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 26:751 (April 2000), amended LR 26:2305 (October 2000), LR 31:1603

(July 2005), LR 34:2648 (December 2008), LR 35:2198 (October 2009), LR 35:2815 (December 2009), LR 36:1018 (May 2010), repealed LR 38:

#### **§2729. Internal Controls; Cage, Vault and Credit**

Repealed.

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 26:761 (April 2000), amended LR 34:2649 (December 2008), LR 35:2816 (December 2009), repealed LR 38:

#### **§2731. Currency Transaction Reporting**

Repealed.

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 26:761 (April 2000), amended LR 34:2649 (December 2008), repealed LR 38:

#### **§2735. Net Slot Machine Proceeds Computation**

Repealed.

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 26:762 (April 2000), amended LR 34:2650 (December 2008), repealed LR 38:

#### **§2739. Extension of Time for Reporting**

Repealed.

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 26:762 (April 2000), repealed LR 38:

#### **§2741. Petitions for Redetermination; Procedures**

Repealed.

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 26:762 (April 2000), repealed LR 38:

#### **§2743. Claims for Refunds; Procedures**

Repealed.

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 26:763 (April 2000).

### **Chapter 29. Operating Standards**

Repealed.

Editor's Note: The provisions contained in this chapter may have been consolidated into a corresponding chapter in Part III.

#### **§2901. Code of Conduct of Licensees and Permittees**

Repealed.

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 26:763 (April 2000), amended LR 27:58 (January 2001), LR 29:2505 (November 2003), LR 34:2650 (December 2008), repealed LR 38:

#### **§2903. Compliance with Laws**

Repealed.

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 26:763 (April 2000), repealed LR 38:

**§2905. Weapons in the Designated Gaming Area**

Repealed.

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 26:763 (April 2000), repealed LR 38:

**§2911. Accessibility to Premises; Parking**

Repealed.

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 26:763 (April 2000), repealed LR 38:

**§2913. Access to Premises and Production of Records**

Repealed.

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 26:764 (April 2000), repealed LR 38:

**§2915. Age Restrictions for the Casino; Methods to Prevent Minors from Gaming Area**

Repealed.

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 26:764 (April 2000), amended LR 29:2506 (November 2003), repealed LR 38:

**§2919. Finder's Fees**

Repealed.

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 26:764 (April 2000), repealed LR 38:

**§2921. Collection of Gaming Credit**

Repealed.

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 26:764 (April 2000), repealed LR 38:

**§2923. Identification Card Issuance Equipment**

Repealed.

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 26:764 (April 2000), repealed LR 38:

**§2925. Junkets and Related Activities**

Repealed.

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 26:765 (April 2000), repealed LR 38:

**§2927. Advertising**

Repealed.

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 26:765 (April 2000), amended LR 33:856 (May 2007), LR 35:2199 (October 2009), repealed LR 38:

**§2929. Conservatorship**

Repealed.

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 26:765 (April 2000), repealed LR 38:

**§2931. Assisting in Violations**

Repealed.

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 26:767 (April 2000), amended LR 26:2824 (December 2000), repealed LR 38:

**§2935. Entertainment Activities**

Repealed.

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 26:767 (April 2000), repealed LR 38:

**§2937. Distributions**

Repealed.

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 26:767 (April 2000).

**§2939. Action Based upon Order of Another Jurisdiction**

Repealed.

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 26:768 (April 2000), repealed LR 38:

**§2941. Access by Board to Licensee Computer Systems**

Repealed.

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 26:768 (April 2000), repealed LR 38:

**§2943. Gaming Employees Prohibited from Gaming**

Repealed.

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 26:768 (April 2000), repealed LR 38:

**§2944. Waivers and Authorizations**

Repealed.

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 26:768 (April 2000), repealed LR 38:

**§2945. Restrictive Areas**

Repealed.

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 26:768 (April 2000), repealed LR 38:

#### **§2947. Comfort Letters**

Repealed.

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 26:768 (April 2000), repealed LR 38:

#### **§2951. Approvals**

Repealed.

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 26:768 (April 2000), repealed LR 38:

#### **§2953. Promotions**

Repealed.

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 26:768 (April 2000), amended LR 27:1555 (September 2001), LR 30:90 (January 2004), LR 34:2650 (December 2008), repealed LR 38:

#### **§2954. Tournaments**

Repealed.

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 27:1556 (September 2001), amended LR 34:2650 (December 2008), repealed LR 38:

#### **§2955. Managerial Representative on Premises**

Repealed.

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 26:770 (April 2000), amended LR 28:1028 (May 2002), repealed LR 38:

### **Chapter 33. Surveillance and Security**

Repealed.

Editor's Note: The provisions contained in this chapter may have been consolidated into a corresponding chapter in Part III.

#### **§3301. Required Surveillance Equipment**

Repealed.

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 26:770 (April 2000), amended LR 34:2650 (December 2008), repealed LR 38:

#### **§3302. Digital Video Recording Standards**

Repealed.

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 34:2650 (December 2008), repealed LR 38:

#### **§3303. Surveillance and Security Plans**

Repealed.

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 26:770 (April 2000), repealed LR 38:

#### **§3304. Surveillance Personnel Employment Provisions**

Repealed.

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 27:1556 (September 2001), repealed LR 38:

#### **§3305. Surveillance and Division Room Requirements**

Repealed.

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 26:771 (April 2000), amended LR 27:1556 (September 2001), repealed LR 38:

#### **§3307. Segregated Telephone Communication**

Repealed.

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 26:771 (April 2000), repealed LR 38:

#### **§3309. Security and Surveillance Logs**

Repealed.

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 26:771 (April 2000), repealed LR 38:

#### **§3311. Storage and Retrieval**

Repealed.

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 26:772 (April 2000), amended LR 35:84 (January 2009), repealed LR 38:

#### **§3315. Maintenance and Testing**

Repealed.

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 26:772 (April 2000), repealed LR 38:

### **Chapter 35. Patron Disputes**

Editor's Note: The provisions contained in this chapter may have been consolidated into a corresponding chapter in Part III.

#### **§3501. Licensee Duty to Notify Division of Patron Dispute**

Repealed.

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 26:772 (April 2000), repealed LR 38:

### **Chapter 41. Enforcement Actions**

Editor's Note: The provisions contained in this chapter may have been consolidated into a corresponding chapter in Part III.

#### **§4101. Emergency Orders**

Repealed.

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 26:773 (April 2000), repealed LR 38:

**§4103. Chairman Action by Order**

Repealed.

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 26:773 (April 2000), repealed LR 38:

**§4105. Criteria for Sanctions**

Repealed.

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 26:773 (April 2000), repealed LR 38:

**Chapter 42. Racetracks: Electronic Gaming Devices**

Repealed.

Editor's Note: The provisions contained in this chapter may have been consolidated into a corresponding chapter in Part III.

**§4201. Division's Central Computer System (DCCS)**

Repealed.

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 26:773 (April 2000), amended LR 34:2651 (December 2008), repealed LR 38:

**§4202. Approval of Electronic Gaming Devices; Applications and Procedures; Manufacturers and Suppliers**

Repealed.

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 26:774 (April 2000), repealed LR 38:

**§4203. Minimum Standards for Electronic Gaming Devices**

Repealed.

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 26:775 (April 2000), amended LR 33:488 (March 2007), repealed LR 38:

**§4204. Progressive Electronic Gaming Devices**

Repealed.

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 26:775 (April 2000), amended LR 31:1604 (July 2005), LR 33:2462 (November 2007), LR 34:2652 (December 2008), repealed LR 38:

**§4205. Computer Monitoring Requirements of Electronic Gaming Devices**

Repealed.

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 26:777 (April 2000), amended LR 34:2652 (December 2008), repealed LR 38:

**§4206. Employment of Individual to Respond to Inquires from the Division**

Repealed.

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 26:778 (April 2000), amended LR 34:2652 (December 2008).

**§4207. Evaluation of New Electronic Gaming Devices**

Repealed.

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 26:778 (April 2000), repealed LR 38:

**§4208. Certification by Manufacturer**

Repealed.

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 26:778 (April 2000), repealed LR 38:

**§4209. Approval of New Electronic Gaming Devices**

Repealed.

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 26:778 (April 2000), amended LR 29:2506 (November 2003), LR 31:1602 (July 2005), LR 31:1604 (July 2005), LR 34:2652 (December 2008), repealed LR 38:

**§4210. Electronic Gaming Device Tournaments**

Repealed.

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 26:783 (April 2000), repealed LR 38:

**§4211. Duplication of Program Storage Media**

Repealed.

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 26:784 (April 2000), amended LR 34:2653 (December 2008), repealed LR 38:

**§4212. Marking, Registration, and Distribution of Gaming Devices**

Repealed.

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 26:784 (April 2000), repealed LR 38:

**§4213. Approval to Sell or Disposal of Gaming Devices**

Repealed.

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 26:785 (April 2000), repealed LR 38:

**§4214. Maintenance of Electronic Gaming Devices**

Repealed.

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 26:785 (April 2000), amended LR 31:1604 (July 2005), LR 34:2653 (December 2008), repealed LR 38:

**§4215. Analysis of Questioned Electronic Gaming Devices**

Repealed.

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 26:785 (April 2000), amended LR 31:1605 (July 2005), repealed LR 38:

**§4216. Summary Suspension of Approval of Electronic Gaming Devices**

Repealed.

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 26:785 (April 2000), repealed LR 38:

**§4217. Seizure and Removal of Electronic Gaming Equipment and Devices**

Repealed.

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 26:785 (April 2000), repealed LR 38:

**§4218. Seized Equipment and EGDs as Evidence**

Repealed.

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 26:786 (April 2000), repealed LR 38:

**§4219. Approval of Associated Equipment; Applications and Procedures**

Repealed.

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 26:786 (April 2000), repealed LR 38:

**§4220. Record Retention**

Repealed.

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 34:2653 (December 2008), repealed LR 38:

**Chapter 43. Specifications for Gaming Tokens and Associated Equipment**

Editor's Note: The provisions contained in this chapter may have been consolidated into a corresponding chapter in Part III.

**§4301. Approval of Tokens; Applications and Procedures**

Repealed.

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 26:786 (April 2000), repealed LR 38:

**§4303. Identification Specifications for Tokens**

Repealed.

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 26:786 (April 2000), repealed LR 38:

**§4305. Size and Manufacturing Specifications for Tokens**

Repealed.

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 26:787 (April 2000), repealed LR 38:

**§4307. Use of Tokens**

Repealed.

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 26:787 (April 2000), repealed LR 38:

**§4309. Receipt of Gaming Tokens from Manufacturer or Supplier**

Repealed.

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 26:787 (April 2000, repealed LR).

**§4311. Redemption and Disposal of Discontinued Tokens**

Repealed.

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 26:788 (April 2000), repealed LR 38:

**§4313. Destruction of Counterfeit Tokens**

Repealed.

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 26:788 (April 2000), repealed LR 38:

**Chapter 45. Labor Organizations**

Editor's Note: The provisions contained in this chapter may have been consolidated into a corresponding chapter in Part III.

**§4501. Labor Organization Registration Required**

Repealed.

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 26:788 (April 2000), repealed LR 38:

**§4503. Registration Statement**

Repealed.

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 26:788 (April 2000), repealed LR 38:

**§4505. Registration Renewal**

Repealed.

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 26:789 (April 2000), repealed LR 38:

#### **§4507. Continuing Duty to Disclose**

Repealed.

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 26:789 (April 2000), repealed LR 38:

#### **§4509. Federal Reports Exception**

Repealed.

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 26:789 (April 2000), repealed LR 38:

#### **§4511. Qualification of Officers, Agent, and Principal Employees**

Repealed.

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 26:789 (April 2000), repealed LR 38:

#### **§4513. Qualification Procedure**

Repealed.

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 26:789 (April 2000), repealed LR 38:

#### **§4515. Waiver of Disqualification Criteria**

Repealed.

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 26:789 (April 2000), repealed LR 38:

#### **§4517. Interest in Operator's License Prohibited**

Repealed.

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 26:789 (April 2000), repealed LR 38:

#### **§4519. Failure to Comply; Consequences**

Repealed.

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 26:790 (April 2000), repealed LR 38:

### **Part IX. Landbased Casino Gaming**

#### **Chapter 19. General Provisions**

Editor's Note: The provisions contained in this chapter may have been consolidated into a corresponding chapter in Part III.

##### **§1901. Policy**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1900 (October 1999), repealed LR 38:

##### **§1903. Regulations**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1900 (October 1999), repealed LR 38:

##### **§1905. General Authority of the Board**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1901 (October 1999), repealed LR 38:

##### **§1907. Definitions, Words and Terms, Captions, Gender References**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1901 (October 1999), amended LR 34:2653 (December 2008), LR 35:2816 (December 2009), repealed LR 38:

##### **§1909. Casino Operator Is Licensee**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1907 (October 1999), repealed LR 38:

##### **§1911. Obligations, Duties, Responsibilities of a Casino Manager**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1907 (October 1999), repealed LR 38:

#### **Chapter 21. Applications; Suitability, Permitting and Licensing**

Editor's Note: The provisions contained in this chapter may have been consolidated into a corresponding chapter in Part III.

##### **§2101. General Provisions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1907 (October 1999), amended LR 29:362 (March 2003), repealed LR 38:

##### **§2103. Applications in General**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1907 (October 1999), repealed LR 38:

##### **§2105. Applicants in General; Requirements**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1907 (October 1999), repealed LR 38:

**§2107. Form of Application**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1908 (October 1999), repealed LR 38:

**§2109. Additional Information Required from a Casino Operator Applicant**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1908 (October 1999), repealed LR 38:

**§2111. Application Filing Fees**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1908 (October 1999), repealed LR 38:

**§2113. Fees for Issuance of Permits**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1908 (October 1999), repealed LR 38:

**§2115. Application Investigations**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1909 (October 1999), repealed LR 38:

**§2117. Conduct of Applicant Investigation; Time Requirements**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1909 (October 1999), repealed LR 38:

**§2119. Access to Applicants' Premises and Records**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1909 (October 1999), repealed LR 38:

**§2121. Applications; Timetable for Financing and Construction**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1909 (October 1999), repealed LR 38:

**§2123. Fingerprinting**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1909 (October 1999), repealed LR 38:

**§2125. Application; Refusal to Answer**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1909 (October 1999), repealed LR 38:

**§2127. Information Constituting Grounds for Delay or Denial of Application; Amendments**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1909 (October 1999), repealed LR 38:

**§2129. Tax Clearances Required of an Applicant**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1910 (October 1999), repealed LR 38:

**§2131. Tax Clearances Required of a Gaming Employee**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1910 (October 1999), repealed LR 38:

**§2133. Withdrawal of Application**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1910 (October 1999), repealed LR 38:

**§2135. Application after Denial**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1910 (October 1999), repealed LR 38:

**§2137. Suitability Determination of a Casino Operator Applicant**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1910 (October 1999), repealed LR 38:

**§2139. Other Considerations for Finding of Suitability**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1910 (October 1999), repealed LR 38:

**§2141. Suitability; License and Permits**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1910 (October 1999), repealed LR 38:

**§2142. Criteria for the Issuances of Permits**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1911 (October 1999), repealed LR 38:

**§2143. Suitability of Casino Operator**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1911 (October 1999), repealed LR 38:

**§2145. Presumption of Suitability of Certain Lenders**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1912 (October 1999), repealed LR 38:

**§2147. Safe Harbor**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1912 (October 1999), repealed LR 38:

**§2149. License or Permit Disqualification Criteria**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1913 (October 1999), repealed LR 38:

**§2151. Continuing Suitability, Duty to Report**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1913 (October 1999), repealed LR 38:

**§2153. Cash Transaction Reporting**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1914 (October 1999), repealed LR 38:

**§2155. License and Permit Terms and Filing of Application**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1914 (October 1999), repealed LR 38:

**§2159. Gaming Employee Permits Required**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1914 (October 1999), amended LR 35:84 (January 2009), repealed LR 38:

**§2161. Application for Gaming Employee Permit; Procedure**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1914 (October 1999), repealed LR 38:

**§2163. Display of Gaming Employee Permit**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1914 (October 1999), repealed LR 38:

**§2165. Permit Requirements for Persons Furnishing Services or Property or Doing Business with the Casino Operator or Casino Manager**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1914 (October 1999), amended LR 34:2653 (December 2008), repealed LR 38:

**§2166. Exemptions/Waivers from Non-Gaming Vendor Permit Requirements**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1915 (October 1999), amended LR 34:2653 (December 2008), repealed LR 38:

**§2171. Determination of Unsuitability of Junket Representatives**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1917 (October 1999), repealed LR 38:

**§2173. Reporting Requirements of Junket Representatives**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1917 (October 1999), repealed LR 38:

**§2174. Supplier Permit Criteria**

Repealed.

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 28:1029 (May 2002), repealed LR 38:

**§2175. Denial, Revocation, Restrictions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1917 (October 1999), repealed LR 38:

### **§2177. Surrender of a Permit**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1917 (October 1999), repealed LR 38:

### **Chapter 23. Compliance, Inspections and Investigations**

Editor's Note: The provisions contained in this chapter may have been consolidated into a corresponding chapter in Part III.

### **§2301. Applicability and Resources**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1917 (October 1999), repealed LR 38:

### **§2303. Inspections and Observations**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1917 (October 1999), repealed LR 38:

### **§2305. Inspections during Construction**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1918 (October 1999), repealed LR 38:

### **§2306. Inspections of Persons Furnishing Services or Property or Doing Business with the Casino Operator or Casino Manager**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1918 (October 1999), repealed LR 38:

### **§2307. Investigations**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1918 (October 1999), repealed LR 38:

### **§2309. Investigative Powers of the Board and Division**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1918 (October 1999), repealed LR 38:

### **§2311. Seizure and Removal of Gaming Equipment and Devices**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1918 (October 1999), repealed LR 38:

### **§2315. Seized Equipment and Devices as Evidence**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1918 (October 1999), repealed LR 38:

### **§2325. Sanctions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1919 (October 1999), repealed LR 38:

### **§2327. Proof of Compliance**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1919 (October 1999), repealed LR 38:

### **Chapter 25. Transfers of Interest in the Casino Operator and Permittees; Loans and Restrictions**

Editor's Note: The provisions contained in this chapter may have been consolidated into a corresponding chapter in Part III.

### **§2501. Transfer of Interest, General**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1919 (October 1999), repealed LR 38:

### **§2503. Disclosure of Representative Capacity**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1919 (October 1999), repealed LR 38:

### **§2505. Transfer of Interest Prior to Approval**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1919 (October 1999), repealed LR 38:

### **§2506. Notice of Alleged Significant Regulatory Violation—Application of Sanction to Transferee**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1919 (October 1999), repealed LR 38:

### **§2507. Notification of Ownership Interest in Holding Company or Intermediary Company or Affiliate**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1920 (October 1999), repealed LR 38:

### **§2509. Procedure for Proposed Transfer**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1920 (October 1999), repealed LR 38:

**§2511. Transfer of Interest to Non-Licensee or Non-Permittee**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1920 (October 1999), repealed LR 38:

**§2512. Stock Restrictions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1920 (October 1999), repealed LR 38:

**§2513. Emergency Situations**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1921 (October 1999), repealed LR 38:

**§2515. Emergency Procedures**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1921 (October 1999), repealed LR 38:

**§2517. Emergency Permission to Participate; Investigation**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1921 (October 1999), repealed LR 38:

**§2519. Effect of Emergency Permission to Participate; Withdrawal**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1922 (October 1999), repealed LR 38:

**§2527. Escrow Accounts**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1923 (October 1999), repealed LR 38:

**§2529. Casino Operator Transfers—Casino Operating Contract**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1923 (October 1999), repealed LR 38:

**§2531. Casino Operator Transfers**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1924 (October 1999), repealed LR 38:

**Chapter 27. Accounting Regulations**

Editor's Note: The provisions contained in this chapter may have been consolidated into a corresponding chapter in Part III.

**§2701. Procedure for Reporting and Paying Gaming Revenues and Fees**

Repealed.

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 25:1924 (October 1999), amended LR 34:2654 (December 2008), repealed LR 38:

**§2703. Accounting Records**

Repealed.

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 25:1924 (October 1999).

**§2705. Records of Ownership**

Repealed.

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 25:1925 (October 1999), repealed LR 38:

**§2707. Record Retention**

Repealed.

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 25:1925 (October 1999), amended LR 34:2654 (December 2008), LR 35:2816 (December 2009), LR 36:1018 (May 2010), repealed LR 38:

**§2709. Standard Financial Statements**

Repealed.

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 25:1925 (October 1999), amended LR 34:2654 (December 2008), repealed LR 38:

**§2711. Audited Financial Statements**

Repealed.

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 25:1926 (October 1999), amended LR 34:2655 (December 2008), repealed LR 38:

**§2713. Cash Reserve Requirements; General**

Repealed.

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 25:1927 (October 1999), repealed LR 38:

**§2715. Internal Control; General**

Repealed.

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 25:1925 (October 1999), amended LR 34:2655 (December 2008), LR 35:2816 (December 2009), LR 36:1019 (May 2010), repealed LR 38:

#### **§2716. Clothing Requirements**

Repealed.

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 25:1930 (October 1999), repealed LR 38:

#### **§2717. Internal Controls; Table Games**

Repealed.

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 25:1930 (October 1999), amended LR 34:2656 (December 2008), LR 36:1019 (May 2010), repealed LR 38:

#### **§2719. Internal Controls; Handling of Cash**

Repealed.

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 25:1935 (October 1999), repealed LR 38:

#### **§2721. Internal Controls; Tips or Gratuities**

Repealed.

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 25:1935 (October 1999), L 34: 2656 (December 2008), repealed LR 38:

#### **§2723. Internal Controls; Slots**

Repealed.

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 25:1936 (October 1999), amended LR 26:2306 (October 2000), LR 31:1605 (July 2005), LR 34:2657 (December 2008), LR 35:2198 (October 2009), LR 35:2816 (December 2009), LR 36:1019 (May 2010).

#### **§2725. Internal Controls; Poker**

Repealed.

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 25:1944 (October 1999), repealed LR 38:

#### **§2729. Internal Controls; Cage, Vault and Credit**

Repealed.

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 25:1944 (October 1999), amended LR 35:2200 (October 2009), repealed LR 38:

#### **§2730. Exchange of Tokens and Chips**

Repealed.

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 25:1947

(October 1999), amended LR 34: 2658 (December 2008), LR 35:2816 (December 2009), repealed LR 38:

#### **§2731. Currency Transaction Reporting**

Repealed.

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 25:1947 (October 1999), amended LR 34:2658 (December 2008), repromulgated LR 35:83 (January 2009), repealed LR 38:

#### **§2735. Gross Gaming Revenue Computations**

Repealed.

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 25:1948 (October 1999), amended LR 34:2659 (December 2008), LR 35:2817 (December 2009), repealed LR 38:

#### **§2736. Treatment of Credit for Computing Gross Gaming Revenue**

Repealed.

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 25:1949 (October 1999), repealed LR 38:

#### **§2739. Extension of Time for Reporting**

Repealed.

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 25:1949 (October 1999), repealed LR 38:

#### **§2741. Petitions for Redetermination; Procedures**

Repealed.

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 25:1949 (October 1999), repealed LR 38:

#### **§2743. Claims for Refunds; Procedures**

Repealed.

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 25:1949 (October 1999), repealed LR 38:

#### **Chapter 29. Operating Standards Generally**

Editor's Note: The provisions contained in this chapter may have been consolidated into a corresponding chapter in Part III.

#### **§2901. Code of Conduct of the Casino Operator, Casino Manager, Licensees and Permittees**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1950 (October 1999), amended LR 27:59 (January 2001), LR 29:2506 (November 2003), LR 34:2659 (December 2008), LR 35:2817 (December 2009), repealed LR 38:

#### **§2903. Compliance with Laws**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.



HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1950 (October 1999), repealed LR 38:

#### **§2905. Distributions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1950 (October 1999), repealed LR 38:

#### **§2907. Reporting**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1950 (October 1999), amended LR 34: 2659 (December 2008), repealed LR 38:

#### **§2909. Prohibited Transactions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1951 (October 1999), repealed LR 38:

#### **§2911. Finder's Fees**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1951 (October 1999), repealed LR 38:

#### **§2913. Hotel Contract Approval**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1951 (October 1999), repealed LR 38:

#### **§2914. Permissible Food Service**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1951 (October 1999), repealed LR 38:

#### **§2915. Capital Replacement Fund Requirements**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1952 (October 1999), repealed LR 38:

#### **§2917. Nondiscrimination and Minority Participation**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1952 (October 1999), repealed LR 38:

#### **§2919. Advertising; Mandatory Signage**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1953

(October 1999), amended LR 26:335 (February 2000), LR 33:857 (May 2007), LR 35:2199 (October 2009), repealed LR 38:

#### **§2921. Entertainment Activities**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:335 (February 2000), repealed LR 38:

#### **§2922. Promotions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:335 (February 2000), amended LR 27:1557 (September 2001), LR 30:90 (January 2004), LR 34:2660 (December 2008), repealed LR 38:

#### **§2923. Tournaments**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:336 (February 2000), amended LR 27:1557 (September 2001), LR 34:2660 (December 2008), repealed LR 38:

#### **§2925. Gaming Employees Prohibited from Gaming**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1953 (October 1999), repealed LR 38:

#### **§2927. Assisting in Violations**

Repealed.

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 25:1953 (October 1999), amended LR 26:2824 (December 2000), repealed LR 38:

#### **§2929. Action Based upon Order of Another Jurisdiction**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1953 (October 1999), repealed LR 38:

#### **§2931. Managerial Representative on Premises**

Repealed.

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 28:1029 (May 2002), repealed LR 38:

#### **§2933. Weapons in the Casino**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1953 (October 1999), repealed LR 38:

#### **§2934. Detention and Ejection**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1953 (October 1999), repealed LR 38:

**§2935. Age Restrictions for the Casino; Methods to Prevent Minors from Gaming Area**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1954 (October 1999), amended LR 29:2506 (November 2003), repealed LR 38:

**§2937. Check Cashing; Purchase of Tokens, Chips, and Electronic Cards; Prohibitions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1954 (October 1999), repealed LR

**§2941. Political Contributions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1954 (October 1999), repealed LR 38:

**§2943. Prohibited Business Relationships with Public Officers**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1954 (October 1999), repealed LR 38:

**§2945. Restricted Areas**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1954 (October 1999), repealed LR 38:

**§2947. Identification Card Issuance Equipment**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1955 (October 1999), repealed LR 38:

**§2949. Accessibility to Premises; Parking**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1955 (October 1999), repealed LR 38:

**§2951. Waivers and Authorizations**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1955 (October 1999), repealed LR 38:

**§2953. Comfort Letters**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1955 (October 1999), repealed LR 38:

**§2955. Approvals**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1955 (October 1999), repealed LR 38:

**§2957. Extension of Credit**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1955 (October 1999), repealed LR 38:

**§2959. Credit Approval Authorization**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1956 (October 1999), repealed LR 38:

**§2961. Credit Limit Increases**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1956 (October 1999), repealed LR 38:

**§2963. Additional Requirements**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1956 (October 1999), repealed LR 38:

**§2965. Suspension of Credit Privileges**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1957 (October 1999), repealed LR 38:

**§2967. Record Keeping**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1957 (October 1999), repealed LR 38:

**§2969. Collection and Deduction from Gross Revenue**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1957 (October 1999), repealed LR 38:

**§2970. Collection of Gaming Credit**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1958 (October 1999), repealed LR 38:

**§2971. Disallowed Deductions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1958 (October 1999) repealed LR 38:

**Chapter 31. Rules of Play**

Editor's Note: The provisions contained in this chapter may have been consolidated into a corresponding chapter in Part III.

**§3101. Authority and Applicability**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1959 (October 1999), repealed LR 38:

**§3103. Rules of Play**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1959 (October 1999), amended LR 30:2490 (November 2004), repealed LR 38:

**§3105. Submission of Rules**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1959 (October 1999), amended LR 30:2490 (November 2004), repealed LR 38:

**§3107. Wagers**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1959 (October 1999), amended LR 30:2490 (November 2004), repealed LR 38:

**§3109. Game Limits**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1959 (October 1999), repealed LR 38:

**§3111. Publication of Payoffs**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1959 (October 1999), repealed LR 38:

**§3113. Periodic Payments**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1959 (October 1999), repealed LR 38:

**Chapter 33. Surveillance**

Editor's Note: The provisions contained in this chapter may have been consolidated into a corresponding chapter in Part III.

**§3301. Required Surveillance Equipment**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1968 (October 1999), amended LR 34:2660 (December 2008), repealed LR 38:

**§3302. Digital Video Recording Standards**

Repealed.

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 34:2660 (December 2008), amended LR 35:2817 (December 2009), repealed LR 38:

**§3303. Surveillance System Plans**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1969 (October 1999), repealed LR 38:

**§3304. Surveillance Personnel Employment Provisions**

Repealed.

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 27:1558 (September 2001), repealed LR 38:

**§3305. Surveillance Room and Gaming Board's Controlled Space Requirements**

Repealed.

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 25:1969 (October 1999), amended LR 27:1558 (September 2001), LR 27:1926 (November 2001), repealed LR 38:

**§3307. Segregated Telephone Communication**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1969 (October 1999), repealed LR 38:

**§3309. Surveillance Logs**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1970 (October 1999), repealed LR 38:

**§3311. Storage and Retrieval**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1970

(October 1999), amended LR 35:84 (January 2009), repealed LR 38:

### **§3315. Maintenance and Testing**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1970 (October 1999), repealed LR 38:

### **§3317. Surveillance System Compliance**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1970 (October 1999), repealed LR 38:

### **Chapter 35. Patron Disputes**

Editor's Note: The provisions contained in this chapter may have been consolidated into a corresponding chapter in Part III.

### **§3501. Casino Operator or Casino Manager Duty to Notify Division of Patron Dispute**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1970 (October 1999), repealed LR 38:

### **§3502. Patron Dispute Form**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1970 (October 1999), repealed LR 38:

### **Chapter 39. Public and Confidential Records**

Editor's Note: The provisions contained in this chapter may have been consolidated into a corresponding chapter in Part III.

### **§3901. Public Records**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1972 (October 1999), repealed LR 38:

### **§3903. Confidential Records**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1972 (October 1999), repealed LR 38:

### **§3905. Sealing of Documents**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1973 (October 1999), repealed LR 38:

### **§3907. Access to Public Records**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1973 (October 1999), repealed LR 38:

### **§3909. Access to Confidential Records**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1973 (October 1999), repealed LR 38:

### **§3911. Unauthorized Procurement of Records Prohibited**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1973 (October 1999), repealed LR 38:

### **Chapter 41. Enforcement Actions**

Editor's Note: The provisions contained in this chapter may have been consolidated into a corresponding chapter in Part III.

### **§4101. General Provisions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1974 (October 1999), repealed LR 38:

### **§4103. Enforcement Actions of the Board**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1974 (October 1999), amended LR 26:2307 (October 2000), LR 27:2255 (December 2001), repromulgated LR 28:344 (February 2002), amended LR 28:1029 (May 2002), LR 29:362 (March 2003), LR 29:2507 (November 2003), LR 31:1605 (July 2005), LR 33:857 (May 2007), repealed LR 38:

### **§4105. Emergency Orders Created**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1974 (October 1999), repealed LR 38:

### **§4107. Emergency Orders**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1974 (October 1999), repealed LR 38:

### **§4111. Appeal**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1974 (October 1999), repealed LR 38:

### **§4113. Grounds for Disciplinary Action against the Casino Operator, Casino Manager or Affiliates**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1974 (October 1999), repealed LR 38:

**§4115. Disciplinary Action against Employees and Agents**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1975 (October 1999), repealed LR 38:

**§4117. Gaming by Owners, Directors, Officers and Key Employees**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1976 (October 1999), repealed LR 38:

**§4119. Disciplinary Action against Manufacturers, Distributors and Other Vendors**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1976 (October 1999), repealed LR 38:

**§4121. Criminal Conviction as Grounds for Disciplinary Action**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1976 (October 1999), repealed LR 38:

**§4123. Commission of Gaming Crimes**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1976 (October 1999), repealed LR 38:

**Chapter 42. Electronic Gaming Devices**

Editor's Note: The provisions contained in this chapter may have been consolidated into a corresponding chapter in Part III.

**§4202. Approval of Electronic Gaming Devices; Applications and Procedures; Manufacturers and Suppliers**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2310 (October 2000), repealed LR 38:

**§4203. Minimum Standards for Electronic Gaming Devices**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2310 (October 2000), repealed LR 38:

**§4204. Progressive Electronic Gaming Devices**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2311

(October 2000), amended LR 31:1605 (July 2005), LR 33:2463 (November 2007), LR 2661 (December 2008), repealed LR 38:

**§4205. Computer Monitoring Requirements of Electronic Gaming Devices**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2313 (October 2000), amended LR 34:2662 (December 2008), repealed LR 38:

**§4206. Employment of Individual to Respond to Inquiries from the Division**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2314 (October 2000), amended LR 34:2662 (December 2008), repealed LR 38:

**§4207. Evaluation of New Electronic Gaming Devices**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2314 (October 2000), repealed LR 38:

**§4208. Certification by Manufacturer**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2314 (October 2000), repealed LR 38:

**§4209. Approval of New Electronic Gaming Devices**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2314 (October 2000), amended LR 29:2507 (November 2003), LR 31:1602 (July 2005), LR 31:1606 (July 2005), LR 34:2662 (December 2008), repealed LR 38:

**§4210. Electronic Gaming Device Tournaments**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2318 (October 2000), repealed LR 38:

**§4211. Duplication of Program Storage Media**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2319 (October 2000), amended LR 34:2662 (December 2008), repealed LR 38:

**§4212. Marking, Registration, and Distribution of Gaming Devices**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2320 (October 2000), repealed LR 38:

**§4213. Approval to Sell or Disposal of Gaming Devices**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2320 (October 2000), repealed LR 38:

**§4214. Maintenance of Electronic Gaming Devices**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2320 (October 2000), amended LR 31:1606 (July 2005), LR 34:2662 (December 2008), repealed LR 38:

**§4215. Analysis of Questioned Electronic Gaming Devices**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2320 (October 2000), amended LR 31:1606 (July 2005), repealed LR 38:

**§4216. Summary Suspension of Approval of Electronic Gaming Devices**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2321 (October 2000), repealed LR 38:

**§4217. Seizure and Removal of Electronic Gaming Equipment and Devices**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2321 (October 2000), repealed LR 38:

**§4218. Seized Equipment and EGDs as Evidence**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2321 (October 2000), repealed LR 38:

**§4219. Approval of Associated Equipment; Applications and Procedures**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2321 (October 2000), repealed LR 38:

**§4220. Record Retention**

Repealed.

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 34:2662 (December 2008), repealed LR 38:

**Chapter 43. Specifications for Gaming Equipment and Electronic Devices**

Editor's Note: The provisions contained in this chapter may have been consolidated into a corresponding chapter in Part III.

**§4301. Approval of Chips and Tokens; Applications and Procedures**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1976 (October 1999), amended LR 34:2662 (December 2008), repealed LR 38:

**§4303. Specifications for Chips and Tokens**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1977 (October 1999), amended LR 34:2662 (December 2008), repealed LR 38:

**§4305. Specifications for Chips**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1977 (October 1999), amended LR 34:2663 (December 2008), repealed LR 38:

**§4307. Specifications for Tokens**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1978 (October 1999), repealed LR 38:

**§4309. Use of Chips and Tokens**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1978 (October 1999), repealed LR 38:

**§4311. Receipt of Gaming Chips or Tokens from Manufacturer or Supplier**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1978 (October 1999), repealed LR 38:

**§4313. Inventory of Chips**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1978 (October 1999), amended LR 34:2663 (December 2008), repealed LR 38:

**§4315. Redemption and Disposal of Discontinued Chips and Tokens**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1979 (October 1999), amended LR 35:2817 (December 2009), repealed LR 38:

**§4317. Destruction of Counterfeit Chips and Tokens**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1979 (October 1999), repealed LR 38:

**§4318. Promotional and Tournament Chips and Tokens**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1979 (October 1999), repealed LR 38:

**§4319. Approval and Specifications for Dice**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1980 (October 1999), repealed LR 38:

**§4321. Dice; Receipt, Storage, Inspections and Removal from Use**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1980 (October 1999), amended LR 34:2663 (December 2008), repealed LR 38:

**§4323. Approval and Specifications for Cards**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1980 (October 1999), repealed LR 38:

**§4325. Cards; Receipt, Storage, Inspections and Removal from Use**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1981 (October 1999), amended LR 34:2663 (December 2008), repealed LR 38:

**§4327. Approval of Gaming Devices; Applications and Procedures; Manufacturers and Suppliers**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1981 (October 1999), repealed LR 38:

**§4329. Minimum Standards for Electronic Gaming Devices**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1981 (October 1999), repealed LR 38:

**§4331. Progressive Slot Machines**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1982 (October 1999), repealed LR 38:

**§4333. Computer Monitoring Requirements of Electronic Gaming Devices**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1983 (October 1999), repealed LR 38:

**§4335. Employment of Individual to Respond to Inquiries from the Division**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1983 (October 1999), repealed LR 38:

**§4337. Evaluation of New Gaming Devices**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1983 (October 1999), repealed LR 38:

**§4339. Certification by Manufacturer**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1984 (October 1999), repealed LR 38:

**§4341. Approval of New Gaming Devices**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1984 (October 1999), repealed LR 38:

**§4343. Duplication of Program Storage Media**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1984 (October 1999), repealed LR 38:

**§4345. Marking, Registration, and Distribution of Gaming Devices**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1984 (October 1999), repealed LR 38:

**§4347. Approval to Sell or Dispose of Gaming Devices**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1984 (October 1999), repealed LR 38:

**§4349. Maintenance of Gaming Devices**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1984 (October 1999), repealed LR 38:

**§4351. Analysis of Questioned Electronic Gaming Devices**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1984 (October 1999), repealed LR 38:

**§4353. Summary Suspension of Approval of Gaming Devices**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1985 (October 1999), repealed LR 38:

**§4355. Approval of Associated Equipment; Applications and Procedures**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1985 (October 1999), repealed LR 38:

**§4357. Evaluation of Associated Equipment**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1985 (October 1999), repealed LR 38:

**Chapter 45. Labor Organizations**

Editor's Note: The provisions contained in this chapter may have been consolidated into a corresponding chapter in Part III.

**§4501. Labor Organization Registration Required**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1985 (October 1999), repealed LR 38:

**§4503. Registration Statement**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1985 (October 1999), repealed LR 38:

**§4505. Registration Renewal**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1986 (October 1999), repealed LR 38:

**§4507. Continuing Duty to Disclose**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1986 (October 1999), repealed LR 38:

**§4509. Federal Reports Exception**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1986 (October 1999), repealed LR 38:

**§4511. Qualification of Officers, Agent, and Principal Employees**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1986 (October 1999), repealed LR 38:

**§4513. Qualification Procedure**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1986 (October 1999), repealed LR 38:

**§4515. Waiver of Disqualification Criteria**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1986 (October 1999), repealed LR 38:

**§4517. Interest in Operator's License Prohibited**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1986 (October 1999).

**§4519. Failure to Comply; Consequences**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1987 (October 1999), repealed LR 38:

**Part XIII. Riverboat Gaming**

**Chapter 17. General Provisions**

Editor's Note: The provisions contained in this/these section(s) may have been consolidated into a corresponding chapter in Part III.

**§1701. Definitions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:1176 (September 1993), amended LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:1139 (November 1996), LR 24:344 (February 1998), LR 26:1314 (June 2000), LR 29:363 (March 2003), LR 34:2663 (December 2008), LR 37:2410 (August 2011), repealed LR 38:

**§1703. Ownership of Licenses and Permits**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat



Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR.

#### **§1705. Transfers of Licenses or Permits**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR.

#### **Chapter 19. Administrative Procedures and Authority**

Editor's Note: The provisions contained in this chapter may have been consolidated into a corresponding chapter in Part III.

#### **§1901. Issuance and Construction of Regulations and Administrative Matters**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR.

#### **Chapter 21. Licenses and Permits**

Editor's Note: The provisions contained in this/these section(s) may have been consolidated into a corresponding chapter in Part III.

#### **§2101. General Authority of the Division**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.; R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), LR 29:363 (March 2003), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR.

#### **§2103. Applications in General**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR.

#### **§2105. Investigations**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR.

#### **§2107. Applicants in General; Restrictions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993),

repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR.

#### **§2108. Non-Gaming Suppliers**

Repealed.

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 26:1317 (June 2000), amended LR 34:2663 (December 2008), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR.

#### **§2109. Suitability Determination**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR.

#### **§2110. Maritime Requirements**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR.

#### **§2111. License or Permit Disqualification Criteria**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR.

#### **§2113. Gaming Operator License and Permits; Suitability**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR.

#### **§2114. Tax Clearances Required of an Applicant for a License**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR.

#### **§2115. Tax Clearances**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR.

#### **§2116. Cash Transaction Reporting**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended LR 34:2664 (December 2008), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR.

#### **§2117. Certification Required**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR.

#### **§2118. Indemnification**

Repealed.

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 26:2825 (December 2000), repealed LR 38:

#### **§2119. Single Operator's License**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed LR 38:

#### **§2121. Form of Application for a License**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR.

#### **§2123. Additional Application Information Required**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:703 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2825 (December 2000), repealed LR 38:

#### **§2125. Access to Applicants' Premises and Records**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR.

#### **§2127. Information Constituting Grounds for Delay or Denial of Application; Amendments**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR.

#### **§2129. Other Considerations for Licensing**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR.

#### **§2131. Timetable for Financing and Construction**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed LR 38:

#### **§2133. License Term and Filing of Application**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 24:344 (February 1998), repealed LR 38:

#### **§2135. Completeness of Application**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

#### **§2137. Fingerprinting**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR.

### **§2139. Application Filing Fees**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR38:

### **§2141. Renewal Applications**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 24:344 (February 1998), repealed LR 38:

### **§2143. Conduct of Investigation; Time Requirements**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

### **§2144. Notice of Concerns and Discrepancies**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

### **§2145. Division Hearing to Consider Application**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR.

### **§2146. Subpoenas and Subpoenas Duces Tecum**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

### **§2147. Issuance of Decision**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702

(July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

### **§2149. Appeal of Division Decision to Commission**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

### **§2151. Waiver of Privilege**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

### **§2153. Multiple Licensing Criteria**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

### **§2155. Withdrawal of Application**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

### **§2156. Modifications of Routes, Excursion Schedules and Berth**

Repealed.

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 26:2825 (December 2000), repealed LR 38:

### **§2157. Application after Denial**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

### **§2158. Criteria for the Issuances of Permits**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by

the Department of Public Safety and Corrections, Gaming Control Board LR 38:

#### **§2159. Gaming Employee Permits Required**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), LR 35:84 (January 2009), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

#### **§2161. Application for Gaming Employee Permit; Procedure**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

#### **§2163. Withdrawal of Temporary Gaming Employee Permit**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

#### **§2165. Display of Gaming Employee Permit**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

#### **§2169. Fees for Issuance of Licenses and Permits**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 24:344 (February 1998), repealed LR 38:

### **Chapter 23. Compliance, Inspections and Investigations**

Editor's Note: The provisions contained in this/these section(s) may have been consolidated into a corresponding chapter in Part III.

#### **§2301. Applicability and Resources**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993),

repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

#### **§2303. Inspections and Observations**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

#### **§2305. Inspections during Construction**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

#### **§2307. Investigations**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

#### **§2309. Investigative Powers of the Division**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR.

#### **§2311. Seizure and Removal of Gaming Equipment and Devices**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

#### **§2315. Seized Equipment and Devices as Evidence**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

#### **§2317. Subpoenas in Connection with Investigative Hearings**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

#### **§2319. Contempt**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

#### **§2321. Investigative Hearings**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

#### **§2323. Interrogatories**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:895 (July 1993), repromulgated LR 19:1176 (September 1993), amended LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

#### **§2325. Imposition of Sanctions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 26.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:1318 (June 2000), LR 27:2255 (December 2001), LR 28:1029 (May 2002), LR 29:363 (March 2003), LR 31:1606 (July 2005), LR 33:858 (May 2007), repealed LR 38:

#### **§2327. Proof of Compliance**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR.

#### **§2329. Notification of Vendor Recommendations or Solicitations**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 24:956 (May 1998), repealed LR 38:

#### **§2331. Supplier Permit Criteria**

Repealed.

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 26:346 (February 2000), repealed LR 38:

#### **Chapter 25. Transfers of Interest in Licensees and Permittees; Loans and Restrictions**

Editor's Note: The provisions contained in this chapter may have been consolidated into a corresponding chapter in Part III.

#### **§2501. Transfers in General**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR.

#### **§2503. Requirements of Full Disclosure**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR.

#### **§2505. Prior Approval of Transfers Required**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

#### **§2507. Transfer of Economic Interest among Licensees and/or Permittees**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR.

#### **§2509. Transfer of Economic Interest to Nonlicensee or Nonpermittee**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

#### **§2511. Statement of Restrictions Concerning Transfers**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by

the Department of Public Safety and Corrections, Gaming Control Board LR 38:

#### **§2513. Emergency Situations**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

#### **§2515. Emergency Procedures**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

#### **§2517. Emergency Permission to Participate; Investigation**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

#### **§2519. Effect of Emergency Permission to Participate; Withdrawal**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

#### **§2527. Escrow Accounts**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

#### **Chapter 27. Accounting Regulations**

Editor's Note: The provisions contained in this/these section(s) may have been consolidated into a corresponding chapter in Part III.

#### **§2701. Procedure for Reporting and Paying Gaming Revenues and Fees**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1876 (October 1999), repromulgated LR 25:2232 (November 1999), amended LR 34:2665 (December 2008), repealed LR 38:

#### **§2703. Accounting Records**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1877 (October 1999), repromulgated LR 25:2232 (November 1999), repealed LR 38:

#### **§2705. Records of Ownership**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1877 (October 1999), repromulgated LR 25:2233 (November 1999), repealed LR 38:

#### **§2707. Record Retention**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1878 (October 1999), repromulgated LR 25:2233 (November 1999), amended LR 34:2665 (December 2008), LR 36:1019 (May 2010), repealed LR 38:

#### **§2709. Standard Financial Statements**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 25:1878 (October 1999), repromulgated LR 25:2234 (November 1999), amended LR 34:2665 (December 2008), repealed LR 38:

#### **§2711. Audited Financial Statements**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1878 (October 1999), repromulgated LR 25:2234 (November 1999), amended LR 34:2665 (December 2008), repealed LR 38:

#### **§2713. Cash Reserve and Bonding Requirements; General**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1879 (October 1999), repromulgated LR 25:2235 (November 1999), repealed LR 38:

### **§2715. Internal Control; General**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1879 (October 1999), repromulgated LR 25:2235 (November 1999), amended LR 26:2306 (October 2000), LR 34: 2666 (December 2008), LR 35:2817 (December 2009), repealed LR 38:

### **§2716. Clothing Requirements**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1881 (October 1999), repromulgated LR 25:2237 (November 1999), repealed LR 38:

### **§2717. Internal Controls; Table Games**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1882 (October 1999), repromulgated LR 25:2237 (November 1999), amended LR 34:2666 (December 2008), LR 36:1019 (May 2010), repealed LR 38:

### **§2719. Internal Controls; Handling of Cash**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1887 (October 1999), repromulgated LR 25:2242 (November 1999), repealed LR 38:

### **§2721. Internal Controls; Tips or Gratuities**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 24:1503 (August 1998), LR 25:1887 (October 1999), repromulgated LR 25:2242 (November 1999), amended LR 34:2667 (December 2008), repealed LR 38:

### **§2723. Internal Controls; Slots**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1887 (October 1999), repromulgated LR 25:2243 (November 1999), amended LR 26:2306 (October 2000), LR 31:1607 (July 2005), LR 34:2667 (December 2008), LR 35:2198 (October 2009), LR 35:2816 (December 2009), LR 36:1019 (May 2010), repealed LR 38:

### **§2725. Internal Controls; Poker**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1895 (October 1999), repromulgated LR 25:2251 (November 1999), LR 35:2198 (October 2009), repealed LR 38:

### **§2727. Race Book**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1896 (October 1999), repromulgated LR 25:2251 (November 1999), repealed LR 38:

### **§2729. Internal Controls; Cage, Vault and Credit**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1896 (October 1999), repromulgated LR 25:2251 (November 1999), LR 35:220 (October 2009), repealed LR 38:

### **§2730. Exchange of Tokens and Chips**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1898 (October 1999), repromulgated LR 25:2254 (November 1999), amended LR 34:2668 (December 2008), LR 35:2818 (December 2009), repealed LR 38:

### **§2731. Currency Transaction Reporting**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1898 (October 1999), repromulgated LR 25:2254 (November 1999), amended LR 34:2668 (December 2008), repealed LR 38:

### **§2735. Net Gaming Proceeds Computations**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1899 (October 1999), repromulgated LR 25:2254 (November 1999), amended LR 34:2669 (December 2008), repealed LR 38:

**§2736. Treatment of Credit for Computing Net Gaming Proceeds**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1899 (October 1999), repromulgated LR 25:2254 (November 1999), repealed LR 38:

**§2739. Extension of Time for Reporting**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1899 (October 1999), repromulgated LR 25:2255 (November 1999), repealed LR 38:

**§2741. Petitions for Redetermination; Procedures**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1900 (October 1999), repromulgated LR 25:2255 (November 1999), repealed LR 38:

**§2743. Claims for Refunds; Procedures**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1900 (October 1999), repromulgated LR 25:2255 (November 1999), repealed LR 38:

**Chapter 29. Operating Standards**

Editor's Note: The provisions contained in this/these section(s) may have been consolidated into a corresponding chapter in Part III.

**§2901. Code of Conduct of Licensees and Permittees**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 27:60 (January 2001), LR 29:2507 (November 2003), LR 34:2669 (December 2008), LR 38:

**§2903. Compliance with Laws**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

**§2905. Weapons on the Riverboat**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

**§2909. Emergencies**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

**§2910. Passenger Embarkation and Disembarkation**

Repealed.

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 26:2825 (December 2000), repealed LR 38:

**§2911. Accessibility to Premises; Parking**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR.

**§2913. Access to Premises and Production of Records**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

**§2915. Age Restrictions for the Casino; Methods to Prevent Minors from Gaming Area**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended LR 29:2507 (November 2003), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

**§2919. Finder's Fees**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR.

**§2921. Collection of Gaming Credit**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat



Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

#### **§2923. Identification Card Issuance Equipment**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

#### **§2925. Junkets and Related Activities**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

#### **§2927. Advertising**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 33:858 (May 2007), LR 35:2199 (October 2009), repealed LR 38:

#### **§2929. Conservatorship**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR.

#### **§2931. Assisting in Violations**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended LR 26:2824 (December 2000), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

#### **§2935. Entertainment Activities**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR.

#### **§2937. Distributions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended

LR 34:2669 (December 2008), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

#### **§2939. Action Based upon Order of Another Jurisdiction**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

#### **§2941. Access by Division to Licensee Computer Systems**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

#### **§2943. Gaming Employees Prohibited from Gaming**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

#### **§2944. Waivers and Authorizations**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR.

#### **§2945. Restrictive Areas**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

#### **§2947. Comfort Letters**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR.

#### **§2951. Approvals**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by

the Department of Public Safety and Corrections, Gaming Control Board LR 38:

### **§2953. Promotions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 27:1558 (September 2001), LR 30:90 (January 2004), LR 34:2669 (December 2008), repealed LR 38:

### **§2954. Tournaments**

Repealed.

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 27:1558 (September 2001), amended LR 34:2670 (December 2008), repealed LR 38:

### **§2955. Managerial Representative on Premises**

Repealed.

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 28:1030 (May 2002), repealed LR 38:

## **Chapter 31. Rules of Play**

Repealed.

Editor's Note: The provisions contained in this/these section(s) may have been consolidated into a corresponding chapter in Part III.

### **§3101. Authority and Applicability**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended LR 30:2491 (November 2004), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

### **§3103. Rules of Play**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended LR 30:2490 (November 2004), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR.

### **§3105. Submission of Rules**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 30:2490 (November 2004), repealed LR 38:

### **§3107. Wagers**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended

by the Department of Public Safety and Corrections, Gaming Control Board, LR 30:2490 (November 2004), repealed LR 38:

### **§3109. Game Limits**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

### **§3111. Publication of Payoffs**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

### **§3113. Periodic Payments**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 38:

## **Chapter 33. Surveillance and Security**

Editor's Note: The provisions contained in this/these section(s) may have been consolidated into a corresponding chapter in Part III.

### **§3301. Required Surveillance Equipment**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 24:956 (May 1998), LR 34:2670 (December 2008), repealed LR 38:

### **§3302. Digital Video Recording Standards**

Repealed.

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 34:2670 (December 2008), repealed LR 38:

### **§3303. Surveillance System Plans**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 38:

### **§3304. Surveillance Personnel Employment Provisions**

Repealed.

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 27:1559 (September 2001), amended LR 29:2508 (November 2003), repealed LR 38:

**§3305. Surveillance and Division Room Requirements**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.; R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 27:1559 (September 2001), LR 29:363 (March 2003), repealed LR 38:

**§3307. Segregated Telephone Communication**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 38:

**§3309. Security and Surveillance Logs**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 38:

**§3311. Storage and Retrieval**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended LR 35:85 (January 2009), repealed LR 38:

**§3313. Dock Site Division Facility**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 38:

**§3315. Maintenance and Testing**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 38:

**§3317. Surveillance System Compliance**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 38:

**Chapter 35. Patron Disputes**

Editor's Note: The provisions contained in this/these section(s) may have been consolidated into a corresponding chapter in Part III.

**§3501. Licensee Duty to Notify Division of Patron Dispute**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:747 (June 1997), repealed LR 38:

**Chapter 39. Public and Confidential Records**

Editor's Note: The provisions contained in this/these section(s) may have been consolidated into a corresponding chapter in Part III.

**§3901. Public Records**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 38:

**§3903. Confidential Records**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 38:

**§3905. Sealing of Documents**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 38:

**§3907. Access to Public Records**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 38:

**§3909. Access to Confidential Records**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 38:

**§3911. Unauthorized Procurement of Records Prohibited**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 38:

**Chapter 40. Designated Check Cashing Representatives**

Editor's Note: The provisions contained in this/these section(s) may have been consolidated into a corresponding chapter in Part III.

**§4001. Definitions**

Repealed.

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 26:337 (February 2000), repealed LR 38:

**§4002. Application for Permit for Designated Check Cashing Representative; Additional Requirements; Summary of Proposed Operations**

Repealed.

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 26:337 (February 2000), repealed LR 38:

**§4003. Cash Transaction Reporting**

Repealed.

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 26:337 (February 2000), amended LR 34:2671 (December 2008), repealed LR 38:

**§4004. General Requirements**

Repealed.

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 26:337 (February 2000), repealed LR 38:

**§4005. Imposition of Sanctions**

Repealed.

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 26:337 (February 2000), repealed LR 38:

**§4006. Record Retention**

Repealed.

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 26:337 (February 2000), repealed LR 38:

**§4007. Clothing Requirements**

Repealed.

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 26:338 (February 2000), repealed LR 38:

**§4008. Internal Controls; Designated Check Cashing Representative**

Repealed.

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 26:338 (February 2000), repealed LR 38:

**§4009. Internal Controls; Cage and Credit**

Repealed.

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 26:338

(February 2000), amended LR 34:2671 (December 2008), repealed LR 38:

**§4010. Currency Transaction Reporting**

Repealed.

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 26:339 (February 2000), repealed LR 38:

**§4011. Internal Controls Compliance**

Repealed.

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 26:339 (February 2000), repealed LR 38:

**§4012. Servant of Licensee**

Repealed.

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 26:339 (February 2000), repealed LR 38:

**§4013. Violations by the Designated Check Cashing Representative**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:339 (February 2000), repealed LR 38:

**Chapter 41. Enforcement Actions**

Editor's Note: The provisions contained in this/these section(s) may have been consolidated into a corresponding chapter in Part III.

**§4101. Emergency Orders**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 38:

**§4103. Supervisor Action Must Be by Order**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 38:

**§4105. Form of Division Order**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 38:

**§4107. Criteria for Sanctions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 38:

**§4109. Commission of Gaming Crimes**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 38:

**§4111. Appeal of Supervisor Order to Commission**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 38:

**Chapter 42. Electronic Gaming Devices**

Editor's Note: The provisions contained in this/these section(s) may have been consolidated into a corresponding chapter in Part III.

**§4201. Division's Central Computer System (DCCS)**

Repealed.

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 26:716 (April 2000), amended LR 34:2671 (December 2008), repealed LR 38:

**§4202. Approval of Electronic Gaming Devices; Applications and Procedures; Manufacturers and Suppliers**

Repealed.

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 26:717 (April 2000), repealed LR 38:

**§4203. Minimum Standards for Electronic Gaming Devices**

Repealed.

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 26:717 (April 2000), repealed LR 38:

**§4204. Progressive Electronic Gaming Devices**

Repealed.

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 26:718 (April 2000), amended LR 31:1607 (July 2005), LR 33:2463 (November 2007), LR 34:2671 (December 2008), LR 35:2818 (December 2009), repealed LR 38:

**§4205. Computer Monitoring Requirements of Electronic Gaming Devices**

Repealed.

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 26:720 (April 2000), amended LR 34:2672 (December 2008), repealed LR 38:

**§4206. Employment of Individual to Respond to Inquiries from the Division**

Repealed.

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 26:720 (April 2000), amended LR 34:2672 (December 2008), repealed LR 38:

**§4207. Evaluation of New Electronic Gaming Devices**

Repealed.

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 26:720 (April 2000), repealed LR 38:

**§4208. Certification by Manufacturer**

Repealed.

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 26:721 (April 2000), repealed LR 38:

**§4209. Approval of New Electronic Gaming Devices**

Repealed.

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 26:721 (April 2000), amended LR 29:2508 (November 2003), LR 31:1603 (July 2005), LR 31:1607 (July 2005), LR 34:2672 (December 2008), LR 35:2818 (December 2009), repealed LR 38:

**§4210. Electronic Gaming Device Tournaments**

Repealed.

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 26:725 (April 2000), repealed LR 38:

**§4211. Duplication of Program Storage Media**

Repealed.

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 26:726 (April 2000), amended LR 34:2672 (December 2008), repealed LR 38:

**§4212. Marking, Registration, and Distribution of Gaming Devices**

Repealed.

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 26:726 (April 2000), amended LR 38:

**§4213. Approval to Sell or Disposal of Gaming Devices**

Repealed.

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 26:727 (April 2000), repealed LR 38:

**§4214. Maintenance of Electronic Gaming Devices**

Repealed.

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 26:727 (April 2000), amended LR 31:1608 (July 2005), LR 34:2673 (December 2008), repealed LR 38:

**§4215. Analysis of Questioned Electronic Gaming Devices**

Repealed.

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 26:727 (April 2000), amended LR 31:1608 (July 2005), repealed LR 38:

**§4216. Summary Suspension of Approval of Electronic Gaming Devices**

Repealed.

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 26:727 (April 2000), repealed LR 38:

**§4217. Seizure and Removal of Electronic Gaming Equipment and Devices**

Repealed.

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 26:727 (April 2000), repealed LR 38:

**§4218. Seized Equipment and EGDs as Evidence**

Repealed.

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 26:728 (April 2000), repealed LR 38:

**§4219. Approval of Associated Equipment; Applications and Procedures**

Repealed.

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 26:728 (April 2000), repealed LR 38:

**§4220. Record Retention**

Repealed.

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 34:2673 (December 2008).

**Chapter 43. Specifications for Gaming Devices and Equipment**

Editor's Note: The provisions contained in this/these section(s) may have been consolidated into a corresponding chapter in Part III.

**§4301. Approval of Chips and Tokens; Applications and Procedures**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended LR 34:2673 (December 2008), repealed LR 38:

**§4303. Specifications for Chips and Tokens**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat

Gaming Enforcement Division, LR 21:702 (July 1995), LR 34:2673 (December 2008), repealed LR 38:

**§4305. Specifications for Chips**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended LR 34:2673 (December 2008), repealed LR 38:

**§4307. Specifications for Tokens**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 38:

**§4309. Use of Chips and Tokens**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 38:

**§4311. Receipt of Gaming Chips or Tokens from Manufacturer or Supplier**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 38:

**§4313. Inventory of Chips**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), LR 34:2673 (December 2008), repealed LR 38:

**§4315. Redemption and Disposal of Discontinued Chips and Tokens**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended LR 34:2673 (December 2008), repealed LR 38:

**§4317. Destruction of Counterfeit Chips and Tokens**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 38:

**§4319. Approval and Specifications for Dice**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat

Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 38:

**§4321. Dice; Receipt, Storage, Inspections and Removal from Use**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended LR 34:2674 (December 2008), repealed LR 38:

**§4323. Approval and Specifications for Cards**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 38:

**§4325. Cards; Receipt, Storage, Inspections and Removal from Use**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended LR 34:2674 (December 2008), repealed LR 38:

**Chapter 45. Labor Organizations**

Editor's Note: The provisions contained in this/these section(s) may have been consolidated into a corresponding chapter in Part III.

**§4501. Labor Organization Registration Required**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 38:

**§4503. Registration Statement**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 38:

**§4505. Registration Renewal**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 38:

**§4507. Continuing Duty to Disclose**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 38:

**§4509. Federal Reports Exception**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 38:

**§4511. Qualification of Officers, Agent, and Principal Employees**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 38:

**§4513. Qualification Procedure**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 38:

**§4515. Waiver of Disqualification Criteria**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 38:

**§4517. Interest in Operator's License Prohibited**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 38:

**§4519. Failure to Comply; Consequences**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed LR 38:

**Family Impact Statement**

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of amending, repealing, consolidating and reenacting Parts VII, IX and XIII of Title 42 of the Louisiana Administrative Code into Part III as the changes are intended to create uniformity between Parts VII, IX, and XIII by amending them to reflect current industry practices.

It is accordingly concluded that amending, repealing, consolidating and reenacting Parts VII, IX and XIII of Title 42 of the Louisiana Administrative Code into Part III would appear to have no impact on the following:

1. The effect on stability of the family.
2. The effect on the authority and rights of parents regarding the education and supervision of their children.
3. The effect on the functioning of the family.
4. The effect on family earnings and family budget.

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Office of State Police**

Issuance of Concealed Handgun Permits  
(LAC 55:I.Chapter 13)

Under the authority of R.S. 40:1379.3(A)(1), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of State Police gives notice that rulemaking procedures have been initiated to amend the concealed handgun permit regulations, LAC 55:I.Chapter 13. The proposed amendments to the Rule are necessary to be in compliance with recent Acts passed by the Louisiana Legislature. In addition, the proposed Rule makes technical changes to improve readability, eliminate duplicate items, and to codify current practice by the department regarding utilization of its statutory authority to levy fines under certain circumstances.

**Title 55**

**PUBLIC SAFETY**

**Part I. State Police**

**Chapter 13. Issuance of Concealed Handgun Permits**

**§1301. Applications and Permits**

A. The rules contained herein are promulgated by the Concealed Handgun Permit Unit of the Department of Public Safety and Corrections, Office of State Police, in order to set forth the policies and procedures applicable to the issuance of concealed handgun permits to Louisiana citizens who qualify for such permits pursuant to R.S. 40:1379.1 and 40:1379.3; to provide statewide uniform standards for issuing permits to carry concealed handguns; and to maintain the health, welfare, and safety of the public. These considerations shall control the application and interpretation of these rules. Any subsequent restatement, repeal, or amendment of these rules shall be in accordance with the aforementioned considerations.

B. Applicability. The policies and procedures provided herein shall be applicable to all Louisiana citizens who are eligible for a statewide concealed handgun permit.

C. Duties and Responsibilities. Persons issued concealed handgun permits have the authority only to carry a concealed weapon and are regarded as private citizens in all matters of law with no special powers or authority accruing by virtue of the concealed handgun permit.

D. - E. ...

F. Suspension/Revocation. The superintendent of state police or his designee may suspend or revoke concealed handgun permits when conditions and/or circumstances are such that the holder of such permit can no longer show need or when the holder commits acts contrary to law or uses the permit for self aggrandizement or in an unreasonable and imprudent manner.

G. Arrest Record. If the applicant has an arrest record, he shall present a notarized statement from the clerk of court or district attorney of the parish in which the arrests were made which specifies the disposition on all charges.

H. - I.6. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379.1, 40:1379.3, 40:1381, and 40:1382.

5. The effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule.

**Small Business Impact Statement**

Pursuant to the provisions of R.S. 49:965.5 the Louisiana Gaming Control Board, through its chairman, has concluded that there will be no adverse impact on small business if Parts VII, IX and XIII of Title 42 of the Louisiana Administrative Code are amended, repealed, consolidated and reenacted into Part III as the changes are intended to create uniformity between Parts VII, IX, and XIII by amending them to reflect current industry practices.

**Public Comments**

All interested persons may contact Earl Pitre, Attorney General's Gaming Division, telephone (225) 326-6500, and may submit comments relative to these proposed rules, through March 9, 2012, to 1885 North Third Street, Suite 500, Baton Rouge, LA 70802.

Dane K. Morgan  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Gaming—Regulation Consolidation**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed administrative rules LAC 42:III.2504 and 2505 will help reduce costs to the Department of Public Safety ("DPS") by eliminating the prior Board approval requirement for intra-company transfers between entities/people previously deemed suitable. The savings are generated by requiring fewer investigations and fewer appearances before the Louisiana Gaming Control Board.

The proposed rule change clarifies practices already required to take place in industry, corrects previous promulgation errors, and creates uniformity between existing rules.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule changes will not impact revenue collections for state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Presently, licensees must receive prior approval from the Louisiana Gaming Control Board for all transfers of ownership and economic interests, including those internal and intra-company transfers. The proposed rules will reduce costs to industry by eliminating certain prior approval requirements which allows licensees to better time transactions and reduces appearances before the Louisiana Gaming Control Board.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed administrative rule changes will have no effect on competition and employment.

Dane K. Morgan  
Chairman  
1201#020

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office



HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 1:495 (November 1975), amended by the Department of Public Safety and Corrections, Office of State Police, LR 22:845 (September 1996), LR 38:

### **§1303. Issuance of Special Officer's Commission**

A. Purpose. The purpose of this regulation is to set forth the policies and procedures applicable to the issuance of special officer's commission to persons showing need for such commissions as required in accordance with the provisions of Title 40, section 1379.1 of the Louisiana Revised Statutes.

B. Applicability. The policies and procedures provided herein shall be applicable to all officers, agents, and employees of agencies, boards and commissions of the state of Louisiana; of local government subdivisions; of private institutions or others who display a need for statewide police power and power to arrest, are bonded and meet other restrictions as required.

C. Duties and Responsibilities. Authorized persons commissioned as special officers shall have the direct authority to perform those activities specified on the special officer's commission card. However, when the holder of a special officer's commission is not performing those tasks specified on the commission card, he shall be regarded as a private citizen and his commission shall not be in effect.

D. Application. The superintendent of state police shall be authorized to issue, at his discretion, a special officer's commission from the Office of State Police. All requirements of the superintendent of state police relating to application shall be satisfied. Applications shall be submitted in the manner prescribed by the superintendent of state police and will include the submission of such documents and materials establishing eligibility as the superintendent may deem necessary.

E. Suspension/Revocation. The superintendent of state police may revoke or suspend special officer's commission when conditions and/or circumstances are such that the holder of a special commission can no longer show need or when the holder commits acts contrary to law or to the jurisdictional stipulations of the commission or through his action(s) or lack of action(s) brings discredit upon the state of Louisiana, its departments, agencies or commissions or its political subdivisions. Persons holding special officer's commissions are subject to the same statutory responsibilities and liabilities as are all other local and state law enforcement officers.

F. Termination. Special officer commissions will automatically expire one year from the date of issue or as otherwise provided by law.

G. Qualifications and Requirements. The following requirements shall be met before a special officer's commission will be issued. All applicants:

1. shall submit a letter which details the need for statewide police power and the power to arrest. If the applicant is employed and the nature of the employment is the basis for need of a special officer's commission, then, in addition to his letter, a detailed letter from the employer stating the need is necessary;

2. shall complete a detailed application and submit application along with the following documents:

- a. complete fingerprint file which has been prepared by a law enforcement agency;
- b. copy of birth certificate;

c. two color photos 2" by 2"—two side views and two front views;

3. shall have completed the minimum hours of basic law enforcement training in accordance with the Council on Peace Officer Standards and Training, or possess related experience or ability equal to such training;

4. submit to and pass a comprehensive background investigation, said investigation to be conducted by the Louisiana State Police;

5. show proof of faithful service bond in the minimum amount of \$10,000; and

6. if the applicant has an arrest record, he shall present a notarized statement from the clerk of court or the district attorney of the parish in which the arrests were made which specifies the disposition on all charges.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379.1, 40:1379.3, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 1:496 (November 1975), amended by the Department of Public Safety and Corrections, Office of State Police, LR 22:845 (September 1996), LR 38:

### **§1305. Definitions**

A. For the purposes of these rules, the following words and phrases shall be defined as:

*Addiction*—the habitual use of alcoholic beverages or any controlled dangerous substance as defined in R.S. 40:961 and 40:964.

*Applicant*—a person who has completed and submitted an application to the department seeking a concealed handgun permit.

*Application*—the forms and schedules prescribed by the department upon which an applicant seeks a permit or the renewal thereof. Application also includes information, disclosure statements, releases, certificates or any other form required by the department in the application process.

*Citizen*—any person legally residing in Louisiana immediately preceding the filing of an application for a concealed handgun permit.

*Concealed Handgun*—any handgun as defined in R.S. 40:1379.3(J)(1), which is carried on a person in such a manner as to hide or obscure the handgun from plain view.

*Department*—Louisiana Department of Public Safety and Corrections, Office of State Police.

*Deputy Secretary*—the deputy secretary of the Louisiana Department of Public Safety and Corrections who serves as the superintendent of the Office of State Police.

*Fugitive from Justice*—a person who flees, evades, or escapes from any jurisdiction to avoid arrest, prosecution, or imprisonment for any criminal offense, which shall include outstanding traffic attachments or warrants, or to avoid giving testimony in any criminal proceeding.

*Illegal Alien*—any person without legal authority to enter or remain in the United States and who is not legally residing within the United States or any territory or possession of the United States.

*Law Enforcement Officer*—any individual who is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest. For the purposes of this section, this definition shall apply to the term "peace officer" and "police officer".

*Machine Gun*—any firearm which shoots or is designed to shoot more than one round without reloading and by a single function of the trigger.

*N.R.A.*—National Rifle Association.

*Permit*—the authorization issued by the deputy secretary of the Louisiana Department of Public Safety and Corrections pursuant to R.S. 40:1379.3 and these rules, which shall be valid for five years from the date of issuance unless revoked, suspended, or otherwise invalidated, and shall contain a permit number, date of expiration, and the name, address, date of birth, physical description, and photograph of the permittee.

*Permittee*—an individual who meets the qualifications as described in R.S. 40:1379.3 and these rules and to whom a concealed handgun permit has been issued.

*Pistol*—a handgun that has a short barrel and can be held, aimed, and fired with one hand and is capable of only firing a single round each time the trigger is pulled, which includes semi-automatic handguns.

*P.O.S.T.*—Council on Peace Officer Standards and Training.

*Resident*—a person who is legally domiciled in Louisiana.

*Revolver*—a pistol that has a rotating cylinder containing a number of firing chambers. The action of the trigger or hammer will line up a chamber with the barrel and firing pin.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379.1, 40:1379.3, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:846 (September 1996), amended LR 28:1483 (June 2002), LR 38:

### **§1307. Applications and Permits**

A. Application materials may be obtained submitting a completed "Request for Application To Carry A Concealed Handgun" (form DPSSP 4644) to the department or by accessing the Louisiana State Police website at [www.lsp.org](http://www.lsp.org).

#### **B. Initial Applications**

1. All applications for a permit shall be submitted on forms provided by the department and mailed to:

Louisiana State Police  
Concealed Handgun Permit Unit  
P. O. Box 66375  
Baton Rouge, LA 70896

2. Applicants shall provide all additional information requested by the department within 10 business days of receipt of the request, unless an extension is granted by the department. If any applicant fails to provide all additional information requested by the department, the application shall be considered incomplete and shall be denied.

3. All applicants shall submit with their application two color passport photographs that meet the following specifications:

- a. photographs taken within 60 days of submission of application;
- b. full frontal view photograph of the applicant including his head and hair;
- c. sunglasses, hats, or caps may not be worn while taking photograph; and
- d. the rear of the photograph shall be signed and dated by the employee of the law enforcement agency where the applicant's fingerprints are taken.

4. All applicants shall submit with their application two complete, legible, and classifiable FBI applicant fingerprint cards taken by a person employed by a law enforcement agency who is appropriately trained in recording fingerprints.

5.a. For purpose of proof that the applicant is a resident of the state of Louisiana prior to his application for a permit, the applicant shall submit with his application a photocopy of his valid Louisiana driver's license or valid Louisiana identification card.

i. An applicant shall have a Louisiana driver's license or identification card.

ii. In the event the applicant's Louisiana driver's license or Louisiana identification card has been issued within six months of application, proof of residency shall be established by any one of the following documents:

- (a). United States passport;
- (b). Louisiana voter registration card;
- (c). any other documentation, which may adequately satisfy proof of compliance with the qualifications for residency.

b. For purposes of proof of residency, a business address or post office box shall not suffice.

c. Applicants who claim Louisiana as their domiciliary state and are on U.S. military duty in another state shall submit a copy of their orders detailing them to such duty station, along with a copy of their military identification card. Applicants who do not claim Louisiana as their domiciliary state and are on U.S. military duty in this state shall submit a copy of their orders detailing them on permanent status to a duty station within this state. In addition, those applicants shall possess either a valid Louisiana driver's license or valid Louisiana identification card.

d. An applicant who is attending school in another state shall submit a copy of his school registration form and fee bill for each semester during the permit period that is applicable.

6. For purposes of proof that the applicant is at least 21 years of age, a photocopy of his valid Louisiana driver's license or valid Louisiana identification card which contains the applicant's date of birth shall suffice.

7. All application forms are to contain a properly notarized oath wherein the applicant swears that:

- a. the information contained therein is true and correct;
- b. the applicant has read the applicable law and these rules, and any other informational materials supplied by the department that pertain to concealed handgun permits;
- c. the applicant agrees to comply with these rules and the law; and
- d. the applicant understands that any omission or falsification of any information required in the application may subject the applicant to criminal penalties.

8. All applications shall contain the permittee's home and daytime telephone number and a permanent mailing address for receipt of correspondence and service of documents by the department.

9. All applications submitted to the department shall contain proof of competency with a handgun in accordance with §1311.

10. All applications shall include a properly executed affidavit, provided by the department, whereby the applicant agrees in writing to hold harmless and indemnify the department, the state or any peace officer for any and all liability arising out of the issuance or use of the concealed handgun permit.

11. Incomplete applications, including failure to pay fees, shall result in the rejection or denial of a permit application.

12. The applicant or permittee shall notify the department, in writing, of any change of address, name, phone number, or other information required in the application, including the effective date of the change, within 30 days of the effective date of the change. All notifications shall be submitted to the Concealed Handgun Permit Unit via certified mail, return receipt requested or via the unit's public website.

13. Any false statement or improper notarization contained in any report, disclosure, application, permit form, or any other document required by the department shall be a violation of these rules and may be cause for denial, suspension, or revocation of the permit.

14. All applications shall be submitted with a certified check, money order or any other means of payment as approved by the department for the application or renewal fee as provided in §1307.B.15. An application is not complete unless it is submitted with the appropriate fee, is signed by the applicant, and contains all information required by the department.

15. All applicants shall submit with the application a non-refundable fee in the form of a certified check, money order or any other means of payment as approved by the department. The applicable fees are as follows:

a. for a five-year concealed handgun permit the fee shall be \$125;

b. the above fees shall be reduced by one-half if the applicant is 65 years of age or older on the date the application is received by the department;

c. any applicant who has not continuously resided within the state of Louisiana for the 15 years preceding the submission of the initial application shall enclose an additional non-refundable \$50 fee. This additional fee shall not be reduced for applicants 65 years of age or older.

d. Repealed.

C. Qualifications to Receive a Permit. To qualify for a concealed handgun permit, a citizen shall:

1. not be ineligible to possess a firearm under 18 U.S.C. 922(g); and

2. meet the requirements set forth in R.S. 40:1379.3 et seq.

D. Renewal of Permits

1. To renew a concealed handgun permit, a permittee shall file a renewal application no more than 120 days prior to the expiration of the permit and no later than the sixtieth day after expiration. Renewal applications submitted after the sixtieth day from expiration will not be accepted and the permittee shall complete a new original application with all documentation required for an original application. All renewal applications shall include two new photographs of the applicant as specified in LAC 55:I.1307.B.3.

2.a. A renewal application shall be considered filed with the department when the department receives the application

and the fees are processed. The applicable renewal fees are as follows:

i. for a five-year concealed handgun permit the fee shall be 125;

ii. the above fees shall be reduced by one-half if the applicant is 65 years of age or older on the date the application is received by the department.

b. If necessary to show proof of eligibility, an applicant who has not resided in Louisiana for the last 15 years may be required to pay an additional \$50 non-refundable fee to defray the cost of the background check.

3. An incomplete renewal application shall be denied or rejected by the department for failure to provide requested documents or appropriate fees. Proof of residency shall conform to LAC 55:I.1307.B.5.a.

4. Each permittee applying for a renewal of his permit shall complete additional educational training pursuant to requirements of §1311 within one year prior to submitting a renewal application and submit proof of training with the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379.1, 40:1379.3, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:848 (September 1996), amended LR 38:

#### §1309. Permits

A. In accordance with R.S. 40:1379.3 and LAC 55:I:1301 et seq., a concealed handgun permit shall be issued as a prerequisite to carry a concealed handgun.

B. A permit shall grant statewide authority to a permittee to carry and conceal on his person, in the manner prescribed by law and these rules, a handgun as defined by R.S. 40:1379.3(J)(1). A permit shall grant a permittee only the authority to carry a concealed handgun as a private citizen and grants no special authority to any citizen issued the permit.

C. - D. ...

E. Any permit issued pursuant hereto shall automatically become invalid for any of the following reasons:

1. the permit is altered in any manner;

2. the permit is lost or stolen;

3. the permittee is carrying it while under the influence of alcoholic beverages or a controlled dangerous substance; or

4. the permittee ceases to reside within this state.

F. Any permit issued by the deputy secretary of the Department of Public Safety and Corrections shall be deemed to be the property of the department and shall be surrendered and returned to the department upon suspension, revocation or expiration, or when the permittee ceases to reside in the state.

G. The following shall be mandatory grounds for revocation of a permit by the deputy secretary:

1. The permittee fails to satisfy or maintain any one of the qualification requirements enumerated in the law or these rules.

2. The permittee violates the provisions of R.S. 40:1379.3(I) or R.S. 40:1382.

H. An otherwise lawful permit shall be considered automatically suspended and not valid while the permittee is under the influence of alcoholic beverages or a controlled dangerous substance. For purposes of these rules and the applicable law, a permittee shall be considered under the

influence as evidenced by a blood alcohol reading of 0.05 grams percent or greater by weight of alcohol in the blood, or when a blood test or urine test shows any confirmed presence of a controlled dangerous substance as defined in R.S. 40:961 and 964.

I. The deputy secretary shall automatically suspend a permit for six months if a permittee fails to comply with the provisions of R.S. 40:1379.3(I)(2).

J. - L. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379.1, 40:1379.3, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:848 (September 1996), amended LR 38:

### **§1311. Handgun Training Requirements**

A. Upon initial application to the department for a permit, all applicants shall demonstrate competence with a handgun by any one of the following:

1. completion of any Department of Public Safety and Corrections approved firearms safety or training course which shall include at least a minimum of nine hours of instruction as detailed below:

a. one hour of instruction on handgun nomenclature and safe handling procedures of a revolver and semi-automatic pistol;

b. one hour of instruction on ammunition knowledge and fundamentals of pistol shooting;

c. one hour of instruction on handgun shooting positions;

d. three hours of instruction on the use of deadly force and conflict resolution which shall include a review of R.S. 14:18 through 14:22 and which may include a review of any other laws relating to the use of deadly force;

e. one hour of instruction on child access prevention; and

f. two hours of actual live range fire and proper handgun cleaning procedures:

i. live range fire shall include at a minimum 12 rounds each at 6 feet, 10 feet and 15 feet for a total of 36 rounds;

ii. each applicant or permittee shall perform at least one safe reload of the handgun at each distance;

iii. each applicant or permittee shall score 100 percent hits within the silhouette portion of an N.R.A. B-27 type silhouette target with at least 36 rounds;

2. completion of the N.R.A. Personal Protection In The Home Course or Personal Protection Outside the Home Course including instruction in child access prevention conducted by an N.R.A. certified instructor;

3. completion of the N.R.A. Basic Pistol Shooting course including instruction in child access prevention conducted by a N.R.A. certified instructor;

4. possession of a current valid license or permit to carry a concealed handgun issued by a parish law enforcement officer;

5. completion of a law enforcement training academy program certified by P.O.S.T.; or

6. proof of completion of small arms training while serving with the armed forces of The United States of America as described in R.S. 40:1379.3(D)(1) dated within 60 months of date of the application.

7. for personnel on active duty or serving in one of the National Guard or reserve components of the armed forces,

possession of a certification of completion of basic training with service record evidence of having successfully completed small arms training and qualification.

8. For personnel released or retired from active duty or the National Guard or reserve components of the armed forces for more than 60 months, possession of proof indicating combat service and an "honorable discharge" or "general discharge under honorable conditions" as evidenced by a Department of Defense Form 214 (DD-214) and completion of the following:

a. A three-hour course of instruction on the use of deadly force and conflict resolution which shall include a review of R.S. 14:18-22 and which may include a review of any other laws relating to the use of deadly force within the preceding 60 months.

b. A one-hour course of instruction on child access prevention within the preceding 60 months.

B. Upon renewal application to the concealed handgun permit unit for a permit, all applicants shall demonstrate competence with a handgun by attending a course taught by a department approved instructor consisting of the following:

1. instruction on handgun nomenclature and safe handling procedures for a revolver and a semi-automatic pistol;

2. instruction on ammunition knowledge and fundamentals of pistol shooting;

3. instruction on handgun shooting positions;

4. instruction on the use of deadly force and conflict resolution which shall include a review of R.S. 14:18-14:22 and which may include a review of any other laws relating to use of deadly force;

5. instruction on child access prevention; and

6. actual live range fire and proper handgun cleaning procedures:

a. live range fire shall include at a minimum 12 rounds each at 6 feet, 10 feet and 15 feet for a total of 36 rounds;

b. each applicant or permittee shall perform at least one safe reload of the handgun at each distance;

c. each applicant or permittee shall score 100 percent hits within the silhouette portion of an N.R.A. B-27 type silhouette target with at least 36 rounds.

C. No certification or completion from any firearms training course or class available to the public offered by a law enforcement agency, college, or private or public institution or organization or firearm training school shall be accepted unless said course received prior approval from the department in accordance with R.S. 40:1379.3(D)(1)(b), (c), and (e).

1. The provider of any course offered for the purpose of certification to obtain a concealed handgun permit shall submit a detailed course syllabus and any course materials to the department in order for the department to evaluate said course for approval pursuant to R.S. 40:1379.3(D)(1)(b), (c), and (e). If the provider fails to provide training in a manner consistent with the approved course syllabus and materials, the department shall revoke the provider's approval to conduct said courses.

2. The course syllabus shall include the name and address of the instructors and a certified true copy of the instructors' N.R.A. or P.O.S.T. instructor certification.

D. Any teaching or training required under this Part shall be conducted by a current NRA-certified or P.O.S.T.-certified instructor who has registered his name and certification with the department. In order to become registered and maintain that registration with the department an instructor shall:

1. submit a completed copy of DPSSP Form 6702 instructor information form;

2. submit a course syllabus that includes the curriculum described in LAC 55:I.1311.A and LAC 55:I.1307.D;

3. keep up to date his name, address, phone number, an e-mail address, and instructor certificates (on a yearly basis);

4. submit a contact number that may be released to applicants to schedule courses. The listing of an e-mail address is optional. In the event that the instructor's contact information is not valid or certification has expired, the instructor shall be removed from the department's approved instructor list.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379.1, 40:1379.3, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:849 (September 1996), amended LR 28:1484 (June 2002), LR 38:

### **§1313. Code of Conduct of Permittees**

#### **A. General Provisions**

1. All permittees shall comply with all applicable federal and state laws and regulations.

2. Any violation of R.S. 40:1379.3 or 40:1382 shall also constitute a violation of these rules.

3. Each permittee shall meet and maintain all qualifications necessary to possess a concealed handgun permit.

#### **B. Duties and Responsibilities of the Permittee**

1. A permittee armed with a handgun shall notify any police officer who approaches the permittee in an official manner or with an identified official purpose that he has a handgun on his person, submit to a pat down, and allow the officer to temporarily disarm him. Failure to comply with this provision shall result in a six-month automatic suspension of the permit.

2. A permittee is prohibited from carrying a concealed handgun on his person while under the influence of alcoholic beverages or a controlled dangerous substance as defined in R.S. 40:961 and R.S. 40:964. For purposes of these rules, a permittee shall be considered under the influence as evidenced by a blood alcohol reading of 0.05 grams percent or greater by weight of alcohol in the blood, or when a blood test or urine test shows any confirmed presence of a controlled dangerous substance as defined in R.S. 40:961 and 40:964. When a law enforcement officer is made aware that a permittee is carrying a concealed handgun and the officer has reasonable grounds to believe that the permittee is under the influence of either alcoholic beverages or a controlled dangerous substance as defined in R.S. 40:961 and 40:964, the law enforcement officer may take temporary possession of the handgun and require the permittee to submit to a department certified chemical test. The law enforcement agency by which such officer is employed shall designate which of the aforesaid tests shall be administered. Failure of the permittee to comply with the provisions of this

Section shall result in a six-month automatic suspension of the concealed handgun permit.

3. Each permittee shall notify the department in writing of any change of address, name, phone number, or other information required in any application, including the effective date of the change, within 30 days of the effective date of the change. All notifications shall be submitted to the Concealed Handgun Permit Unit via certified mail, return receipt requested or via the unit's public website. Failure to comply with this provision may result in suspension or revocation of the permit.

4. A permittee shall notify the department of any misdemeanor or felony arrest or issuance of any summons other than a minor traffic violation, but including all arrests for operating a vehicle as defined in R.S. 14:98(A)(1) while under the influence of alcohol or other substances, in this state or any other jurisdiction, within 15 days of the arrest or issuance of the summons. Notice shall be sent via certified mail, return receipt requested to the department's designee responsible for the issuance of concealed handgun permits and shall include the date of arrest or summons, the arresting or issuing agency, jurisdiction in which the arrest occurred, the specific offense charged, whether the offense is classified as a felony or misdemeanor, the results of any chemical test which may have been administered in conjunction with the arrest or summons, a copy of any citation or summons issued, and any other pertinent information regarding the arrest or summons. Failure to notify the department in accordance with this Section shall result in a 90-day suspension of the permit.

5. When a permittee ceases to reside within this state, the permit automatically becomes invalid and the permittee shall return the concealed handgun permit to the department within five business days from the date he ceases to reside within this state. Upon receipt of the permit, the permit status shall be changed to "canceled." A new application shall be completed if the permittee resumes his resident status.

6. A permittee shall immediately return the concealed handgun permit to the department upon automatic suspension or revocation of the permit. If the permit is under suspension, failure to immediately return the permit to the department shall be grounds for revocation.

7. A permittee shall immediately inform the department in writing of any handgun related accident, discharge, incident, injury, or death involving any permittee. Failure to do so shall be grounds for suspension or revocation of an existing permit or denial of a renewal application.

8. Upon death of any permittee, the permittee's estate representative shall notify the department and return the concealed handgun permit to the department.

9. Any permittee or applicant who is subject to any preliminary or permanent injunction in any family or domestic dispute, or any other protective order issued pursuant to law, shall notify the department of the caption of the suit including the suit or proceeding number, the date of the issuance of the injunction or court order, and provide a signed copy of the court's order within three days of the issuance of any such order. Upon the issuance of the injunction or court order, the permit shall be automatically

suspended and the department may revoke or deny the permit in accordance with law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379.1, 40:1379.3, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:850 (September 1996), amended LR 28:1484 (June 2002), LR 38:

**§1315. Appeal and Hearing Procedures**

**A. Notice of Permit Denial and Appeal**

**A.1. - C.7. ...**

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:851 (September 1996), amended LR 38:

**Family Impact Statement**

1. The proposed Rule will not affect the stability of the family.

2. The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. This Rule will not affect the functioning of the family.

4. This Rule will not affect the family earnings or family budget.

5. This Rule will not affect the behavior or personal responsibility of children.

6. The action proposed is strictly a state enforcement function. Therefore, it will have no effect on the ability of the family or local government to perform the function as contained in the proposed rules.

**Small Business Impact Statement**

The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

**Public Comments**

Interested persons may submit written comments to Ms. Melinda L. Long, Attorney, Louisiana State Police, DPS/Office of Legal Affairs, Post Office Box 66614, Baton Rouge, LA 70896. Written comments will be accepted through the close of business on March 12, 2012.

Jill P. Boudreaux  
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Issuance of Concealed  
Handgun Permits**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no anticipated implementation costs or savings to state or local governmental units resulting from the proposed rule. The proposed rule modifies the residential requirement

applicable to applying for a concealed handgun permit and amends where a concealed weapon may be carried with a permit. The proposed rule implements changes as per Act 242 of the 2011 Regular Session of the Louisiana Legislature and Act 944 of the 2010 Regular Session. The proposed rule makes technical changes to improve the readability, eliminate duplicate items, and to codify current practice by the department regarding utilization of its statutory authority to levy fines under certain circumstances.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change extends the duration of a concealed handgun permit from four years to five years, but retains the \$25 annual cost. Thus, a permit acquired for the maximum duration will now cost \$125 (\$25 X 5 years) instead of \$100. This change should not impact aggregate revenues over a given five year period, but upon implementation may result in increased annual revenue collections over the first few years of the new rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

There is no anticipated effect on costs and/or economic benefits to directly affected persons or non-governmental groups as a result of this rule change. The proposed rule change implements changes required by recent legislative actions and codify current practice by the department regarding utilization of its statutory authority to levy fines under certain circumstances.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

There is no anticipated effect on competition and/or employment as a result of this rule change.

Jill Boudreaux  
Undersecretary  
1202#008

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Revenue  
Office of Alcohol and Tobacco Control**

Participation in Hearing by Video Conference  
(LAC 55:VII.329 and 3119)

Under the authority of R.S. 26:99.1, 296.1, and 919.1 and in accordance with the provisions of the Administrative Procedure Act, R.S 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, proposes to adopt LAC 55.VII 329 and 3119 to provide the methods and requirements of utilizing teleconference, video link, or other visual remote communications technology for conducting any hearings authorized by the provisions of Title 26 of the Louisiana Revised Statutes and the regulations promulgated thereunder.

This proposed adoption of the above-referenced rules is offered under the authority delegated and/or mandated by Act 86 of the 2011 Regular Session of the Louisiana Legislature and at the direction thereof in its enactment of 26:99.1, 296.1, and 919.1 to promulgate rules relative to the participation at hearings conducted by the Department of Revenue, Office of Alcohol and Tobacco Control through the use of telecommunications equipment.

**Title 55**

**PUBLIC SAFETY**

**Part VII. Alcohol and Tobacco Control**

**Subpart 1. Beer and Liquor**

**Chapter 3. Liquor Credit Regulations**

**§329. Regulation XII—Participation in Hearing by Video Conference**

A. To the extent practicable and if the parties do not object, the commissioner may authorize the use of teleconference, video link, or other visual remote communications technology to conduct all or any portion of any hearing authorized by the provisions of Title 26 of the Louisiana Revised Statutes and the regulations promulgated thereunder; unless prohibited by law.

B. Prior to authorizing the use of teleconference, video link, or other visual remote communications technology for the conducting of any hearing, the commissioner shall provide the permittee with written notice of his intent to do so. The notice shall be sent by certified mail to the permittee at the address of his place of business as given in his application for the permit and shall be sent not less than ten nor more than thirty calendar days from the scheduled hearing date. When so addressed and mailed, the notice shall be conclusively presumed to have been received by the permittee.

C. Any party objecting to the commissioner's authorization of the use of teleconference, video link, or other visual remote communications technology to conduct all or any portion of any authorized hearing shall provide the commissioner with written notification of the objection at least five days prior to the scheduled hearing date. Upon receipt of any objection, the commissioner shall not allow the use of teleconference, video link, or other visual remote communications technology to conduct any portion of the hearing for which a proper objection was raised. Failure of a permittee to object in writing within at least five calendar days prior to the scheduled hearing date shall conclusively constitute a waiver of any objections.

D. Any use of teleconference, video link, or other visual remote communications technology for the conducting of any hearing shall be done in real-time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 99.1, 296.1, and 919.1 and Act 88 of the 2011 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Revenue, Office of Alcohol and Tobacco Control, LR 38:

**Subpart 2. Tobacco**

**Chapter 31. Tobacco Permits**

**§3119. Participation in hearing by video conference**

A. To the extent practicable and if the parties do not object, the commissioner may authorize the use of teleconference, video link, or other visual remote communications technology to conduct all or any portion of any hearing authorized by the provisions of Title 26 of the Louisiana Revised Statutes and the regulations promulgated thereunder; unless prohibited by law.

B. Prior to authorizing the use of teleconference, video link, or other visual remote communications technology for the conducting of any hearing, the commissioner shall provide the permittee with written notice of his intent to do

so. The notice shall be sent by certified mail to the permittee at the address of his place of business as given in his application for the permit and shall be sent not less than ten nor more than thirty calendar days from the scheduled hearing date. When so addressed and mailed, the notice shall be conclusively presumed to have been received by the permittee.

C. Any party objecting to the commissioner's authorization of the use of teleconference, video link, or other visual remote communications technology to conduct all or any portion of any authorized hearing shall provide the commissioner with written notification of the objection at least five days prior to the scheduled hearing date. Upon receipt of any objection, the commissioner shall not allow the use of teleconference, video link, or other visual remote communications technology to conduct any portion of the hearing for which a proper objection was raised. Failure of a permittee to object in writing within at least five calendar days prior to the scheduled hearing date shall conclusively constitute a waiver of any objections.

D. Any use of teleconference, video link, or other visual remote communications technology for the conducting of any hearing shall be done in real-time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 99.1, 296.1, and 919.1 and Act 88 of the 2011 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Revenue, Office of Alcohol and Tobacco Control, LR 38:

**Family Impact Statement**

As required by Act 1183 of the Regular Session of the Louisiana Legislature, the following Family Impact Statement is submitted for publishing with the notice of intent in the Louisiana Register. A copy of this statement will also be provided to the legislative oversight committees.

1. The Effect on the Stability of the Family. Implementation of this proposed Rule and/or amendment will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. Implementation of this proposed Rule and/or amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of this proposed Rule and/or amendment will have no effect on the functioning of the family.

4. The Effect on the Family Earnings and Budget. Implementation of this proposed Rule and/or amendment will have no effect on family earnings and budget.

5. The Effect on Behavior and Personal Responsibility of Children. Implementation of this proposed Rule and/or amendment will have no effect on behavior and responsibility of children.

6. The Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. Implementation of this proposed Rule and/or amendment will have no effect on the ability of the family or local government to perform this function.

**Public Comments**

Interested persons may submit data, views, or arguments, in writing to Commissioner Troy M. Hebert, Office of

Alcohol and Tobacco Control, 8585 Archives Ave, Suite 220, Baton Rouge, Louisiana 70809; or via facsimile to (225) 925-3975. All comments must be submitted by 4:30 p.m. on Friday, March 30, 2012.

**Public Hearing**

A public hearing will be held on Friday March 30, 2012 at 4 p.m. in the Office of Alcohol and Tobacco Control at 8585 Archives Avenue, second floor in Baton Rouge, Louisiana.

Troy Hebert  
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Participation in Hearing by  
Video Conference**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Promulgation of this proposed rule will not result in any costs or savings to state or local governmental units. Rather, this proposed rule is adopted pursuant to mandate(s) contained in Act 86 of the 2011 Regular Session of the Louisiana Legislature. The Office of Alcohol and Tobacco Control has absorbed the cost of implementing video conferencing technology within the agency's budget. This rule will improve efficiency for ATC by eliminating the need for agents to spend hours commuting to and from Baton Rouge for hearings. However, there are no additional costs or savings to the state as this rule merely allows ATC to optimize the effectiveness of resources by allowing agents to utilize the time they would otherwise spend driving to and from Baton Rouge for hearings to increase patrols and investigations in their respective regions.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Promulgation of this proposed rule and/or amendment will not have an immediate effect on revenue collections of state or local governmental units. However, this proposed rule will allow ATC agents to spend more time patrolling and conducting investigations and thereby potentially issuing more citations which could potentially generate future increases in state revenue from fine collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Promulgation of this proposed rule and/or amendment will not result in any costs and/or economic benefits to directly affected persons or non-governmental groups. However, it will provide the option of an additional venue for completion of the permitting process.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This proposed rule will have no impact on competition and employment.

Troy M. Hebert  
Commissioner  
1202#023

Gregory V. Albrecht  
Chief Economist  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Revenue  
Office of Alcohol and Tobacco Control**

**Regulation IX—Prohibition of Certain Unfair  
Business Practices (LAC 55:VII.317)**

Under the authority of R.S. 26:150 and in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, proposes to amend LAC 55:VII.317 relative to unfair business practices.

This proposed amendment to the above-referenced Rule is offered under authority delegated by and at the direction of the Louisiana Legislature in its amendment and re-enactment of R.S. 26:150 to promulgate rules relative to unfair business practices.

**Title 55**

**PUBLIC SAFETY**

**Part VII. Alcohol and Tobacco Control**

**Subpart 1. Beer and Liquor**

**Chapter 3. Liquor Credit Regulations**

**§317. Regulation IX—Prohibition of Certain Unfair  
Business Practices**

**A. Definitions**

\* \* \*

*Manufacturer*—any person who, directly or indirectly, personally or through any agency, engages in the making, blending, rectifying, or other processing of alcoholic beverages in Louisiana or outside the state for shipments to licensed wholesale dealers within the state.

\* \* \*

**B. - C.2.n.viii. ...**

D. As part of an original and each permit renewal application, every manufacturer, wholesaler and retailer shall certify in writing that the applicant and all persons acting on behalf of the applicant understands and agrees to comply with the market practices regulations provided for by law and these regulations. Specifically, every manufacturer, wholesaler and retailer shall certify in writing that:

1. the applicant understands that manufacturers and/or wholesalers are prohibited from providing a retailer with anything of value unless explicitly enumerated as an exception in the Alcoholic Beverage Control Law or these regulations;

2. manufacturers and wholesalers are prohibited from inducing or otherwise influencing, directly or indirectly, a retailer from selling and/or serving its products to the exclusion, in whole or in part, of products of other manufacturers and/or wholesalers including but not limited to illegally influencing the retailer in any way regarding the quantity or brand of alcoholic beverages bought or sold by a retailer; and retailers are prohibited from accepting or requiring any such inducement or other influence; and

3. if anyone violates the market practices laws and regulations of the state of Louisiana, the United States or any



other state, their permit(s) is subject to suspension, revocation and/or assessment of a fine or other penalty provided for by law.

E. Penalty. The commissioner of the Office of Alcohol and Tobacco Control may seek suspension or revocation of the permit or permits of a violator and may impose such other penalties or administrative remedies against violators as are prescribed by law for violations of the Alcoholic Beverage Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:150

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Alcoholic Beverage Control, LR 4:463 (November 1978), amended LR 5:11 (January 1979), amended by the Department of Public Safety and Corrections, Office of Alcoholic Beverage Control, LR 17:607 (June 1991), LR 20:671 (June 1994), amended by the Department of Revenue and Taxation, Office of Alcoholic Beverage Control, LR 22:116 (February 1996), LR 26:2631 (November 2000), LR 28:1484 (June 2002), LR 31:1344 (June 2005), amended by the Louisiana Department of Revenue, Office of Alcohol and Tobacco Control, LR 35:89 (January, 2009), LR 38:

#### **Family Impact Statement**

As required by Act 1183 of the Regular Session of the Louisiana Legislature, the following Family Impact Statement is submitted for publishing with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to the legislative oversight committees.

1. The Effect on the Stability of the Family. Implementation of this proposed Rule and/or amendment will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. Implementation of this proposed Rule and/or amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of this proposed Rule and/or amendment will have no effect on the functioning of the family.

4. The Effect on the Family Earnings and Budget. Implementation of this proposed Rule and/or amendment will have no effect on family earnings and budget.

5. The Effect on Behavior and Personal Responsibility of Children. Implementation of this proposed Rule and/or amendment will have no effect on behavior and responsibility of children.

6. The Ability of the Family or Local Government to Perform the Function as Contained in the proposed Rule. Implementation of this proposed Rule and/or amendment will have no effect on the ability of the family or local government to perform this function.

#### **Public Comments**

Interested persons may submit data, views, or arguments, in writing to Commissioner Troy M. Hebert, Office of Alcohol and Tobacco Control, 8585 Archives Avenue, Suite 220, Baton Rouge, LA 70809; P.O. Box 66404, Baton Rouge, LA 70896-6404; or via facsimile to (225) 925-3975. All comments must be submitted by 4:30 p.m. on Friday, March 30, 2012.

#### **Public Hearing**

A public hearing will be held on Friday, March 30, 2012 at 4 p.m. in the Office of Alcohol and Tobacco Control at 8585 Archives Avenue, second floor in Baton Rouge, LA.

Troy Hebert  
Commissioner

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Regulation IX—Prohibition of Certain Unfair Business Practices**

##### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Promulgation of this proposed amendment will not result in any costs or savings to state or local governmental units. Rather, this proposed amendment is adopted under authority delegated by and at the direction of the Louisiana Legislature in its amendment and re-enactment of R.S. 26:150 which mandates that the commissioner adopt and promulgate rules to prevent any unfair practices in the sale of any regulated beverages. The current amendment adds to existing trade practice regulations by requiring that original and renewal applicants with the Office of Alcohol and Tobacco Control (ATC) certify in writing that they understand and agree to comply with the existing trade practices.

##### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Promulgation of this proposed amendment 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)**

Promulgation of this proposed amendment will not result in any costs and/or economic benefits to directly affected persons or non-governmental groups.

##### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This proposed amendment will have no impact on competition and employment.

Troy M. Hebert  
Commissioner  
1202#007

Gregory V. Allbrecht  
Chief Economist  
Legislative Fiscal Office

#### **NOTICE OF INTENT**

#### **Department of Wildlife and Fisheries Office of the Secretary**

Wild Seafood Certification Program (LAC 76:I.Chapter 7)

The secretary of Wildlife and Fisheries hereby advertises his intent to establish the Louisiana Wild Seafood Certification Program (R.S. 56:578.15). This program shall establish rules and guidelines throughout the seafood supply chain that will enable the state of Louisiana through its various agencies to certify seafood products possessing the program label are taken, landed, and processed in Louisiana. This seafood certification program strives to increase consumer confidence and increase demand for Louisiana

seafood. The primary mission with this origin based certification program is to build a unified brand that will attract not only consumers but also food service and seafood distribution buyers who want to be sure they are sourcing the best tasting seafood in the world—Louisiana seafood.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps to promulgate and effectuate this Notice of Intent and final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

#### **Title 76**

### **WILDLIFE AND FISHERIES**

#### **Part I. Wildlife and Fisheries Commission and Agencies Thereunder**

#### **Chapter 7. Louisiana Wild Seafood Certification Program**

##### **§701. Declaration of Policy, Purposes, and Intent**

A. In order to establish a certification program for Louisiana wild fish, as defined in R.S. 56:8, and for Louisiana wild seafood products, including wild-caught shrimp, which are taken, harvested, or landed in Louisiana, pursuant to the authority conferred by R.S. 56:578.15; the following rules in this Chapter shall govern any work related to the Louisiana Wild Seafood Certification Program (LWSCP).

B. For the purpose of this Chapter, the following will be defined as:

*Commingled*—to cause to blend together, mix or combine; particularly as it applies to mixing non-certified seafood with LWSCP products.

*Landed*—taken and brought ashore.

*LDAF*—Louisiana Department of Agriculture and Forestry.

*LDHH*—Louisiana Department of Health and Hospitals.

*LDWF*—Louisiana Department of Wildlife and Fisheries.

*LWSCP*—Louisiana Wild Seafood Certification Program.

*Packaged*—product that is contained in a closed and sealed package or container for sale which contains product labeling and designated weight.

*Processed*—any method of preparing fish or fish products for market including drying to a point of dehydration, canning, salting, freezing, breaching, or cooking for immediate consumption; but not simple packing of fresh fish in a sack, bag, package, crate, box, lug or vat for transport or holding.

*Origin Test*—method of verifying product was taken from the Gulf of Mexico or Louisiana waters.

##### **C. Policy**

1. Participation in the LWSCP is voluntary and limited to those individuals or entities meeting the following criteria:

a. must possess one of the following resident or non-resident Louisiana licenses: commercial fisherman's license; senior commercial license; seafood wholesale/retail dealer; seafood retail dealer;

b. wholesale/retail dealers must have their facility located within Louisiana. Retailers are not required to have their facility located within Louisiana;

c. eligible participants not requiring a LDWF license include all out-of-state retailers and in-state restaurants or grocers who only sell seafood that is fully prepared by cooking for immediate consumption by the consumer;

d. must have completed program training requirements. Retailers are exempt from training requirements;

e. must possess and be in compliance with all other state and federal permits, licenses, and laws regarding the buying, acquiring, or handling, from any person, by any means whatsoever, any species of fish or seafood products, whether fresh, frozen, processed, or unprocessed, for sale or resale, whether on a commission basis or otherwise. Including but not limited to any LDWF, LDHH or LDAF permits or regulations.

2. Product considered eligible to possess the LWSCP logo must meet the following criteria:

a. eligible wild seafood includes crab, oysters, freshwater finfish, saltwater finfish, crawfish, and shrimp. Seafood must be wild-caught, taken from Louisiana waters or from the Gulf of Mexico and any other adjacent state waters, and landed in Louisiana. Farmed and/or aquaculture products are excluded from program participation;

b. seafood must be taken by a commercial fishermen participating in the LWSCP. Seafood must be landed in Louisiana and be purchased and/or physically acquired by a wholesale/retail seafood dealer participating in the LWSCP. Transfer of product throughout the supply chain must be between LWSCP participants until the product has reached its final form or destination prior to being sold for consumption;

c. seafood commingled with any other seafood that does not meet the above requirements, domestic or foreign, shall be prohibited from possessing the LWSCP label.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 56:578.15 and R.S. 56:23.

**HISTORICAL NOTE:** Promulgated by the Department of Wildlife and Fisheries, Office of the Secretary, LR 38:

##### **§703. Application and Permitting Process**

A. Each person wishing to participate in the LWSCP must apply for and receive a permit. Only one permit shall be issued per location or LDWF license. Permits are non-transferable, and shall only be valid for the location or LDWF license listed on the permit.

B. There shall be four types of permits issued.

1. Commercial Fisherman. Anyone that applies using a Louisiana commercial fisherman license or senior commercial license shall be classified under this permit type.

2. Wholesale/Retail Dealer. Any dock/landing, dealer, processor, vehicle, or other person that applies using a Louisiana wholesale/retail dealer's license shall be classified under this permit type.

3. Retail Dealer—inside Louisiana. Any Louisiana based seafood market, grocer, restaurant, or vehicle that applies as a retailer, or other person that applies using a Louisiana Retail Dealer's License shall be classified under this permit type.

4. Retail Dealer—outside of Louisiana. Any out-of-state seafood market, grocer, restaurant, vehicle, or other person that applies as a retailer shall be classified under this permit type.

C. Permits shall be valid upon date of issuance and expire on April 30 of each year.

D. No person shall sell, barter, trade, or exchange, or attempt to sell, barter, trade, or exchange LWSCP labeled seafood, or use the LWSCP logo for promotional and/or marketing purposes without possessing a valid LWSCP permit.

1. A permit is not required for persons selling prepackaged LWSCP labeled products.

E. Applications shall only be submitted by the individual named on the license under which the application is being made. In cases where the named individual is a business, applications shall be submitted by the business's registered agent, officers, or designated employee.

F. New applications shall be accompanied by a certificate of completion showing the individual named on the application completed the initial program training. Retailers are exempt from the program training requirements.

G. Applications for the LWSCP shall be accepted year round. Applications for the upcoming permit year may be submitted beginning January 1. Applicants must show proof of having acquired all necessary licenses and permits. All information requested must be provided before the application is processed and a permit issued.

H. All applicants shall be notified of their permit status by mail at the address listed on their application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:578.15 and R.S. 56:23.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of the Secretary, LR 38:

#### **§705. Logo Use Guidelines and Standards**

A. Logo use is restricted to commercial fishermen possessing a fresh products license, wholesale/retail dealers, and retailers that have a LWSCP permit

B. The "Certified Authentic Louisiana Wild Seafood" trademark (the "logo," shown below) shall only be used in accordance with the certification standards filed with the United States Patent and Trademark Office (USPTO). The logo shall only be used by participants in the LWSCP who are in compliance with the program rules and regulations. Further, the logo shall only be used on or in connection with product which complies with the program rules and regulations. Product and associated paperwork/records bearing the logo, or with which the logo is used, must be made available for inspection upon request.



C. All uses of the logo must adhere to the specific guidelines filed with the USPTO.

D. Only the electronic logo files that are made available to LWSCP participants for download may be used to create the logo. Further, LWSCP participants must follow these additional guidelines.

1. The logo shall not be used on top of complex visuals or photography that bars readability.

2. The logo's proportions shall not be changed in any way and shall always remain 1.78 times as wide as it is tall.

3. The minimum size of the logo on product packaging shall be 0.73 inches tall by 1.3 inches wide.

4. No photocopy of the logo shall be used on any materials.

5. Labels using the logo shall have a clear or white background. Labels shall only be professionally printed with indelible ink on moisture-proof, cold-temperature adhesive material. Non-adhesive paper for labels shall not be used.

E. The following are allowable uses for this logo by program participants:

1. printing of the logo directly on LWSCP product packaging;

2. printing of the logo on adhesive labels to be attached to LWSCP product packaging;

3. use on promotional materials featuring LWSCP product (e.g. table tents, recipe cards, point-of-sale signage, etc.), or their participation in the LWSCP program;

4. use on restaurant menus to designate items using LWSCP product;

5. print and television advertising promoting the participant's use of LWSCP product or their participation in the LWSCP program;

6. fresh product displays in retail/grocery venues with "ice picks" or other signage clearly identifying LWSCP product;

7. on-site signage such as banners and posters promoting LWSCP product availability;

8. use on websites, mobile applications, and other digital mediums that promote the participant's use of LWSCP product or their participation in the LWSCP program;

9. printing or distribution by packaging distributor of packaging material with the LWSCP logo, to any persons who are not in the program shall be deemed a violation of this Section.

F. When the logo is used to represent product in a retail location or menu items in a restaurant location, each location must clearly identify which product or menu items are LWSCP products.

G. The secretary may authorize use of the logo in materials promoting the LWSCP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:578.15 and R.S. 56:23.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of the Secretary, LR 38:

#### **§707. Operations**

A. Purchasing and/or transferring of seafood intended for use in the LWSCP.

1. Commercial Fishermen possessing a permit and intending to sell or transfer seafood for use in the LWSCP shall be responsible for ensuring that the seafood was taken legally from Louisiana waters or the waters of the Gulf of Mexico and landed at and sold to a wholesale/retail dealer possessing a LWSCP permit.

2. Wholesale/retail dealers possessing a permit and intending to, purchase, sell, transfer or exchange seafood for use in the LWSCP, which is labeled with the programs logo shall be responsible for ensuring LWSCP labeled/d destined seafood is sourced from and sold/transferred to parties that meet the minimum requirements of the program.

3. Retail dealers possessing a permit and intending to purchase, sell, transfer, or exchange unpackaged seafood for use in the LWSCP label shall be responsible for ensuring that the seafood is supplied by a Wholesale/Retail Dealer who possesses a LWSCP permit and that the product meets the minimum requirements of the program.

4. Seafood must remain segregated from non-program seafood throughout the supply chain and must be marked or labeled with "LWSCP" or the program logo at all times. Seafood which is processed must be processed separately from non-program seafood.

5. A website shall be made available to all LWSCP participants to allow them to verify the permit status of potential suppliers and buyers. Participants are required to share their contact information with other participants for verification purposes via the previously mentioned website. Participants may also contact LDWF designee to verify someone's permit status.

**B. Packaging, Repackaging, and Unpacking**

1. No person shall package or repackage seafood intended to be sold under the LWSCP name and/or labeled with the LWSCP logo without possessing a LWSCP permit.

2. All packaging and repackaging of LWSCP seafood shall take place in Louisiana

3. Repackaged LWSCP seafood shall not be mixed with seafood not meeting LWSCP requirements. Doing so shall constitute a commingling program violation.

4. Packaged products labeled with the LWSCP logo may be sold by retailers not possessing a permit provided the product remains in its original packaging until sold to the consumer.

5. No person shall sell, barter, trade, or exchange, or attempt to sell, barter, trade, or exchange unpackaged seafood under the LWSCP name and logo without possessing a LWSCP permit.

C. Notwithstanding all other provisions of law regarding record keeping and reporting requirements for the sale, trade, or bartering of seafood persons possessing a wholesale/retail dealer permit or retail dealer permit shall adhere to the following requirements regarding record keeping as they pertain to seafood sold under the LWSCP.

1. Seafood sold or attempted to be sold under the LWSCP name or logo must be designated as such on all records, invoices, bills of lading, and transfer documents using "LWSCP."

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:578.15 and R.S. 56:23.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of the Secretary, LR 38:

**§709. Monitoring and Enforcement**

A. Upon submission of permit application, LDWF shall validate the applicant's required licenses and permits and check for any fishery or LWSCP related convictions associated with them in the past three years. Any violations

found shall be treated in a manner consistent with section H of this provision

B. Program applicable LDWF, LDHH, and LDAF violations shall be reported to LWSCP program monitors on a regular basis. Any convictions found shall be treated in a manner consistent with section H of this provision.

C. Product containing the LWSCP label, and all required records associated with such product, must be made available upon request of any LDWF, LDAF, or LDHH agent for inspection and sampling to ensure certification standards are being followed. Failure to comply shall result in removal of the product from the market (R.S. 56:578.15(B)) and shall be considered a record keeping violation as described in section H of this provision.

D. Product samples may be taken to conduct DNA or protein based country of origin tests. Discovery of any foreign product shall be considered as commingling under section H of this provision and may result in fines and penalties notwithstanding those associated with LWSCP.

**E. LWSCP Violations**

1. Any violation of the above LWSCP program rules shall constitute a class 1 violation under the authority of R.S. 56:23. The provisions of this Section do not exempt any person from other laws, rules, regulation, and license requirements for this or other jurisdictions.

2. If any required licenses or permits (LDWF, LDAF, LDHH) are revoked or temporarily suspended, the participant shall be automatically removed from the LWSCP and shall not be able to use the LWSCP logo. When the license(s) or permit(s) are reinstated, participant can be reinstated into the LWSCP via the renewal application process.

3. The following program violations involving LWSCP labeled seafood product shall result in its seizure: commingling non-certified seafood with certified seafood, intentional misrepresentation of program seafood, any trademark infringement practices with LWSCP trademark and trade name, fraudulent trip tickets and/or record keeping, and short weight violations. Any seizures or forfeitures of LWSCP labeled seafood product or materials shall be disposed of in accordance with LAC 76:1.B.305.

4. The department shall not issue a permit to any person convicted of the following offenses for the specified length of time from date of conviction.

Offense	Ineligible Period
Commingling non-certified seafood into certified program packaging	36 months
Misrepresentation of program seafood	36 months
Any trademark infringement practices with LWSCP trademark and trade name	36 months
Falsification or lack of trip tickets or other sales records, invoices, or bills of lading required by the program	36 months
Submission of fraudulent LWSCP application	36 months
Short weights	First offense 12 months; second offense 36 months
Scale tampering	First offense 12 months; second offense 36 months
Not adhering to labeling guidelines	First offense 12 months; second offense 36 months

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:578.15 and R.S. 56:23.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of the Secretary, LR 38:

### Family Impact Statement

In accordance with Act No. 1183 of 1999, the Department of Wildlife and Fisheries, Office of the Secretary hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

### Public Comments

Interested persons may submit written comments relative to the proposed Rule to Mr. Jason Froeba, Office of Fisheries, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Thursday, April 5, 2012.

Robert J. Barham  
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Wild Seafood Certification Program

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed Rule change will have no impact on state or local governmental unit expenditures.

The proposed Rule will define, establish requirements for participation in, and specify enforcement mechanisms for the Louisiana Wild Seafood Certification Program. Participation in the Louisiana Wild Seafood Certification Program by individuals and businesses in the Louisiana commercial seafood industry will be voluntary. If an individual or business indicates that seafood products they handle are certified through the Louisiana Wild Seafood Certification Program, the individual or business will be required to meet the requirements stipulated in the proposed Rule.

#### 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)

The proposed Rule change will impact resident and non-resident fishermen, dealers, retailers, and other individuals and businesses in the commercial seafood industry that choose to participate in the Louisiana Wild Seafood Certification Program. Participation in the Louisiana Wild Seafood Certification Program will require a permit, which will have no cost, and compliance with the handling, labeling, and tracking requirements for certified seafood products specified in the proposed Rule.

Due to an anticipated increase in demand for wild caught seafood products landed in Louisiana, the proposed Rule may have a minimal effect on receipts and income of participants in the Louisiana Wild Seafood Certification Program.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule change may have a minimal effect on competition and employment. Any positive effect on competition and employment would be due to an anticipated increase in the demand for wild caught seafood products landed

in Louisiana resulting from the Louisiana Wild Seafood Certification Program.

Lois Azzarello  
Undersecretary  
1202#035

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

False River—Trammel and Gill Nets  
(LAC 76:VII.157 and 158)

Pursuant to the authority of Louisiana Revised Statutes, Title 56, Sections 22 and 326.3, the Louisiana Wildlife and Fisheries Commission hereby advertises its intent to remove the current net ban and to establish and permit a special recurring commercial fishing season, allowing the use of certain nets in False River Lake, Pointe Coupee Parish, Louisiana.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

### Title 76

## WILDLIFE AND FISHERIES

### Part VII. Fish and Other Aquatic life

#### Chapter 1. Freshwater Sports and Commercial Fishing

##### §157. Netting Prohibition—Lake Concordia

A. The Wildlife and Fisheries Commission hereby prohibits the use of gill nets, trammel nets and fish seines in Lake Concordia located in Concordia Parish, Louisiana. Said netting ban will become effective Friday, September 20, 1991.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:22(B).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 17:894 (September 1991), amended LR 38:

##### §158. False River, Trammel Nets, Gill Nets and Fish Seines

A. Prohibits the use of trammel and gill nets in False River, Pointe Coupee Parish, Louisiana, except their use will be allowed for the legal harvest of commercial fish during a special recurring trammel and gill netting season to commence each year at sunrise on November 1 and close at sunset on the last day of February the following year. The use of fish seines is prohibited and there is no season.

B. The trammel and gill nets allowed during the special recurring season shall have a minimum mesh size of 3½" square (7" stretched) or greater.

C. Commercial fishing will be allowed only during daylight hours except that gear can remain set overnight but fish captured shall be removed during daylight hours only.

D. Commercial fishing with trammel and gill nets will be allowed on False River Lake only during the open season and only by licensed commercial fishermen.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:22(B).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 38:

### Family Impact Statement

In accordance with Act No. 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

### Public Comments

Interested persons may submit written comments relative to the proposed Rule to Mike Wood, Director, Inland Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to April 5, 2012.

Ann L. Taylor  
Chairman

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: False River—Trammel and Gill Nets

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed Rule amendments will have no impact on state or local governmental unit expenditures.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rule amendments are anticipated to increase the number of commercial fisherman, freshwater trammel net gear and freshwater gill net gear licenses sold annually. Therefore, an increase in revenue collections to the Conservation Fund is expected annually by an indeterminable amount. The fee for a resident commercial fisherman's license is \$55; the fee for a resident freshwater trammel net gear license is \$25; and the fee for a resident freshwater gill net gear license is \$25.

The proposed Rule amendments provide the opportunity for individuals to commercially harvest fish in False River Lake using trammel and gill nets from November 1 to the last day of February the following year. Currently, the use of trammel and gill nets is prohibited in False River Lake.

No effect on revenue collections of local governmental units is anticipated as a result of the proposed Rule amendments.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Individuals who wish to commercially harvest fish in False River Lake using gill or trammel nets shall be directly affected by the proposed Rule amendments. This group may include individuals who are currently commercial fishermen and individuals who desire to become commercial fishermen. Individuals who commercially harvest fish in False River Lake using trammel or gill nets may need to acquire new trammel or gill nets, as the minimum mesh size requirements for False River Lake, as specified in the proposed Rule amendments, are larger than the minimum mesh size requirements for trammel or gill nets in some other Louisiana waterbodies.

Commercial fishermen who choose to harvest fish in False River Lake using gill or trammel nets, businesses that deal with fish and fish products, and businesses that provide goods and services to these commercial fishermen may experience a minimal increase in receipts and income from the increase in commerce resulting from the proposed rule amendments.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule amendments are anticipated to have no effect on competition. The proposed Rule amendments are anticipated to have a minimal effect on employment. Any positive effect on employment in the private sector would be a result of an expansion of commercial fishermen or businesses that provide goods and services to commercial fishermen.

Lois Azzarello  
Undersecretary  
1202#037

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

General and Wildlife Management Area Hunting Rules and Regulations (LAC 76:XIX.111)

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate rules and regulations governing the hunting of resident game birds and game quadrupeds.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

### Title 76

### WILDLIFE AND FISHERIES

#### Part XIX. Hunting and WMA Regulations

#### Chapter 1. Resident Game Hunting Season

#### §111. General and Wildlife Management Area

#### Hunting Rules and Regulations

##### A. Hunting Seasons and Wildlife Management Area (WMA) Regulations

1. The rules and regulations contained within this digest have been officially approved and adopted by the Wildlife and Fisheries Commission under authority vested by Sections 115 and 116 of Title 56 of the Louisiana Revised Statutes of 1950 and are in full force and effect in conjunction with all applicable statutory laws. The Secretary of the Department of Wildlife and Fisheries (LDWF) has the authority to close or alter seasons in emergency situations in order to protect fish and wildlife resources.

2. Pursuant to Section 40.1 of Title 56 of the Louisiana Revised Statutes of 1950, the Wildlife and Fisheries Commission has adopted monetary values which are assigned to all illegally taken, possessed, injured or destroyed fish, wild birds, wild quadrupeds and other wildlife and aquatic life. Anyone taking, possessing, injuring or destroying fish, wild birds, wild quadrupeds and other wildlife and aquatic life shall be required to reimburse the LDWF a sum of money equal to the value of the wildlife illegally taken, possessed, injured or destroyed. This monetary reimbursement shall be in addition to any and all criminal penalties imposed for the illegal act.

##### B. Resident Game Birds and Animals

1. Shooting hours: one-half hour before sunrise to one-half hour after sunset.

C. Other Season Dates

1. Turkey. Please refer to separate pamphlet.

2. Raccoon and Opossum. No closed season. Raccoon and opossum can be taken at night by one or more licensed hunters with one or more dogs and one .22 rimfire firearm. A licensed hunter may take raccoon or opossum with .22 rimfire rifle, .36 caliber or smaller muzzleloader rifle or shotgun during daylight hours. Hunting from boats or motor vehicles is prohibited. No bag limit for nighttime or daytime raccoon or opossum hunting during the open trapping season except on certain WMAs as listed. The remainder of the year, the raccoon and opossum bag limit for daytime or nighttime is two per person per day or night. No one who hunts raccoons or opossums as prescribed above shall pelt during the closed trapping season nor sell skins or carcasses of raccoons and opossums taken during the open trapping season unless he is the holder of a valid trapping license which shall be required in addition to his basic hunting license. Pelting or selling carcasses is illegal during closed trapping season.

3. Nutria. On WMAs and private property nutria may be taken recreationally by licensed hunters from September 1 through the last day of February, during legal shooting hours by any legal hunting method with a daily limit of five. Except nutria may be taken on Atchafalaya Delta, Salvador/Timken, Pointe Aux Chenes and Pass a Loure WMAs from September 1 to March 31. When taken with a shotgun, steel shot must be used. On WMAs during waterfowl seasons, nutria may be taken only with the use of shotguns with shot no larger than F steel, and during gun deer seasons, anyone taking nutria must display 400 square inches of "hunter orange" and wear a "hunter orange" cap or hat. Recreational nutria hunters must remove each nutria carcass in whole condition from the hunting area, except that nutria may be gutted. Possession of detached nutria parts, including nutria tails, by recreational hunters is illegal. Nutria harvested recreationally may not be pelted nor may such nutria or any nutria parts from recreationally taken nutria be sold, including the tail. Trespassing upon private property for the purpose of taking nutria or other furbearing animals is punishable by fines and possible jail time (R.S. 56:265). The Coastwide Nutria Control Program is a separate program and is in no way related to the nutria recreational season. For questions on the Coastwide Nutria Control Program, call the New Iberia office (337) 373-0032.

4. Blackbirds and Crows. The season for crows shall be September 1 through January 1 with no limit; however crows, blackbirds, cowbirds and grackles may be taken year round during legal shooting hours if they are depredating or about to depredate upon ornamentals or shade trees, agricultural crops, livestock, wildlife, or when concentrated in such numbers as to cause a health hazard. Louisiana has determined that the birds listed above are crop depredators and that crows have been implicated in the spread of the West Nile virus in humans. As described in 50 CFR Part 21, non-toxic shot must be used for the take of crows, blackbirds, cowbirds and grackles under the special depredation order. In addition an annual report has to be submitted to the U.S. Fish and Wildlife Service for those that participate in the take of these species.

5. Pheasant. Open concurrently with the quail season; no limit.

6. Falconry. Special permit required. Resident and migratory game species may be taken except turkeys. Seasons and bag limits are the same as for statewide and WMA regulations. Refer to LAC 76:V.301 for specific falconry rules.

7. Licensed Hunting Preserve. October 1-April 30. Pen-raised birds only. No limit entire season. Refer to LAC 76:V.305 for specific hunting preserve rules.

8. Deer Management Assistance Program (DMAP). Refer to LAC 76:V.111 for specific DMAP rules. Deer management assistance tags must be in the possession of the hunter in order to harvest an antlerless deer. The tag shall be attached through the hock in such a manner that it cannot be removed before the deer is transported (including those taken on either-sex days and those taken with approved archery equipment or primitive firearms). Antlerless deer harvested on property enrolled in DMAP does not count in the season or daily bag limit for hunters. Failure to do so is a violation of R.S. 56:115. Failing to follow DMAP rules and regulations may result in suspension and cancellation of the program on those lands involved. DMAP participants must follow the deer season schedule established for their respective areas.

9. Farm Raised White-Tailed Deer and Exotics on Licensed Supplemented Shooting Preserves

a. Definitions

*Exotics*—for purposes of this rule means any animal of the family Bovidae (except the Tribe Bovini [cattle]) or Cervidae which is not indigenous to Louisiana and which is confined on a Supplemented Hunting Preserve. Exotics shall include, but are not limited to, fallow deer, red deer, elk, sika deer, axis deer, and black buck antelope.

*Hunting*—in its different tenses and for purposes of this rule means to take or attempt to take, in accordance with R.S. 56:8.

*Same as Outside*—for purposes of this rule means hunting on a *Supplemented Hunting Preserve* must conform to applicable statutes and rules governing hunting and deer hunting, as provided for in Title 56 of the Louisiana Revised Statutes and as established annually by the Wildlife and Fisheries Commission.

*Supplemented Hunting Preserve*—for purposes of this rule means any enclosure for which a current Farm-Raising License has been issued by the Department of Agriculture and Forestry (LDAF) with concurrence of the LDWF and is authorized in writing by the LDAF and LDWF to permit hunting.

*White-Tailed Deer*—for purposes of this rule means any animal of the species *Odocoileus virginianus* which is confined on a *Supplemented Hunting Preserve*.

b. Seasons

i. Farm-Raised White-tailed Deer: consult the regulations pamphlet.

ii. Exotics: year round.

c. Methods of Take

i. White-tailed Deer: same as outside.

ii. Exotics: exotics may be taken with longbow (including compound bow and crossbow) and arrow; shotguns not larger than 10 gauge, loaded with buckshot or rifled slug; handguns and rifles no smaller than .22 caliber



centerfire; or muzzleloading rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, using black powder or an approved substitute only, and using ball or bullet projectile, including sabot bullets only and other approved primitive firearms.

d. Shooting Hours

i. White-Tailed Deer: same as outside.

ii. Exotics: one-half hour before sunrise to one-half hour after sunset.

e. Bag Limit

i. Farm-Raised White-Tailed Deer: same as outside.

ii. Exotics: no limit.

f. Hunting Licenses

i. White-Tailed Deer: same as outside.

ii. Exotics. No person shall hunt any exotic without possessing a valid basic and big game hunting license.

g. Tagging. White-Tailed Deer and Exotics: Each animal shall be tagged in the left ear or left antler immediately upon being killed and before being moved from the site of the kill with a tag provided by the LDAF. The tag shall remain with the carcass at all times.

10. Bobcat. No person other than the holder of a valid big game license may take or possess bobcat, except licensed trappers who may take or possess bobcat during the open trapping season. A big game licensee shall only take bobcat during the time period from one-half hour before sunrise to one-half hour after sunset with approved archery equipment, shotgun, muzzleloader or centerfire firearm. A big game licensee shall not take more than one bobcat per calendar year. This regulation applies only to property that is privately owned, state WMAs, and the Bayou des Ourses, Bodcau, Bonnet Carre, Indian Bayou, Loggy Bayou and Soda Lake tracts owned by the Corps of Engineers but does not apply to state wildlife refuges, the Kisatchie National Forest, or other federally owned refuges and lands. On state WMAs, the take of bobcat is restricted to those open seasons on the WMAs which require the respective legal weapons noted above.

D. Hunting-General Provisions

1. A basic resident or non-resident hunting license is required of all persons to hunt, take, possess or cause to be transported by any other person any wild bird or quadruped. See information below for exceptions.

2. All persons born on or after September 1, 1969 must show proof of satisfactorily completing a hunter safety course approved by LDWF to purchase a basic hunting license, except any active or veteran member of the United States armed services or any POST-certified law enforcement officer. Application for the exemption shall be filed in person at the LDWF main office building in the city of Baton Rouge. A person younger than 16 years of age may hunt without such certificate if he is accompanied by, and is under the direct supervision of a person 18 years of age or older.

3. A big game license is required in addition to the basic hunting license to hunt, take, possess or cause to be transported any deer. A separate wild turkey license is required in addition to the basic hunting license and the big

game license to hunt, take, possess or cause to be transported any turkey.

4. Taking game quadrupeds or birds from aircraft or participating in the taking of deer with the aid of aircraft or from automobiles or other moving land vehicles is prohibited.

5. Methods of Taking Resident Game Birds and Quadrupeds

a. It is illegal to intentionally feed, deposit, place, distribute, expose, scatter, or cause to be fed, deposited, placed, distributed, exposed, or scattered raw sweet potatoes to wild game quadrupeds.

b. Use of a longbow (including compound bow and crossbow) and arrow or a shotgun not larger than a 10 gauge fired from the shoulder without a rest shall be legal for taking all resident game birds and quadrupeds. Also, the use of a handgun, rifle and falconry (special permit required) shall be legal for taking all game species except turkey. It shall be illegal to hunt or take squirrels or rabbits at any time with a breech-loaded rifle or handgun larger than a .22 caliber rimfire or a primitive firearm larger than .36 caliber. It shall be legal to hunt or take squirrels, rabbits, and outlaw quadrupeds with air rifles. During closed deer gun season, it shall be illegal to possess shotgun shells loaded with slugs or shot larger than BB lead or F steel shot while small game hunting.

c. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs is prohibited when or where a still hunting season or area is designated, and will be strictly enforced. Shotguns larger than 10 gauge or capable of holding more than three shells shall be prohibited. Plugs used in shotguns must be incapable of being removed without disassembly. Refer to game schedules contained within these regulations for specific restrictions on the use of firearms and other devices.

d. No person shall take or kill any game bird or wild quadruped with a firearm fitted with any device to deaden or silence the sound of the discharge thereof; or fitted with an infrared sight, laser sight, or except as provided in R.S. 56:116(A)(8) any sighting device which projects a beam of light to the target or otherwise electronically illuminates the target, or device specifically designed to enhance vision at night [R.S. 56:116.1(B)(3)].

6. Nuisance Animals. Landowners or their designees may remove beaver and nutria causing damage to their property without a special permit. Water set traps and firearms may be used to remove beaver; nutria may be removed by any means except that nutria cannot be taken by the use of headlight and gun between the hours of sunset and sunrise. With a special permit issued by the LDWF, beavers may be taken between one-half hour after official sunset to one-half hour before official sunrise for a period of three consecutive calendar evenings from the effective date of the permit. For specific details contact a region office near you. Any nuisance beaver or nutria trapped or shot outside open trapping season cannot be pelted or sold. A trapping license is required to sell or pelt nuisance beavers or nutria taken during open trapping season. Squirrels found destroying commercial crops of pecans may be taken year-round by permit issued by the LDWF. This permit shall be valid for 30



days from the date of issuance. Contact the local region office for details.

7. Threatened and Endangered Species—Louisiana black bear, Louisiana pearl shell (mussel), sea turtles, gopher tortoise, ringed sawback turtle, brown pelican, bald eagle, peregrine falcon, whooping crane, Eskimo curlew, piping plover, interior least tern, ivory-billed woodpecker, red-cockaded woodpecker, Bachman's warbler, West Indian manatee, Florida panther, pallid sturgeon, Gulf sturgeon, Attwater's greater prairie chicken, whales and red wolf. Taking or harassment of any of these species is a violation of state and federal laws.

8. Outlaw Quadrupeds. Holders of a legal hunting license may take coyotes, feral hogs where legal, and armadillos year round during legal daylight shooting hours. The running of coyotes with dogs is prohibited in all turkey hunting areas during the open turkey season. Coyote hunting is restricted to chase only when using dogs during still hunting segments of the firearm and archery only season for deer. Foxes are protected quadrupeds and may be taken only with traps by licensed trappers during the trapping season. Remainder of the year "chase only" allowed by licensed hunters.

9. Nighttime Take of Nuisance Animals and Outlaw Quadrupeds. On private property, the landowner, or his lessee or agent with written permission and the landowner's contact information in his possession, may take outlaw quadrupeds (coyotes, armadillos and feral hogs), nutria or beaver during the nighttime hours from one-half hour after official sunset on the last day of February to one-half hour after official sunset the last day of August of that same year. Such taking may be with or without the aid of artificial light, infrared or laser sighting devices, or night vision devices. In addition, pursuant to 56:116(D)(3) any person who is authorized to possess a firearm suppressor may use a firearm fitted with a sound suppressor when taking outlaw quadrupeds, nutria, or beaver. Any person attempting to take outlaw quadrupeds under the provisions of the paragraph, within 24 hours prior to the attempted taking, shall notify the sheriff of the parish in which the property is located of his intention to attempt to take outlaw quadrupeds under the provision of this paragraph.

10. Hunting and/or Discharging Firearms on Public Roads. Hunting, standing, loitering or shooting game quadrupeds or game birds with a gun during open season while on a public highway or public road right-of-way is prohibited. Hunting or the discharge of firearms on roads or highways located on public levees or within 100 feet from the centerline of such levee roads or highways is prohibited. Spot lighting or shining from public roads is prohibited by state law. Hunting from all public roads and rights-of-way is prohibited and these provisions will be strictly enforced.

11. Tags. Any part of the deer or wild turkey divided shall have affixed thereto the name, date, address and big game license number of the person killing the deer or wild turkey and the sex of that animal. This information shall be legibly written in pen or pencil, on any piece of paper or cardboard or any material, which is attached or secured to or enclosing the part or parts. On lands enrolled in DMAP, deer management assistance tags must be attached and locked through the hock of antlerless deer, (including those taken with approved archery and primitive firearms, and those

antlerless deer taken on either-sex days) in a manner that it cannot be removed, before the deer is moved from the site of the kill.

12. Sex Identification. Positive evidence of sex identification, including the head, shall remain on any deer taken or killed within the state of Louisiana, or on all turkeys taken or killed during any special gobbler season when killing of turkey hens is prohibited, so long as such deer or turkey is kept in camp or field, or is in route to the domicile of its possessor, or until such deer or turkey has been stored at the domicile of its possessor or divided at a cold storage facility and has become identifiable as food rather than as wild game.

#### E. General Deer Hunting Regulations

1. Prior to hunting deer, all deer hunters, regardless of age or license status, must obtain deer tags and have in possession when hunting deer. Immediately upon harvesting a deer, the hunter must tag the deer with the appropriate carcass tag and document the kill on the deer tag license. Within seven days the hunter must validate the kill. Hunters harvesting deer on DMAP lands can validate deer per instructions by LDWF using the DMAP harvest data sheets. Hunters on WMAS can validate deer during mandatory deer check hunts, when deer check stations are in operation. Hunters may validate deer by calling the validation toll free number or using the validation web site.

2. One antlered and one antlerless deer per day (when legal) except on national forest lands and some federal refuges (check refuge regulations) where the daily limit shall be one deer per day. Season limit is six, three antlered bucks and three antlerless deer (all segments included) by all methods of take, except antlerless harvest on property enrolled in DMAP does not count in the season or daily bag limit for hunters. Antlerless deer may be harvested during entire deer season on private lands (all segments included) except in the following parishes: West Carroll and except those lands within the Morganza Floodway and Atchafalaya Basin. Consult regulations pamphlet, modern firearms table for either-sex days for these parishes. This does not apply to public lands (WMAs, National Forest Lands, and Federal Refuges) which will have specified either-sex days.

3. 2013-14 Season. One antlered and one antlerless deer per day (when legal) except on National Forest Lands and some Federal Refuges (check refuge regulations) where the daily limit shall be one deer per day. Season limit is six, not to exceed three antlered bucks or 4 antlerless deer (all segments included) by all methods of take, except antlerless harvest on property enrolled in DMAP does not count in the season or daily bag limit for hunters. Antlerless deer may be harvested during entire deer season on private lands (all segments included) except in the following parishes: West Carroll and except those lands within the Morganza Floodway and Atchafalaya Basin. Consult regulations pamphlet, modern firearms table for either-sex days for these parishes. This does not apply to public lands (WMAs, national forest lands, and federal refuges) which will have specified either-sex days.

4. A legal antlered deer is a deer with at least one visible antler of hardened bony material, broken naturally through the skin, except in Thistlethwaite WMA, see specific Thistlethwaite WMA regulations for more information, and except on Alexander State Forest WMA,

Bayou Macon WMA, Big Lake WMA, Bodcau WMA, Boeuf WMA, Buckhorn WMA, Dewey Wills WMA, Jackson-Bienville WMA, Loggy Bayou WMA, Ouachita WMA, Pearl River WMA, Pomme de Terre WMA, Red River WMA, Russell Sage WMA, Sherburne WMA, Sicily Island Hills WMA, Spring Bayou WMA, Three Rivers WMA and Union WMA during the experimental quality deer season (See the specific WMA schedule for more information.). Killing antlerless deer is prohibited except where specifically allowed.

5. Either-sex deer is defined as male or female deer. Taking or possessing spotted fawns is prohibited.

6. It is illegal to hunt or shoot deer with firearms smaller than .22 caliber centerfire or a shotgun loaded with anything other than buckshot or rifled slug. Handguns may be used for hunting.

7. Taking game quadrupeds or birds from aircraft, participating in the taking of deer with the aid of aircraft or from automobiles or other moving land vehicles is prohibited.

8. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs or moving vehicles, including ATVs, when or where a still hunting season or area is designated, is prohibited and will be strictly enforced. The training of deer dogs is prohibited in all still hunting areas during the gun still hunting and archery only season. Deer hunting with dogs is allowed in all other areas having open deer seasons that are not specifically designated as still hunting only. A leashed dog may be used to trail and retrieve wounded or unrecovered deer during legal hunting hours. Any dog used to trail or retrieve wounded or unrecovered deer shall have on a collar with owner's name, address, and phone number. In addition, a dog may be used to trail and retrieve unrecovered deer after legal hunting hours; however, no person accompanying a dog after legal hunting hours may carry a firearm of any sort.

9. It is illegal to take deer while deer are swimming or while the hunter is in a boat with motor attached in operating position; however the restriction in this paragraph shall not apply to any person who has lost one or more limbs.

10. Areas not specifically designated as open are closed.

11. Primitive Firearms Segment. (Special license and primitive firearms specifications apply only to the special state, WMA, national forest and preserves, and federal refuge seasons.) Still hunt only. Specific WMAs will also be open, check WMA schedule for specific details. Primitive firearms license required for resident hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Either-sex deer may be taken in all deer hunting areas except as specified on Public Areas. It is unlawful to carry a gun, other than a primitive firearm, including those powered by air or other means, while hunting during the special primitive firearms segment. Except, it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot only).

a. Legal Primitive Firearms For Special Season: Rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, use black powder or approved substitute only, take ball or bullet projectile only,

including sabot bullets and may be fitted with magnified scopes. This includes muzzleloaders known as "inline" muzzleloaders.

b. Single shot, breech loading rifles, .38 caliber or larger, or of a Commission approved caliber having an exposed hammer that use metallic cartridges loaded either with black powder or modern smokeless powder and may be fitted with magnified scopes.

c. Special Youth Deer Season on Private Land (either-sex): 14. Special Youth Deer Hunt on Private Lands (either-sex). Areas 1, 4, 5 and 6—last Saturday of October for 7 days; Area 2—second Saturday of October for 7 days; and Areas 3, 7 and 8—fourth Saturday of September for 7 days. Youths 17 or younger only. Youths must be accompanied by an adult 18 years of age or older. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. If the accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults may not possess a firearm. Youths may possess only one firearm while hunting. Legal firearms are the same as described for deer hunting. The supervising adult shall maintain visual and voice contact with the youth at all times. Except properly licensed youths 16-17 years old and youths 12 years old or older who have successfully completed a hunter safety course may hunt without a supervising adult. In addition, youths 17 or younger may hunt deer with any legal weapon during the primitive firearms season in each deer hunting area.

12. Archery Segment. Consult regulations pamphlet. WMA seasons are the same as outside except as noted below. Archery license required for resident bow hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Either-sex deer may be taken in all areas open for deer hunting except when a bucks only season is in progress for gun hunting, and except in Area 6 from October 1-15. Archer's must conform to the bucks only regulations. Either-sex deer may be taken on WMAs at anytime during archery season except when bucks only seasons are in progress on the respective WMA. Also, archery season restricted on Atchafalaya Delta, Salvador, Lake Boeuf, and Pointe-aux-Chenes WMAs (see schedule).

a. Bow and arrow regulations: Longbow, compound bow and crossbow or any bow drawn, held or released by mechanical means will be a legal means of take for all properly licensed hunters. Hunting arrows for deer must have well-sharpened broadhead points. Bow and arrow fishermen must have a sport fishing license and not carry any arrows with broadhead points unless a big game season is in progress.

i. It is unlawful:

(a). to carry a gun, including those powered by air or other means, while hunting with bow and arrow during the special bow and arrow deer season except it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot) only;

(b). to have in possession or use any poisoned or drugged arrow or arrows with explosive tips;

(c). to hunt deer with a bow having a pull less than 30 pounds;

(d). to hunt with a bow or crossbow fitted with an infrared, laser sight, electrically-operated sight or device specifically designed to enhance vision at night (does not include non-projecting red dot sights) [R.S. 56:116.1.B.(4)].

13. Hunter Orange. Any person hunting any wildlife during the open gun deer hunting season and possessing buckshot, slugs, a primitive firearm, or a centerfire rifle shall display on his head, chest and/or back a total of not less than 400 square inches of "hunter orange". Persons hunting on privately owned, legally posted land may wear a hunter orange cap or hat in lieu of the 400 square inches. These provisions shall not apply to persons hunting deer from elevated stands on property that is privately owned and legally posted or to archery deer hunters hunting on legally posted lands where firearm hunting is not allowed by agreement of the landowner or lessee. However, anyone hunting deer on such lands where hunting with firearms is allowed shall be required to display the 400 square inches or a hunter orange cap or hat while walking to and from elevated stands. While a person is hunting from an elevated stand, the 400 square inches or cap or hat may be concealed.

Warning: Deer hunters are cautioned to watch for persons hunting other game or engaged in activities not requiring "hunter orange".

14. Special physically challenged either-sex deer season on private land: first Saturday of October for two days. Restricted to individuals with physically challenged hunter permit.

#### F. Description of Areas, 2012-2014

##### 1. Area 1

a. All of the following parishes are open: Concordia, East Baton Rouge, East Carroll, East Feliciana, Franklin, Madison, Richland, St. Helena, Tensas, Washington.

b. Portions of the following parishes are also open:

i. Catahoula—east of Boeuf River to Ouachita River, east of Ouachita River from its confluence with Boeuf River to LA 8, south and east of LA 8 southwesterly to parish line.

ii. East Carroll—east of mainline Mississippi River Levee and south and east of LA 877 from West Carroll Parish line to LA 580, south of LA 580 to US 65, west of US 65 to Madison Parish line.

iii. Grant—east of US 165 and south of LA 8.

iv. LaSalle—south of a line beginning where Little River enters Catahoula Lake following the center of the lake eastward to Old River then to US 84, east of US 84 northward to LA 8, south of LA 8 eastward to parish line.

v. Livingston—north of I-12.

vi. Ouachita—south of US 80 and east of Ouachita River, east of LA 139 from Sicard to junction of LA 134, south of LA 134 to Morehouse line at Wham Bake.

vii. Rapides—east of US 165 and north of Red River.

viii. St. Tammany—all except that portion south of I-12, west of LA 1077 to LA 22, south of LA 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain.

ix. Tangipahoa—north of I-12.

x. West Feliciana—all except that portion known as Raccourci and Turnbull Island.

c. Still hunting only in all or portions of the following parishes.

i. Catahoula—South of Deer Creek to Boeuf River, east of Boeuf and Ouachita Rivers to LA 8 at Harrisonburg, west of LA 8 to LA 913, west of LA 913 and LA 15 to Deer Creek.

ii. East Carroll—all.

iii. East Feliciana and East Baton Rouge—east of Thompson Creek from the Mississippi state line to LA 10, north of LA 10 from Thompson Creek to LA 67 at Clinton, west of LA 67 from Clinton to Mississippi state line, south of Mississippi state line from LA 67 to Thompson Creek. Also that portion of East Baton Rouge Parish east of LA 67 from LA 64 north to Parish Line, south of Parish Line from LA 64 eastward to Amite River, west of Amite River southward to LA 64, north of LA 64 to LA 37 at Magnolia, east of LA 37 northward to LA 64 at Indian Mound, north of LA 64 from Indian Mound to LA 67. Also, that portion of East Feliciana Parish east of LA 67 from parish line north to LA 959, south of LA 959 east to LA 63, west of LA 63 to Amite River, west of Amite River southward to parish line, north of parish line westward to LA 67.

iv. Franklin—all.

v. Morehouse—of US 165 (from Arkansas state line) to Bonita, south and east of LA 140 to junction of LA 830-4 (Cooper Lake Road), east of LA 830-4 to Bastrop, east of LA 139 at Bastrop to junction of LA 593, east and north of LA 593 to Collinston, east of LA 138 to junction of LA 134 and south of LA 134 to Ouachita line at Wham Brake.

vi. Ouachita—south of US 80 and east of Ouachita River, east of LA 139 from Sicard to junction of LA 134, south of LA 134 to Morehouse line at Wham Bake.

vii. Richland—all.

viii. St. Helena—north of LA 16 from Tickfaw River at Montpelier westward to LA 449, east and south of LA 449 from LA 16 at Pine Grove northward to Rohner Road, south of Rohner Road to LA 1045, south of LA 1045 to the Tickfaw River, west of the Tickfaw River from LA 1045 southward to LA 16 at Montpelier.

ix. Tangipahoa—that portion of Tangipahoa Parish north of LA 10 from the Tchefuncte River to LA 1061 at Wilmer, east of LA 1061 to LA 440 at Bolivar, south of LA 440 to the Tchefuncte River, west of the Tchefuncte River from LA 440 southward to LA 10.

x. Washington and St. Tammany—east of LA 21 from the Mississippi state line southward to the Bogue Chitto River, north of the Bogue Chitto River from LA 21 eastward to the Pearl River Navigation Canal, east of the Pearl River Navigation Canal southward to the West Pearl River, north of the West Pearl River from the Pearl River Navigation Canal to Holmes Bayou, west of Holmes Bayou from the West Pearl River northward to the Pearl River, west of the Pearl River from Holmes Bayou northward to the Mississippi state line, south of the Mississippi state line from the Pearl River westward to LA 21. Also, that portion of Washington Parish west of LA 25 from the Mississippi state line southward to the Bogue Chitto River, then west of the Bogue Chitto River to its junction with the St. Tammany Parish line, north of the St. Tammany Parish line to the Tangipahoa Parish line, east of the Tangipahoa Parish line to

the Mississippi state line, south of the Mississippi state line to its junction with LA 25.

xi. West Feliciana—west of Thompson Creek to Illinois-Central Railroad, north of Illinois-Central Railroad to Parish Road #7, east of Parish Road #7 to the junction of US 61 and LA 966, east of LA 966 from US 61 to Chaney Creek, south of Chaney Creek to Thompson Creek.

2. Area 2

a. All of the following parishes are open:

i. Bienville, Bossier, Caddo, Caldwell, Claiborne, DeSoto, Jackson, Lincoln, Natchitoches, Red River, Sabine, Union, Webster, Winn;

ii. except: Kisatchie National Forest which has special regulations. Caney, Corney, Middlefork tracts of Kisatchie have the same regulations as Area 2, except still hunting only for deer and except National Forest Land within the Evangeline Unit, Calcasieu Ranger District described in Area 2 description shall be still hunting only.

b. Portions of the following parishes are also open:

i. Allen—north of US 190 from parish line westward to Kinder, east of US 165 from Kinder northward to LA 10 at Oakdale, north of LA 10 from Oakdale westward to the parish line.

ii. Avoyelles—that portion west of I-49.

iii. Catahoula—west of Boeuf River to Ouachita River, west of Ouachita River from its confluence with Boeuf River to LA 8, north and west of LA 8 southwesterly to parish line.

iv. Evangeline—all except the following portions: east of I-49 to junction of LA 29, east of LA 29 south of I-49 to Ville Platte, and north of US 167 east of Ville Platte.

v. Grant—all except that portion south of LA 8 and east of US 165.

vi. Jefferson Davis—north of US 190.

vii. LaSalle—north of a line beginning where Little River enters Catahoula Lake, following the center of the lake eastward to Old River then to US 84, west of US 84 northward to LA 8, north of LA 8 eastward to Parish line.

viii. Morehouse—West of US 165 (from Arkansas state line) to Bonita, north and west of LA 140 to junction of LA 830-4 (Cooper Lake Road), west of LA 830-4 to Bastrop, west of LA 139 to junction of LA 593, west and south of LA 593 to Collinston, west of LA 138 to junction of LA 134 and north of LA 134 to Ouachita Parish line at Wham Brake.

ix. Ouachita—all except south of US 80 and east of Ouachita River, east of LA 139 from Sicard to junction of LA 134, south of LA 134 to Morehouse Parish line at Wham Brake.

x. Rapides—all except north of Red River and east of US 165, south of LA 465 to junction of LA 121, west of LA 121 and LA 112 to Union Hill, and north of LA 113 from Union Hill to Vernon Parish line, and that portion south of Alexandria between Red River and US 167 to junction of US 167 with I-49 at Turkey Creek exit, east of I-49 southward to parish line.

xi. Vernon—north of LA 10 from the parish line westward to LA 113, south of LA 113 eastward to parish line. Also the portion north of LA 465 west of LA 117 from Kurthwood to Leesville and north of LA 8 from Leesville to Texas state line.

c. Still hunting only in all or portions of the following parishes:

i. Claiborne and Webster—Caney, Corney and Middlefork tracts of Kisatchie National Forest. (See Kisatchie National Forest Regulations).

ii. Ouachita—east of Ouachita River.

iii. Rapides—west of US 167 from Alexandria southward to I-49 at Turkey Creek Exit, west of I-49 southward to Parish Line, north of Parish Line westward to US 165, east of US 165 northward to US 167 at Alexandria. North of LA 465 from Vernon Parish line to LA 121, west of LA 121 to I-49, west of I-49 to LA 8, south and east of LA 8 to LA 118 (Mora Road), south and west of LA 118 to Natchitoches Parish line.

iv. Vernon—east of Mora-Hutton Road from Natchitoches Parish line to Hillman Loop Road, south and east of Hillman Loop Road to Comrade Road, south of Comrade Road to LA 465, east and north of LA 465 to Rapides Parish line.

3. Area 3

a. All of Acadia, Cameron and Vermilion Parishes are open.

b. Portions of the following parishes are also open:

i. Allen—south of US 190 and west of LA 113.

ii. Beauregard—west of LA 113 and east of LA 27 from the parish line northward to DeRidder and north of US 190 westward from DeRidder to Texas state line.

iii. Calcasieu—south of US 90 from Sulphur to Texas state line. Also east of LA 27 from Sulphur northward to the parish line.

iv. Iberia—west of US 90 and north of LA 14.

v. Jefferson Davis—all except north of US 190.

vi. Lafayette—west of I-49 and US 90.

vii. Rapides—south of LA 465 to junction of LA 121, west of LA 121 and LA 112 to Union Hill and north of LA 113 from Union Hill to Vernon Parish line.

viii. St. Landry—west of US 167.

ix. Vernon—west and north of LA 113, south of LA 465, east of LA 117 from Kurthwood to Leesville, and south of LA 8 from Leesville to Texas state line.

4. See Area 1.

5. Area 5

a. All of West Carroll Parish is open.

6. Area 6

a. All of the following parishes are open: Ascension, Assumption, Iberville, Jefferson, Lafourche, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. James, St. John, St. Martin, Terrebonne, West Baton Rouge.

b. Portions of the following parishes are also open:

i. Avoyelles—all except that portion west of I-49.

ii. Evangeline—that portion east of I-49 to junction of LA 29, east of LA 29 south of I-49 to Ville Platte and north of US 167 east of Ville Platte.

iii. Iberia—east of US 90.

iv. Lafayette—east of I-49 and US 90.

v. Livingston—south of I-12.

vi. Rapides—south of Alexandria between Red River and US 167 to the junction of US 167 with I-49 at Turkey Creek Exit, east of I-49 southward to parish line.

vii. St. Landry—east of US 167.

viii. St. Mary—north of US 90 from Iberia Parish line eastward to Wax Lake Outlet, east of Wax Lake Outlet southward to Intracoastal Waterway, north of Intracoastal Waterway eastward to the Atchafalaya River, east of the Atchafalaya River southward to Bayou Shaffer, north of Bayou Shaffer to Bateman Lake, north and west of Bayou Chene from Bateman Lake to Lake Palourde.

ix. St. Tammany—that portion south of I-12, west of LA 1077 to LA 22, south of LA 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain.

x. Tangipahoa—south of I-12.

xi. West Feliciana—west of Mississippi River, known as Raccourci and Turnbull Islands.

c. Still hunting only in all or portions of the following parishes:

i. Avoyelles—north of LA 1 from Simmesport westward to LA 115 at Marksville, east of LA 115 from Marksville northward to the Red River near Moncla, south and west of the Red River to LA 1 at Simmesport.

ii. Plaquemines—east of the Mississippi River.

iii. Rapides—south of Alexandria between Red River and US 167 to the junction of US 167 with I-49 at Turkey Creek Exit, east of I-49 southward to parish line.

iv. St. Bernard—all of the parish shall be still hunting only except that portion of St. Bernard known as the spoil area between the MRGO on the east and Access Canal on the west, south of Bayou Bienvenue and north of Bayou la Loutre.

v. St. John—south of Pass Manchac from Lake Pontchartrain to US 51, east of US 51 from Pass Manchac to LA 638 (Frenier Beach Road). North of LA 638 from US 51 to Lake Pontchartrain, west of Lake Pontchartrain from LA 638 to Pass Manchac.

vi. St. Landry—those lands surrounding Thistlethwaite WMA bounded north and east by LA 359, west by LA 10, and south by LA 103.

vii. High Water Benchmark Closure. Deer hunting in those portions of Iberia, Iberville, St. Martin, and St. Mary parishes south of I-10, west of the East Guide Levee, east of the West Guide Levee, and north of US 90 will be closed when the river stage of the Atchafalaya River reaches 18 feet at Butte LaRose.

#### 7. Area 7

a. Portions of the following parishes are open:

i. Iberia—south of LA 14 and west of US 90.

ii. St. Mary—all except that portion north of US 90 from Iberia Parish line eastward to Wax Lake Outlet, east of Wax Lake Outlet southward to Intracoastal Waterway, north of Intracoastal Waterway eastward to the Atchafalaya River, east of the Atchafalaya River southward to Bayou Shaffer, north of Bayou Shaffer to Bateman Lake, north and west of Bayou Chene from Bateman Lake to Lake Palourde.

#### 8. Area 8

a. Portions of the following parishes are open:

i. Allen—that portion east of LA 113 from the parish line to US 190, north of US 190 eastward to Kinder, west of US 165 northward to LA 10 at Oakdale and south of LA 10 from Oakdale westward to parish line.

ii. Beauregard—that portion east of LA 113. Also that portion west of LA 27 from parish line northward to DeRidder, south of US 190 from DeRidder to Texas state line.

iii. Calcasieu—that portion east of LA 27 from the parish line southward to Sulphur and north of US 90 from Sulphur to the Texas state line.

iv. Vernon—that portion west of LA 113 from the parish line northward to Pitkin and south of LA 10 from Pitkin southward to the parish line.

#### G. WMA Regulations

##### 1. General

a. The following rules and regulations concerning the management, protection and harvest of wildlife have been officially approved and adopted by the Wildlife and Fisheries Commission in accordance with the authority provided in Louisiana Revised Statutes of 1950, Section 109 of Title 56. Failure to comply with these regulations will subject individual to citation and/or expulsion from the management area.

b. Citizens are cautioned that by entering a WMA managed by the LDWF they may be subjecting themselves and/or their vehicles to game and/or license checks, inspections and searches.

c. WMA seasons may be altered or closed anytime by the LDWF secretary in emergency situations (floods, fire or other critical circumstances).

d. Hunters may enter the WMA no earlier than 4:00 a.m. unless otherwise specified. Hunters must check out and exit the WMA no later than two hours after sunset, or as otherwise specified.

e. Lands within WMA boundaries will have the same seasons and regulations pertaining to baiting and use of dogs as the WMA within which the lands are enclosed; however, with respect to private lands enclosed within a WMA, the owner or lessee may elect to hunt according to the regular season dates and hunting regulations applicable to the geographic area in which the lands are located, provided that the lands are first enrolled in DMAP. Interested parties should contact the nearest LDWF region office for additional information.

f. Dumping garbage or trash on WMAs is prohibited. Garbage and trash may be properly disposed of in designated locations if provided.

g. Disorderly conduct or hunting under influence of alcoholic beverages, chemicals and other similar substances is prohibited.

h. Damage to or removal of trees, shrubs, hard mast (including but not limited acorn and pecans), wild plants, non-game wildlife (including reptiles and amphibians) or any species of butterflies, skippers or moths is prohibited without a permit from the LDWF. Gathering and/or removal of soft fruits, mushrooms and berries shall be limited to 5 gallons per person per day.

i. Burning of marshes is prohibited. Hunting actively burning marsh prohibited.

j. Nature trails. Trails shall be limited to pedestrians only. No vehicles, ATVs, horses, mules, bicycles, etc. allowed. Removal of vegetation (standing or down) or other natural material prohibited.

k. Deer seasons are for legal buck deer unless otherwise specified.

l. Small game, when listed under the WMA regulations may include both resident game animals and game birds as well as migratory species of birds.

m. Oysters may not be harvested from any WMA, except that oysters may be harvested from private oyster leases and State Seed Grounds located within a WMA, when authorized by the Wildlife and Fisheries Commission and upon approval by the Department of Health and Hospitals.

n. Free ranging livestock prohibited.

## 2. Permits

a. A WMA hunting permit is required for persons ages 18 through 59 to hunt on WMAs.

b. Self-Clearing Permits. A self-clearing permit is required for all activities (hunting, fishing, hiking, birdwatching, sightseeing, etc.) on WMAs unless otherwise specified. The self-clearing permit will consist of two portions: check in, check out. On WMAs where Self-Clearing Permits are required, all persons must obtain a WMA self-clearing permit from an information station. The check in portion must be completed and put in a permit box before each day's activity on the day of the activity (except if hunting from a private camp adjacent to the WMA being hunted or if camping on the WMA, users need only to check in once during any 72 hour period). Users may check-in one day in advance of use. The check out portion must be carried by each person while on the WMA and must be completed and put in a permit box immediately upon exiting the WMA or within 72 hours after checking in if hunting from a private camp adjacent to the WMA being hunted or if camping on the WMA. No permit is required of fishers and boaters who do not travel on a WMA road and/or launch on the WMA as long as they do not get out of the boat and onto the WMA. When mandatory deer checks are specified on WMAs, hunters must check deer at a check station. (Self-clearing permits are not required for persons only traveling through the WMA provided that the most direct route is taken and no activities or stops take place.)

c. Persons using WMAs or other LDWF administered lands for any purpose must possess one of the following: a valid Wild Louisiana stamp, a valid Louisiana fishing license, or a valid Louisiana hunting license. Persons younger than 16 or older than 60 years of age are exempt from this requirement. Also a self-clearing WMA permit, detailed above, may be required (available at most entrances to each WMA). Check individual WMA listings for exceptions.

## 3. Special Seasons

a. Youth Deer Hunt. Youths 17 or younger only. Youths must be accompanied by an adult 18 years of age or older. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. If the accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults may not possess a firearm. Youths may possess only one firearm while hunting. Legal firearms are the same as described for deer hunting. The supervising adult shall maintain visual and voice contact with the youth at all times. except properly licensed youths 16-17 years old and youths 12 years old or older who have successfully completed a hunter safety course may hunt without a supervising adult. Contact the appropriate region office for maps of specific hunting areas. Either-sex deer may be taken on WMAs with youth hunts. Consult the regulations pamphlet for WMAs offering youth hunts.

NOTE: Some hunts may be by pre-application lottery.

b. Youth Squirrel Hunt (on selected WMAs only). Only youths 17 or younger may hunt. Squirrel, rabbit, raccoon and opossum may be taken. Hogs may not be taken. No dogs allowed. All other seasons will remain open to other hunters. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. Youths must be accompanied by one adult 18 years of age or older. If the accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults may not possess a firearm. Youths may possess only one firearm while hunting. The supervising adult shall maintain visual and voice contact with the youth at all times. except properly licensed youths 16-17 years old and youths 12 years old or older who have successfully completed a hunter safety course may hunt without a supervising adult. Self-clearing permits are required. Consult the regulations pamphlet for WMAs offering youth squirrel hunts.

c. Youth Mourning Dove Hunt. A youth mourning dove hunt will be conducted on specific WMAs and will follow the same regulations provided for youth deer hunts on the first or second weekend of the mourning dove season (Saturday and/or Sunday only). Consult the regulations pamphlet for WMAs offering youth mourning dove hunts.

d. Physically Challenged Season. An either-sex deer season will be held for hunters possessing a physically challenged hunter permit on WMAs during the dates specified under the individual WMA. Participants must possess a physically challenged hunter permit. Contact region office for permit application and map of specific hunting area. Consult the regulations pamphlet for WMAs offering physically challenged seasons.

e. Turkey Lottery Hunts. Hunts restricted to those persons selected by lottery. Consult the regulations pamphlet for deadlines. All turkeys must be reported at self-clearing station. Contact region offices for more details. Consult separate turkey hunting regulations pamphlet for more details.

f. Waterfowl Lottery Hunts. Hunts restricted to those persons selected by lottery. Consult the regulations pamphlet for deadline. Consult regulations pamphlet for individual WMA schedules or contact any Wildlife Division Office for more details.

g. Mourning Dove Lottery Hunts. Consult regulations pamphlet for individual WMA schedules or contact any Wildlife Division Office for more details.

h. Trapping. Consult Annual Trapping Regulations for specific dates. All traps must be run daily. Traps with teeth are illegal. Hunter orange required when a deer gun season is in progress.

i. Raccoon Hunting. A licensed hunter may take raccoon or opossum, one per person per day, during daylight hours only, during the open rabbit season on WMAs. Nighttime experimental—all nighttime raccoon hunting where allowed is with dogs only. There is no bag limit. Self-clearing permit required.

j. Sport Fishing. Sport fishing, crawfishing and frogging are allowed on WMAs when in compliance with current laws and regulations except as otherwise specified under individual WMA listings.

## 4. Firearms

a. Firearms having live ammunition in the chamber, magazine, cylinder or clip when attached to firearms and crossbows cocked in the ready position are not allowed in or on vehicles, boats under power, motorcycles, ATVs, ATCs or in camping areas on WMAs. Firearms may not be carried on any area before or after permitted hours except in authorized camping areas and except as may be permitted for authorized trappers.

b. Firearms and bows and arrows are not allowed on WMAs during closed seasons except on designated shooting ranges or as permitted for trapping and except as allowed pursuant to R.S. 56:109(C) and R.S. 56:1691. Bows and broadhead arrows are not allowed on WMAs except during deer archery season, turkey season or as permitted for bowfishing. Active and retired law enforcement officers in compliance with POST requirements, federal law enforcement officers and holders of Louisiana concealed handgun permits or permit holders from a reciprocal state who are in compliance with all other state and federal firearms regulations may possess firearms on WMAs provided these firearms are not used for any hunting purpose.

c. Encased or broken down firearms and any game harvested may be transported through the areas by the most direct route provided that no other route exists except as specified under WMA listing.

d. Loaded firearms are not allowed near WMA check stations.

e. Centerfire rifles and handguns larger than .22 caliber rimfire, shotgun slugs or shot larger than BB lead or F steel shot cannot be carried onto any WMA except during modern firearm deer season and during special shotgun season for feral hogs on Atchafalaya Delta, Pass-a-Loutre, Pointe-aux-Chenes and Salvador WMAs (consult regulations pamphlet for specific WMA regulations).

f. Target shooting and other forms of practice shooting are prohibited on WMAs except as otherwise specified.

g. Discharging of firearms on or hunting from designated roads, ATV trails and their rights-of-way is prohibited during the modern firearm and muzzleloader deer season.

#### 5. Methods of Taking Game

a. Moving deer or hogs on a WMA with organized drivers and standers, drivers or making use of noises or noise-making devices is prohibited.

b. On WMAs the daily limit shall be one antlered deer and one antlerless deer (when legal) per day. Three antlered and three antlerless per season (all segments included) by all methods of take.

c. Baiting or hunting over bait is prohibited on all WMAs (hogs included).

d. Deer may not be skinned nor have any external body parts removed including but not limited to feet, legs, tail, head or ears before being checked out.

e. Deer hunting on WMAs is restricted to still hunting only.

f. Construction of and/or hunting from permanent tree stands or permanent blinds on WMAs is prohibited. Any permanent stand or permanent blind will be removed and destroyed. A permanent blind is any blind using non-natural materials or having a frame which is not dismantled within

two hours after the end of legal shooting time each day. Blinds with frames of wood, plastic, metal poles, wire, mesh, webbing or other materials may be used but must be removed from the WMA within two hours after the end of legal shooting time each day. Blinds made solely of natural vegetation and not held together by nails or other metallic fasteners may be left in place but cannot be used to reserve hunting locations. Natural vegetation (including any material used as corner posts) is defined as natural branches that are 2 inches or less in diameter. All decoys must be removed from the WMA daily. Permanent tree stands are any stands that use nails, screws, spikes, etc., to attach to trees and are strictly prohibited. Portable deer stands (those that are designed to be routinely carried by one person) may not be left on WMAs unless the stands are removed from trees and left in a non-hunting position (a non-hunting position is one in which a hunter could not hunt from the stand in its present position). Also, all stands left must be legibly tagged with the user's name, address, phone number and big game hunting license number (or lifetime license number). No stand may be left on any WMA prior to the day before deer season opens on that WMA and all stands must be removed from the WMA within one day after the close of deer or hog hunting on that WMA. Free standing blinds must be disassembled when not in use. Stands left will not reserve hunting sites for the owner or user. All portable stands, blinds, tripods, etc. found unattended in a hunting position or untagged will be confiscated and disposed of by the LDWF. LDWF not responsible for unattended stands left on an area.

g. Physically Challenged Wheelchair Confined Deer and Waterfowl Hunting Areas: special deer and waterfowl hunting areas, blinds and stands identified with LDWF logos, have been established for PCHP wheelchair confined hunters on WMAs. Hunters must obtain PCHP permits and are required to make reservations to use blinds and stands. PCHP wheelchair hunting areas are available on Alexander State Forest, Big Colewa Bayou, Buckhorn, Clear Creek, Elbow Slough, Floy McElroy, Jackson-Bienville, Ouachita, and Sherburne WMAs. Check WMA hunting schedules or call the LDWF offices in Pineville, Lake Charles, Opelousas, Minden, Monroe or Hammond for information.

h. Hunting from utility poles, high tension power lines, oil and gas exploration facilities or platforms is prohibited.

i. It is illegal to save or reserve hunting locations using permanent stands or blinds. Stands or blinds attached to trees with screws, nails, spikes, etc. are illegal.

j. Tree climbing spurs, spikes or screw-in steps are prohibited.

k. Unattended decoys will be confiscated and forfeited to the LDWF and disposed of by the LDWF. This action is necessary to prevent preemption of hunting space.

l. Spot lighting (shining) from vehicles is prohibited on all WMAs.

m. Horses and mules may be ridden on WMAs except where prohibited and except during gun seasons for deer and turkey. Riding is restricted to designated roads and trails depicted on WMA map, self-clearing permit is required. Organized trail rides prohibited except allowed by permit only on Camp Beauregard. Hunting and trapping from horses and mules is prohibited except for quail hunting

or as otherwise specified. Horse-drawn conveyances are prohibited.

n. All hunters (including archers and small game hunters) except waterfowl hunters and mourning dove hunters on WMAs must display 400 square inches of "hunter orange" and wear a "hunter orange" cap during open gun season for deer. Quail and woodcock hunters and hunters participating in special dog seasons for rabbit, squirrel and feral hogs are required to wear a minimum of a "hunter orange" cap. All other hunters and archers (while on the ground) except waterfowl hunters also must wear a minimum of a "hunter orange" cap during special dog seasons for rabbit and squirrel and feral hogs. ALSO all persons afield during hunting seasons are encouraged to display "hunter orange". Hunters participating in special shotgun season for feral hogs on Atchafalaya Delta, Pass-a-Loutre, Pointe-aux-Chenes and Salvador WMAs must display 400 square inches of hunter orange and wear a "hunter orange" cap.

o. Deer hunters hunting from concealed ground blinds must display a minimum of 400 square inches of "hunter orange" above or around their blinds which is visible from 360 degrees.

p. Archery season for deer. The archery season on WMAs is the same as outside and is open for either-sex deer except as otherwise specified on individual WMAs. Archery season restricted on Atchafalaya Delta and closed on certain WMAs when special seasons for youth or Physically Challenged hunts are in progress. Consult regulations pamphlet for specific seasons.

q. Either-sex deer may be taken on WMAs at any time during archery season except when bucks only seasons are in progress on the respective WMAs. Archers must abide by bucks only regulations and other restrictions when such seasons are in progress.

r. Primitive Firearms season for deer. Either-sex unless otherwise specified. See WMA deer schedule. except youth 17 or younger may use any legal weapon during the primitive firearm season on the WMA.

#### 6. Camping

a. Camping on WMAs, including trailers, houseboats, recreational vehicles and tents, is allowed only in designated areas and for a period not to exceed 16 consecutive days, regardless if the camp is attended or unattended. Houseboats shall not impede navigation. At the end of the 16 day period, camps must be removed from the area for at least 48 hours. Camping area use limited exclusively to outdoor recreational activities.

b. Houseboats are prohibited from overnight mooring within WMAs except on stream banks adjacent to LDWF-owned designated camping areas. Overnight mooring of vessels that provide lodging for hire are prohibited on WMAs. On Atchafalaya Delta WMA and Pass-a-Loutre, houseboats may be moored in specially designated areas throughout the hunting season. At all other times of the year, mooring is limited to a period not to exceed sixteen (16) consecutive days. Permits are required for the mooring of houseboats on Pass-a-Loutre and Atchafalaya Delta WMAs. Permits must be obtained from the New Iberia office.

c. Discharge of human waste onto lands or waters of any WMA is strictly prohibited by State and Federal law.

In the event public restroom facilities are not available at a WMA, the following is required. Anyone camping on a WMA in a camper, trailer, or other unit (other than a houseboat or tent) shall have and shall utilize an operational disposal system attached to the unit. Tent campers shall have and shall utilize portable waste disposal units and shall remove all human waste from the WMA upon leaving. Houseboats moored on a WMA shall have a permit or letter of certification from the health unit (Department of Health and Hospitals) of the parish within which the WMA occurs verifying that it has an approved sewerage disposal system on board. Further, that system shall be utilized by occupants of the houseboats when on the WMA.

d. No refuse or garbage may be dumped from these boats.

e. Firearms may not be kept loaded or discharged in a camping area unless otherwise specified.

f. Campsites must be cleaned by occupants prior to leaving and all refuse placed in designated locations when provided or carried off by campers.

g. Non-compliance with camping regulations will subject occupant to immediate expulsion and/or citation, including restitution for damages.

h. Swimming is prohibited within 100 yards of boat launching ramps.

#### 7. Restricted Areas

a. For your safety, all oil and gas production facilities (wells, pumping stations and storage facilities) are off limits.

b. No unauthorized entry or unauthorized hunting in restricted areas, refuges, or limited use areas unless otherwise specified.

8. Dogs. All use of dogs on WMAs, except for bird hunting and duck hunting, is experimental as required by law. Having or using dogs on any WMA is prohibited except for nighttime experimental raccoon hunting, squirrel hunting, rabbit hunting, bird hunting, duck hunting, hog hunting and bird dog training when allowed; see individual WMA season listings for WMAs that allow dogs. Dogs running at large are prohibited on WMAs. The owner or handler of said dogs shall be liable. Only recognizable breeds of bird dogs and retrievers are allowed for quail and migratory bird hunting. Only beagle hounds which do not exceed 15 inches at the front shoulders and which have recognizable characteristics of the breed may be used on WMAs having experimental rabbit seasons. A leashed dog may be used to trail and retrieve wounded or unrecovered deer during legal hunting hours. Any dog used to trail or retrieve wounded or unrecovered deer shall have on a collar with owner's name, address and phone number. In addition, a dog may be used to trail and retrieve unrecovered deer after legal hunting hours; however, no person accompanying a dog after legal hunting hours may carry a firearm of any sort.

#### 9. Vehicles

a. An all-terrain vehicle is an off-road vehicle (not legal for highway use) with factory specifications not to exceed the following: weight-750 pounds, length-85", and width-48". ATV tires are restricted to those no larger than 25 x 12 with a maximum I" lug height and a maximum allowable tire pressure of 7 psi. as indicated on the tire by



the manufacturer. Use of all other ATVs or ATV tires are prohibited on a WMA.

b. *Utility Type Vehicle (UTV, also Utility Terrain Vehicle)*—any recreational motor vehicle other than an ATV, not legal for highway use, designed for and capable of travel over designated unpaved roads, traveling on 4 or more low-pressure tires, with factory specifications not to exceed the following: weight-1900 pounds, length-128" and width-68". UTV tires are restricted to those no larger than 26 x 12 with a maximum 1" lug height and a maximum allowable tire pressure of 12 psi. UTV's are commonly referred to as side by sides and may include golf carts.

c. Vehicles having wheels with a wheel-tire combination having a radius of 17 inches or more from the center of the hub (measured horizontal to ground) are prohibited.

d. The testing, racing, speeding or unusual maneuvering of any type of vehicle is prohibited within WMAs due to property damages resulting in high maintenance costs, disturbance of wildlife and destruction of forest reproduction.

e. Tractor or implement tires with farm tread designs R1, R2 and R4 known commonly as spade or lug grip types are prohibited on all vehicles.

f. Airboats, aircraft, personal water craft, "mud crawling vessels" (commonly referred to as crawfish combines which use paddle wheels for locomotion) and hover craft are prohibited on all WMAs and Refuges. Personal water craft are defined as a vessel which uses an inboard motor powering a water jet pump as its primary source of propulsion and is designed to be operated by a person sitting, standing or kneeling on the vessel rather than in the conventional manner of sitting or standing inside the vessel. Personal water craft allowed on designated areas of Alexander State Forest WMA. Except, Type A personal water craft, model year 2003 and beyond, which are eight feet in length and greater, may be operated in the areas of Catahoula Lake, Manchac WMA, Maurepas Swamp WMA, Pearl River WMA and Pointe-aux-Chenes WMA from April 1 until the Monday of Labor Day Weekend, from sunrise to sunset only. No person shall operate such water craft at a speed greater than slow/no wake within 100 feet of an anchored or moored vessel, shoreline, dock, pier, persons engaged in angling or any other manually powered vessel.

g. Driving or parking vehicles on food or cover plots and strips is prohibited.

h. Blocking the entrance to roads and trails is prohibited.

i. Licensed motorized vehicles (LMVs) legal for highway use, including motorcycles, are restricted entirely to designated roads as indicated on WMA maps. UTVs are restricted to marked UTV trails only. ATVs are restricted to marked ATV trails only, except when WMA roads are closed to LMVs. ATVs may then use those roads when allowed. WMA maps available at all region offices. This restriction does not apply to bicycles.

Note: All ATV and UTV trails are marked with signs and/or paint, but not all ATV and UTV trails appear on WMA maps.

j. Use of special ATV trails for physically challenged persons is restricted to ATV physically challenged permittees. Physically challenged ATV permittees are restricted to physically challenged ATV trails or other ATV trails only as indicated on WMA maps or as

marked by sign and/or paint. Persons 60 years of age and older, with proof of age, are also allowed to use special physically challenged trails and need not obtain a permit. However, these persons must abide by all rules in place for these trails. physically challenged persons under the age of 60 must apply for and obtain a physically challenged hunter program permit from the LDWF.

k. Entrances to ATV trails will be marked with peach colored paint. Entrances to physically challenged-only ATV trails will be marked with blue colored paint. Entrances to ATV trails that are open all year long will be marked with purple paint. The end of all ATV trails will be marked by red paint. WMA maps serve only as a general guide to the route of most ATV trails, therefore all signage and paint marking as previously described will be used to determine compliance. Deviation from this will constitute a violation of WMA rules and regulations.

l. Roads and trails may be closed due to poor condition, construction or wet weather.

m. ATVs, and motorcycles cannot be left overnight on WMAs except on designated camping areas. ATVs are prohibited from two hours after sunset to 4 a.m., except raccoon hunters may use ATVs during nighttime raccoon take seasons only. ATVs are prohibited from March 1 through August 31 except squirrel hunters are allowed to use ATV trails during the spring squirrel season on the WMA and except certain trails may be open during this time period to provide access for fishing or other purposes and some ATV trails will be open all year long on certain WMAs.

n. Caution: many LDWF-maintained roadways on WMAs are unimproved and substandard. A maximum 20 mph speed limit is recommended for all land vehicles using these roads.

o. Hunters are allowed to retrieve their own downed deer and hogs with the aid of an ATV except on Thistlethwaite, Sherburne, Atchafalaya Delta, Pass-a-Loutre, Pointe-aux-Chenes, Salvador, Timken, Lake Bouef, and Biloxi WMAs under the following conditions:

i. no firearms or archery equipment is in possession of the retrieval party or on the ATV;

ii. the retrieval party may consist of no more than one ATV and one helper;

iii. ATVs may not be used to locate or search for wounded game or for any other purpose than retrieval of deer and hogs once they have been legally harvested and located.

iv. UTV's may not be used to retrieve downed deer or hogs.

#### 10. Commercial Activities

a. *Hunting Guides/Outfitters:* No person or group may act as a hunting guide, outfitter or in any other capacity for which they are paid or promised to be paid directly or indirectly by any other individual or individuals for services rendered to any other person or persons hunting on any WMA, regardless of whether such payment is for guiding, outfitting, lodging or club memberships.

b. Except for licensed activities otherwise allowed by law, commercial activities are prohibited without a permit issued by the secretary of the LDWF.

c. *Commercial Fishing.* Permits are required of all commercial fishermen using Grassy Lake, Pomme de Terre and Spring Bayou WMAs. Gill nets or trammel nets and the

take or possession of grass carp are prohibited on Spring Bayou WMA. Drag seines (except minnow and bait seines) are prohibited except experimental bait seines allowed on Dewey Wills WMA north of LA 28 in Diversion Canal. Commercial fishing is prohibited during regular waterfowl seasons on Grand Bay, Silver Lake and Lower Sunk Lake on Three Rivers WMA. Commercial fishing is prohibited on Salvador/Timken, Ouachita and Pointe-aux-Chenes WMAs except commercial fishing on Pointe-aux-Chenes is allowed in Cut Off Canal and Wonder Lake. No commercial fishing activity shall impede navigation and no unattended vessels or barges will be allowed. Non-compliance with permit regulations will result in revocation of commercial fishing privileges for the period the license is issued and one year thereafter. Commercial fishing is allowed on Pass-a-Loutre and Atchafalaya Delta WMAs. See Pass-a-Loutre for additional commercial fishing regulations on mullet.

11. WMAs Basic Season Structure. For season dates, bag limits, shooting hours, special seasons and other information consult the annual regulations pamphlet for specific details.

12. Resident Small Game (squirrel, rabbit, quail, mourning dove, woodcock, snipe, rail and gallinule). Same as outside except closed during modern firearm either-sex deer seasons on certain WMAs (see WMA schedule) and except non-toxic shot must be used for rail, snipe, and gallinule. Consult regulations pamphlet. Unless otherwise specified under a specific WMA hunting schedule, the use of dogs for rabbit and squirrel hunting is prohibited. Spring squirrel season with or without dogs: first Saturday of May for nine days. Consult regulations pamphlet for specific WMAs.

13. Waterfowl (ducks, geese and coots). Consult regulations pamphlet. Hunting after 2 p.m. prohibited on all WMAs except for Atchafalaya Delta, Biloxi, Lake Boeuf, Pass-a-Loutre, Pointe-aux-Chenes, and Salvador/Timken WMAs. Consult specific WMA regulations for shooting hours on these WMAs.

14. Archery. Consult regulations pamphlet.

15. Hogs. Consult regulations pamphlet for specific WMA regulations. Feral hogs may be taken during any legal hunting season, except during the spring squirrel season, on designated WMAs by properly licensed hunters using only guns or bow and arrow legal for specified seasons in progress. Hogs may not be taken with the aid of dogs, except feral hogs may be taken with the aid of dogs on Attakapas, Bodcau, Boeuf, Dewey Wills, Jackson-Bienville, Pearl River, Red River, Sabine, Sabine Island and Three Rivers WMAs (consult Bodcau, Dewey Wills, Little River, Jackson-Bienville, Pass-a-Loutre, Pearl River, Red River, Sabine and Three Rivers WMAs regulations) by Self-clearing permit. All hogs must be killed immediately and may not be transported live under any conditions, except as allowed by permit from either the Minden, Lake Charles, Monroe, Pineville, Hammond or Opelousas offices, and hunters may use centerfire pistols in addition to using guns allowed for season in progress. Additionally, feral hogs may be taken on Atchafalaya Delta, Pass-a-Loutre, Pointe-aux-Chenes and Salvador WMAs from February 16 through March 31 with shotguns loaded with buckshot or slugs.

16. Outlaw Quadrupeds and Birds. Consult regulations pamphlet. During hunting seasons specified on WMAs,

except the turkey and spring squirrel seasons, take of outlaw quadrupeds and birds, with or without the use of electronic calls, is allowed by properly licensed hunters and only with guns or bows and arrows legal for season in progress on WMA. However, crows, blackbirds, grackles and cowbirds may not be taken before September 1 or after January 1. As described in 50 CFR Part 21, non-toxic shot must be used for the take of crows, blackbirds, cowbirds and grackles under the special depredation order. In addition an annual report has to be submitted to the U.S. Fish and Wildlife Service for those that participate in the take of these species.

17. WMAs Hunting Schedule and Regulations

- a. Acadiana Conservation Corridor.
- b. Alexander State Forest. From December through February all hunters must check daily with the Office of Forestry for scheduled burning activity. No hunting or other activity will be permitted in burn units the day of the burning. Call (318) 487-5172 or (318) 487-5058 for information on burning schedules. Vehicles restricted to paved and graveled roads. No parking on or fishing or swimming from bridges. No open fires except in recreation areas.
- c. Atchafalaya Delta. Water control structures are not to be tampered with or altered by anyone other than employees of the LDWF at any time. All All Terrain vehicles, motorcycles, horses, and mules prohibited except as permitted for authorized WMA trappers. Mudboats or air-cooled propulsion engines powered by more than 36 total horsepower are prohibited on the WMA. Limited access area—no internal combustion engines allowed from September through January. See WMA map for specific locations.
- d. Attakapas.
- e. Bayou Macon. All night activities prohibited except as otherwise provided.
- f. Bayou Pierre
- g. Bens Creek
- h. Big Colewa Bayou. All nighttime activities prohibited.
- i. Big Lake.
- j. Biloxi. All all terrain vehicles, motorcycles, horses, and mules are prohibited. Mud boats or air-cooled propulsion vessels powered by more than 36 total horsepower are prohibited on the WMA. All All Terrain vehicles and motorcycles are prohibited.
- k. Bodcau.
- l. Boeuf.
- m. Buckhorn.
- n. Camp Beauregard. Daily military clearance required for all recreational users. Registration for use of Self-Clearing Permit required once per year. All game harvested must be reported on self-clearing checkout permit. Retriever training allowed on selected portions of the WMA. Contact the Region office for specific details. No hunting in restricted areas.
- o. Clear Creek (formerly Boise-Vernon).
- p. Dewey W. Wills. Crawfish: 100 pounds per person per day.
- q. Elbow Slough. Steel shot only for all hunting. All motorized vehicles prohibited.
- r. Elm Hall. No ATVs allowed.
- s. Floy Ward McElroy.

t. Fort Polk. Daily military clearance required to hunt or trap. Registration for use of Self-Clearing Permit required once per year. New special regulations apply to ATV users.

u. Grassy Lake. Commercial Fishing: Permitted except on Smith Bay, Red River Bay and Grassy Lake proper on Saturday and Sunday and during waterfowl season. Permits available from area supervisor at Spring Bayou headquarters or Opelousas Region Office. No hunting in restricted area.

v. Jackson-Bienville.

w. Joyce. Swamp Walk: Adhere to all WMA rules and regulations. No loaded firearms or hunting allowed within 100 yards of walkways. Check hunting schedule and use walkway at your own risk.

x. Lake Boeuf. Hunting allowed until 12:00 noon on all game. All nighttime activities prohibited. All All Terrain vehicles, motorcycles, horses, and mules are prohibited.

y. Lake Ramsay. Foot traffic only—all vehicles restricted to Parish Roads.

z. Little River.

aa. Loggy Bayou.

bb. Manchac. Crabs: No crab traps allowed. Attended lift nets are allowed.

cc. Maurepas Swamp. No loaded firearms or hunting allowed within 100 yards of nature trail.

dd. Ouachita. Waterfowl Refuge: north of LA 15 closed to all hunting, fishing and trapping and ATV use during duck season including early teal season. Crawfish: 100 pounds per person per day limit. Night crawfishing prohibited. No traps or nets left overnight. Commercial Fishing: Closed. All nighttime activities prohibited except as otherwise provided.

ee. Pass-a-Loutre. Commercial Fishing: Same as outside. Commercial mullet fishing open only in: South Pass, Pass-a-Loutre, North Pass, Southeast Pass, Northeast Pass, Dennis Pass, Johnson Pass, Loomis Pass, Cadro Pass, Wright Pass, Viveats Pass, Cognevich Pass, Blind Bay, Redfish Bay, Garden Island Bay, Northshore Bay, East Bay (west of barrier islands) and oil and gas canals as described on the LDWF Pass-a-Loutre WMA map. All All Terrain vehicles, motorcycles, horses, and mules prohibited on this area. Oyster harvesting is prohibited. Mudboats or air-cooled propulsion engines powered by more than 36 total horsepower are prohibited on the WMA. Limited access area—no internal combustion engines allowed from September through January. See WMA map for specific locations.

ff. Pearl River. All roads closed 8 p.m. to 4 a.m. to all vehicles. Old Hwy. 11 will be closed when river gauge at Pearl River, Louisiana, reaches 16.5 feet. All hunting except waterfowl will be closed when the river stage at Pearl River reaches 16.5 feet. No hunting in the vicinity of nature trail. Observe "No Hunting" signs. Rifle range open Friday, Saturday and Sunday with a fee. Type A personal water craft, model year 2003 and beyond, which are eight feet in length and greater, may be operated in the areas of Pearl River Wildlife Management Area, south of U.S. 90 from April 1 until the Monday of Labor Day Weekend, from sunrise to sunset only. No person shall operate such water craft at a speed greater than slow/no wake within 100 feet of an

anchored or moored vessel, shoreline, dock, pier, persons engaged in angling or any other manually powered vessel.

gg. Peason Ridge. Daily military clearance required to hunt or trap. Registration for use of Self-Clearing Permit required once per year. Special federal regulations apply to ATV users.

hh. Pointe-aux-Chenes. Hunting until 12 noon on all game, except for mourning dove hunting and youth lottery deer hunt as specified in regulation pamphlet. Point Farm: Gate will be open all weekends during month of February. No motorized vessels allowed in the drainage ditches. Recreational Fishing: Shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) maximum shall be allowed. Size count to conform with open season requirements. During the inside closed season, 10 pounds per boat per day (heads on) may be taken for bait. All castnet contents shall be contained and Bycatch returned to the water immediately. Oyster harvesting is prohibited. Fish may be taken only by rod and reel or hand lines for recreational purposes only. Crabs may be taken only through the use of hand lines or nets; however, none are to remain set overnight. Twelve dozen crabs maximum are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the WMA and shall be limited to 100 pounds per boat or group. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational purposes only and any commercial use is prohibited. All boats powered by engines having total horsepower above 25 h.p. are not allowed in the Grand Bayou, Montegut and Pointe-aux-Chenes water management units. Public is permitted to travel anytime through the WMA for access purposes only, in the waterways known as Grand Bayou, Humble Canal, Little Bayou Blue, Grand Bayou Blue, St. Louis Canal and Bayou Pointe-aux-Chenes unless authorized by the LDWF. All other motorized vehicles, horses and mules are prohibited unless authorized by the LDWF. Limited access area—no internal combustion engines allowed from September through January. See WMA map for specific locations. All All Terrain Vehicles, motorcycles, horses, and mules prohibited.

ii. Pomme de Terre. Commercial Fishing: permitted Monday through Friday, except closed during duck season. Commercial fishing permits available from area supervisor, Opelousas region office or Spring Bayou headquarters. Sport Fishing: Same as outside except allowed only after 2 p.m. only during waterfowl season. Crawfish: March 15-July 31, recreational only, 100 lbs. per boat or group daily.

jj. Red River. Recreational crawfishing: Yakey Farms only March 15-July 31. 100 pounds per vehicle or group per day. No traps or nets left overnight. No motorized watercraft allowed. Commercial crawfishing now allowed.

kk. Russell Sage. Transporting trash or garbage on WMA roads is prohibited. All nighttime activities prohibited except as otherwise provided. Internal combustion engines and craft limited to 10 h.p. rating or less in the Greentree Reservoirs. NOTE: All season dates on Chauvin Tract (U.S. 165 North) same as outside, except still hunt only and except deer hunting restricted to archery only. All vehicles including ATVs prohibited.

ll. Sabine.

mm. Sabine Island. Sabine Island boundaries are Sabine River on the west, Cut-Off Bayou on the north, and Old River and Big Bayou on the south and east.

nn. Salvador/Timken. Hunting until 12 noon only for all game. All nighttime activities prohibited, including frogging. Recreational Fishing: Shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) maximum shall be permitted. Size count to conform with open season requirements. During the inside closed season, 10 pounds per boat per day (heads on) maximum may be taken for bait. All castnet contents shall be contained and Bycatch returned to the water immediately. Fish may be taken only by rod and reel or hand lines for recreational purposes only. Crabs may be taken only through the use of hand lines or nets; however, none of the lines are to remain set overnight. Twelve dozen crabs maximum are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the WMA and shall be limited to 100 pounds per boat or group. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational purposes only and any commercial use is prohibited. Use of mudboats powered by internal combustion engines with more than four cylinders is prohibited. Pulling boats over levees, dams or water control structures or any other activities which cause detriment to the integrity of levees, dams and water control structures is prohibited. Limited access area—no internal combustion engines allowed from September through January. See WMA map for specific locations.

oo. Sandy Hollow. Bird Dog Training: Consult regulation pamphlet. Wild birds only (use of pen-raised birds prohibited). Bird Dog Field Trials: Permit required from Baton Rouge Region Office. Horseback Riding: Self-Clearing Permit required. Organized trail rides prohibited. Riding allowed only on designated roads and trails depicted on WMA map. Horses and mules are specifically prohibited during turkey and gun season for deer except as allowed for bird dog field trials. No horses and mules on green planted areas. Horse-drawn conveyances are prohibited.

pp. Sherburne. Crawfishing: Recreational crawfishing only on the South Farm Complexes. Crawfish harvest limited to 100 pounds per vehicle or boat per day. No traps or nets left overnight. No motorized watercraft allowed on farm complex. Commercial crawfishing not allowed. Retriever training allowed on selected portions of the WMA. Contact the Region office for specific details. Vehicular traffic prohibited on Atchafalaya River levee within Sherburne WMA boundaries. Rifle and Pistol Range open daily. Skeet ranges open by appointment only, contact Hunter Education Office. No trespassing in restricted area behind ranges. Note: Atchafalaya National Wildlife Refuge, and U.S. Army Corps of Engineers land holdings adjacent to the Sherburne WMA will have the same rules and regulations as Sherburne WMA. No hunting or trapping in restricted area.

qq. Sicily Island Hills.

rr. Soda Lake. No motorized vehicles allowed. Bicycles allowed. All trapping and hunting prohibited except archery hunting for deer and falconry.

ss. Spring Bayou. Commercial Fishing: permitted Monday through Friday except slat traps and hoop nets

permitted any day and except gill or trammel nets or the take or possession of grass carp are prohibited. Permits available from area supervisor or Opelousas Region Office. Closed until after 2 p.m. during waterfowl season. Sport Fishing: Same as outside except allowed only after 2 p.m. during waterfowl season. Crawfish: recreational only. No hunting allowed in headquarters area. Only overnight campers allowed in the improved Boggy Bayou Camping area. Rules and regulations posted at camp site. A fee is assessed for use of this campsite. Water skiing allowed only in Old River and Grand Lac.

tt. Tangipahoa Parish School Board. No horseback riding during gun season for deer or turkey. ATVs are not allowed except as otherwise specified.

uu. Thistlethwaite. All motorized vehicles restricted to improved roads only. All users must enter and leave through main gate only.

vv. Three Rivers.

ww. Tunica Hills. Camping limited to tents only in designated area.

xx. Union. All nighttime activities prohibited except as otherwise provided.

yy. West Bay.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115 and R.S. 56:116.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:1279 (July 1999), amended LR 26:1494 (July 2000), LR 27:1049 (July 2001), LR 28:1603 (July 2002), LR 29:1124 (July 2003), repromulgated LR 29:1522 (August 2003), amended LR 30:1495 (July 2004), LR 31:1611 (July 2005), LR 32:1251 (July 2006), LR 33:1382 (July 2007), LR 34:1429 (July 2008), LR 35:1264 (July 2009), LR 36:1566 (July 2010), LR 37:2190 (July 2011), LR 38:

### Family Impact Statement

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

### Public Hearing

Public hearings will be held at the following locations: March 13 beginning at 6 p.m., at Alexandria Convention Hall, 915 Third Street, Alexandria; March 13 beginning at 6:30 p.m., at the LDWF Office, 9961 Highway 80, Minden; March 14 beginning at 6:30 p.m., Yambilee Festival Building, 1939 W. Landry, Opelousas; March 21 beginning at 6 p.m., St. John Parish Council Chambers, 1801 W. Airline Highway, Laplace; March 15 beginning at 6:00 p.m., Bastrop Visitor Center, 124 North Washington Street, Bastrop; and March 15 beginning at 6:30 p.m., LSU Ag Center (next to Burton Coliseum), 7101 Gulf Highway, Lake Charles. Also comments will be accepted at regularly scheduled Wildlife and Fisheries Commission Meetings from March through May. Interested persons may submit written comments relative to the proposed Rule until 4:30 p.m., Thursday, May 3, 2012 to Mr. Randy Myers, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA, 70898-9000, or via email to [rmyers@wlf.la.gov](mailto:rmyers@wlf.la.gov).

Ann L. Taylor  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: General and Wildlife Management Area  
Hunting Rules and Regulations**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no anticipated direct material effect on state or local governmental units as a result of the proposed Rule change. The establishment of hunting regulations is an annual process that is implemented using existing staff and funding levels. The proposed Rule change will have no impact on local governmental unit expenditures.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed Rule change is anticipated to 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)**

A minimal number of hunters may be directly affected by the proposed hunting rule change. The proposed Rule change impacts hunting rules and regulations for the state at large as well as for wildlife management areas. The proposed Rule change includes a variety of modifications to area descriptions, methods of taking and retrieving game species, and special regulations on state operated wildlife management areas. The effect of the proposed rule change is anticipated to be negligible since only minor changes are being made.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed Rule change is anticipated to have no effect on competition and employment.

Lois Azzarello  
Undersecretary  
1202#038

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**Resident Game Hunting Season (LAC 76:XIX.101 and 103)**

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate hunting seasons for resident game birds and game quadrupeds.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final Rule, including but not limited to, the filing of the fiscal and economic impact statements, the

filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part XIX. Hunting and WMA Regulations**

**Chapter 1. Resident Game Hunting Season**

**§101. General**

A. The Resident Game Hunting Season regulations are hereby adopted by the Wildlife and Fisheries Commission. A complete copy of the Regulation Pamphlet may be obtained from the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), LR 26:1506 (July 2000), LR 27:1061 (July 2001), LR 28:1615 (July 2002), LR 29:1122 (July 2003), LR 30:1493 (July 2004), LR 31:1627 (July 2005), LR 32:1253 (July 2006), LR 33:1399 (July 2007), LR 1447 (July 2008), LR 35:1278 (July 2009), LR 36:1580 (July 2010), LR 37:2206 (July 2011), LR 38:

**§103. Resident Game Birds and Animals**

A. Shooting Hours. One-half hour before sunrise to one-half hour after sunset.

B. Consult Regulation Pamphlet for seasons or specific regulations on Wildlife Management Areas or specific localities.

Species	Season Dates	Daily Bag Limit	Possession Limit
Quail	Opens: 3 <sup>rd</sup> Saturday of November Closes: Last Day of February	10	20
Rabbit and Squirrel	Opens: 1 <sup>st</sup> Saturday of October Closes: Last Day of February	8	16
Squirrel*	Opens: 1 <sup>st</sup> Saturday of May for 23 days	3	6
Deer 2012-13	See Schedule	1 antlered and 1 antlerless (when legal)	6/season (3 antlered deer and 3 antlerless deer)
Deer 2013-14	See Schedule	1 antlered and 1 antlerless (when legal)	6/season (not to exceed 3 antlered deer or 4 antlerless deer)

\*NOTE: Spring squirrel season is closed on the Kisatchie National Forest, National Wildlife Refuges, U.S. Army Corps of Engineers property. Some State Wildlife Management Areas will be open, check WMA season schedule.

C. Deer Hunting Schedule, 2012-2014

Area	Archery	Primitive Firearms (All Either Sex Except as Noted)	Still Hunt (No dogs allowed)	With or Without Dogs
1	OPENS: 1 <sup>st</sup> day of Oct. CLOSES: Last day of Jan.	OPENS: 2 <sup>nd</sup> Sat. of Nov. CLOSES: Fri. after 2 <sup>nd</sup> Sat. of Nov.  OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3 <sup>rd</sup> Sat. of Nov. CLOSES: Fri. before 2 <sup>nd</sup> Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1 <sup>st</sup> Sat. of Dec.  OPENS: Mon. after 1 <sup>st</sup> Sat. of Jan. CLOSES: next to last Sun. of Jan.	OPENS: 2 <sup>nd</sup> Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1 <sup>st</sup> Sat. of Dec. CLOSES: Sun. after 1 <sup>st</sup> Sat. of Jan.
2	OPENS: 1 <sup>st</sup> day of Oct. CLOSES: Last day of Jan.	OPENS: Next to last Sat. of Oct. CLOSES: Fri. before last Sat. of Oct.  OPENS: Mon. after the last day of Modern Firearm Season in Jan. CLOSES: After 7 days.	OPENS: Last Sat. of Oct. CLOSES: Tues. before 2 <sup>nd</sup> Sat. of Dec. in odd numbered years and on Wed. during even numbered years EXCEPT when there are 5 Sats. in Nov. and then it will close on the Tues. in odd numbered years or Wed. during even numbered years before the 1 <sup>st</sup> Sat. of Dec.	OPENS: Wed. before the 2 <sup>nd</sup> Sat. of Dec. in odd numbered years and on Thurs. during even numbered years EXCEPT when there are 5 Sats. in Nov., then it will open on the Wed. before the 1 <sup>st</sup> Sat. of Dec. on odd years and Thurs. during even numbered years CLOSES: 40 days after opening in odd numbered years or 39 days after opening in even numbered years
3	OPENS: 3 <sup>rd</sup> Sat. of Sept. CLOSES: Jan. 15	OPENS: 2 <sup>nd</sup> Sat. of Oct. CLOSES: Fri. before 3 <sup>rd</sup> Sat. of Oct.  OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1 <sup>st</sup> Sat. of Dec.	OPENS: 3 <sup>rd</sup> Sat. of Oct. CLOSES: Sun. after Thanksgiving Day  OPENS: 1 <sup>st</sup> Sat. of Dec. CLOSES: After 37 days	
4	See Area 1.			
5	OPENS: 1 <sup>st</sup> day of Oct. CLOSES: Last day of Jan.	OPENS: 2 <sup>nd</sup> Sat. of Nov. CLOSES: Fri. before 3 <sup>rd</sup> Sat. of Nov. (EITHER SEX)  OPENS: Day after the close of Modern Firearm Season CLOSES: After 7 consecutive days (EITHER SEX)	OPENS: Day after Thanksgiving Day CLOSES: 4th Sun. of Dec.	
6*	OPENS: 1 <sup>st</sup> day of Oct. CLOSES: Feb. 15 (1 <sup>st</sup> 15 days are BUCKS ONLY)	OPENS: 2 <sup>nd</sup> Sat. of Nov. CLOSES: Fri. before 3 <sup>rd</sup> Sat. of Nov.  OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3 <sup>rd</sup> Sat. of Nov. CLOSES: Fri. before 2 <sup>nd</sup> Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1 <sup>st</sup> Sat. of Dec.	OPENS: 2 <sup>nd</sup> Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1 <sup>st</sup> Sat. of Dec. CLOSES: Next to last Sun. of Jan.
7	OPENS: 1 <sup>st</sup> day of Oct. CLOSES: Last day of Jan.	OPENS: 2 <sup>nd</sup> Sat. of Oct. CLOSES: Fri. before 3 <sup>rd</sup> Sat. of Oct.  OPENS: 1 <sup>st</sup> Sat. of Nov. CLOSES: Fri. before 2 <sup>nd</sup> Sat. of Nov.	OPENS: 3 <sup>rd</sup> Sat. of Oct. CLOSES: Fri. before 1 <sup>st</sup> Sat. of Nov.  OPENS: 2 <sup>nd</sup> Sat. of Nov. CLOSES: Sun. after Thanksgiving Day	OPENS: Mon. after Thanksgiving Day CLOSES: After 35 days
8	OPENS: 3 <sup>rd</sup> Sat. of Sept. CLOSES: Jan. 15	OPENS: 2 <sup>nd</sup> Sat. of Oct. CLOSES: Fri. before 3 <sup>rd</sup> Sat. of Oct.  OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1 <sup>st</sup> Sat. of Dec.	OPENS: 3 <sup>rd</sup> Sat. of Oct. CLOSES: Sun. after Thanksgiving Day	OPENS: 1 <sup>st</sup> Sat. of Dec. CLOSES: After 37 days.
*Except lands within the Morganza Floodway and Atchafalaya Basin.				
<b>All lands within the Morganza Floodway from I-10 South within the protection levees of the Atchafalaya Basin shall have the following seasons</b>				
	OPENS: 1 <sup>st</sup> day of Oct. CLOSES: Last day of Jan. (1 <sup>st</sup> 15 days are Bucks Only)	OPENS: Mon after the next to last Sun. of Jan. CLOSES: Last day of Jan. (Bucks-Only)	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3 <sup>rd</sup> Sat. of Nov. 1 <sup>st</sup> nine days Either-Sex. CLOSES: Fri. before 2 <sup>nd</sup> Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1 <sup>st</sup> Sat. of Dec.	OPENS: 2 <sup>nd</sup> Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1 <sup>st</sup> Sat. of Dec. 1 <sup>st</sup> 2 days Either-Sex. CLOSES: 2 <sup>nd</sup> to last Sun. in Jan.

D. Modern Firearm Schedule (Either Sex Seasons)

Parish	Area	Modern Firearm Either-sex Days
West Carroll	Area 5	Opens Friday after Thanksgiving Day for 3 days.

E. Farm Raised White-Tailed Deer on Supplemented Shooting Preserves: Archery, Firearm, Primitive Firearms: October 1-January 31 (Either-Sex).

F. Exotics on Supplemented Shooting Preserves: Either Sex, no closed season.

G. Spring Squirrel Hunting

1. Season Dates: Opens 1st Saturday of May for 23 days.

2. Closed Areas: Kisatchie National Forest, National Wildlife Refuges, and U.S. Army Corps of Engineers property and all WMAs except as provided in Paragraph 3 below.

3. Wildlife Management Area Schedule: Opens 1st Saturday of May for 9 days on all WMAs except Fort Polk, Peason Ridge, Camp Beauregard, Pass-a-Loutre and Salvador. Dogs are allowed during this season for squirrel hunting. Feral hogs may not be taken on Wildlife Management Areas during this season.

4. Limits: Daily bag limit is three and possession limit is six.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, R.S. 56:109(B) and R.S. 56:141(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), repromulgated LR 25:1526 (August 1999), LR 26:1506 (July 2000), LR 27:1061 (July 2001), LR 28:1615 (July 2002), LR 29:1122 (July 2003), repromulgated LR 29:1521 (August 2003), amended LR 30:1494 (July 2004), LR 31:1627 (July 2005), LR 32:1254 (July 2006), LR 33:115 (January 2007), LR 33:1399 (July 2007), LR 34:1447 (July 2008), LR 35:1278 (July 2009), LR 35:2856 (December 2009), LR 36:1580 (July 2010), LR 37:2207 (July 2011), LR 38:

**Family Impact Statement**

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

**Public Hearing**

Public hearings will be held at the following locations: March 13 beginning at 6 p.m., at Alexandria Convention Hall, 915 Third Street, Alexandria; March 13 beginning at 6:30 p.m., at the LDWF Office, 9961 Highway 80, Minden; March 14 beginning at 6:30 p.m., Yambilee Festival Building, 1939 W. Landry, Opelousas; March 21 beginning at 6 p.m., St. John Parish Council Chambers, 1801 W. Airline Highway, Laplace; March 15 beginning at 6 p.m., Bastrop Visitor Center, 124 North Washington Street, Bastrop; and March 15 beginning at 6:30 p.m., LSU Ag Center (next to Burton Coliseum), 7101 Gulf Highway, Lake Charles. Also comments will be accepted at regularly scheduled Wildlife and Fisheries Commission Meetings from March through May.

**Public Comments**

Interested persons may submit written comments relative to the proposed rule until 4:30 p.m., Thursday, May 3, 2012 to Mr. Randy Myers, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA, 70898-9000, or via email to rmyers@wlf.la.gov.

Ann L. Taylor  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**  
**RULE TITLE: Resident Game Hunting Season**

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 changes. The establishment of resident game and wildlife management hunting seasons for game birds and animals is an annual process that is implemented using existing staff and funding levels.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Failure to adopt the proposed Rule changes would result in hunting seasons not being established and a potential loss of some revenues to both state and local governmental units. Historically, revenue generation from the issuance of state hunting licenses has exceeded \$8 million annually. Additionally, hunting and related activities generate approximately \$62 million in state and local tax revenues annually (Southwick Associates, 2007). Of this \$62 million, approximately 66 percent is generated from big game hunting, 17 percent from migratory bird hunting and 17 percent from small game hunting activities.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Over 300,000 resident and non-resident hunters, numerous sporting goods retailers and landowners are directly affected by this proposal. Louisiana hunters hunt an average of 22 days per year, which amounts to over 6 million hunting days annually. Approximately 84 percent of Louisiana hunters participate in big game hunting, 50 percent participate in small game hunting and 37 percent participate in migratory bird hunting activities each year. According to Southwick Associates, hunting in Louisiana generates approximately \$594 million in revenues annually through the sale of outdoor related equipment, associated items and trip-related expenditures (Southwick Associates, 2007). Failure to adopt the proposed Rule changes would result in hunting seasons not being established and a potential loss of commerce associated with these activities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Hunting in Louisiana supports an estimated 13,084 jobs (Southwick Associates, 2007). Not establishing hunting seasons might have a negative and direct impact on these jobs.

Lois Azzarello  
Undersecretary  
1202#036

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### Vessel Monitoring Systems; Oyster Seed Ground Vessel Permit (LAC 76:VII.371 and 525)

The Wildlife and Fisheries Commission hereby advertises its intent to establish rules and regulations which require the use of Vessel Monitoring Systems for use by a vessel taking oysters for commercial purposes under the authority of the Oyster Seed Ground Vessel Permit. Data collected through this system will enable the department to better manage the public oyster resource and allow the department to assess where reef building efforts need to be focused increasing accessibility to the industry over time.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

#### Title 76

### WILDLIFE AND FISHERIES

#### Part VII. Fish And Other Aquatic Life

#### Chapter 3. Saltwater Sport and Commercial Fishery

#### §371. Vessel Monitoring System (VMS) Requirements

A. The following provision regarding VMS shall be applicable to all provisions of law requiring the use of VMS except where required by R.S. 56:433.1 and LAC 76:VII.525.

1. The vessel must have onboard a fully operational and approved VMS Device. Approved devices are those devices approved by NOAA Fisheries Service or the Secretary of the Louisiana Department of Wildlife and Fisheries (LDWF) for fisheries in the Gulf of Mexico Reef Fish fishery and which meet the minimum performance criteria specified in Paragraph 2 of this Subsection. In the event that a VMS device is removed from the list of approved devices, vessel owners who installed an approved VMS prior to approval of any revised list will be considered in compliance with requirements of this paragraph, unless otherwise notified by the LDWF.

2. Minimum VMS Performance Criteria. Basic required features of the VMS are as follows.

a. The VMS shall be satellite-based and tamper proof, i.e., shall not permit the input of false positions; furthermore, satellite selection must be automatic to provide an optimal fix and shall not be capable of being manually overridden.

b. The VMS shall be fully automatic and operational at all times, regardless of weather and environmental conditions.

c. The VMS shall be fully operable and capable of tracking the vessel in all of Louisiana coastal waters and throughout the Gulf of Mexico.

d. The VMS shall be capable of transmitting and storing information including vessel identification, date, time and latitude/longitude.

e. The VMS unit shall make all required transmissions to a designated and approved VMS vendor

who shall be responsible for monitoring the vessel and reporting information to the LDWF.

f. The VMS shall provide accurate position transmissions every half-hour, except for those vessels operating solely under the out-of-state landing permit mentioned in Paragraph 3 that require accurate position transmissions every hour, every day of the year, during required monitoring period. In addition, the VMS shall allow polling of individual vessels or any set of vessels at any time and permit those monitoring the vessel to receive position reports in real time. For the purposes of this specification, real time shall constitute data that reflect a delay of 15 minutes or less between the displayed information and the vessel's actual position.

g. The VMS vendor shall be capable of transmitting position data to a LDWF designated computer system via a modem at a minimum speed of 9600 baud. Transmission shall be in a file format acceptable to the LDWF. Such transmission must be made at any time upon demand of the LDWF.

h. The VMS vendor shall be capable of archiving vessel position histories for a minimum of three months, as transmitted by the VMS unit, and provide transmissions to the LDWF of specified portions of archived data in response to LDWF requests in a variety of media (tape, compact disc, etc.) as specified by the LDWF.

3. Operating Requirements. Except as provided in Paragraph 4 (power down exemption) of this Subsection, or unless otherwise required by law, all required VMS units must transmit a signal indicating the vessel's accurate position at least every half hour, 24 hours a day, throughout the year. However, those vessels operating solely under the out-of-state landing permit shall transmit a signal indicating the vessel's accurate position at least every hour, 24 hours a day throughout the year.

4. Power Down Exemption. Any vessel required to have on board a fully operational VMS unit at all times, as specified in Paragraph 3 of this Subsection, is exempt from this requirement provided:

a. the vessel will be continuously out of the water for more than 72 consecutive hours; and

b. a valid letter of exemption obtained pursuant to Subparagraph 5.a. of the Subsection has been issued to the vessel and is on board the vessel is in compliance with all conditions and requirements of said letter.

5. - 11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:424, R.S. 56:424.1, R.S. 56:495.1, R.S. 56:497.1, and R.S. 56:433.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 34:887 (May 2008), amended LR 38:

#### Chapter 5. Oysters

#### §525. Commercial Oyster Seed Ground Vessel Permit

A - D. ...

E. Operations

1. Permits are non-transferable and only the vessel listed on the permit can be used with the permit and only one vessel is allowed per permit. The original valid permit must be onboard at all times while operating under the permit.

2. Permits cannot be assigned or transferred or used by any other vessel than the one to which permit was issued.



3. Vessels engaged in an activity for which this permit is required must have onboard the vessel the valid original permit and shall show the permit upon demand to a duly authorized agent of the department.

4. The secretary shall have the authority to require the use of a vessel monitoring system (VMS) for use by a vessel taking oysters for commercial purposes under the authority of the oyster seed ground vessel permit in accordance with R.S. 56:433.1. All equipment, installation, and service costs associated with this requirement shall be paid for by the department. The secretary shall review this requirement annually for management needs and funding availability and may, at his sole discretion, make the determination to continue the requirement.

a. All vessels operating under the authority of the oyster seed ground vessel permit will be required to have a VMS on board which is fully operable and recording data while vessel is fishing on public oyster seed grounds.

i. In instances where funding is limited, the secretary may choose a sub-sample of vessels through use of a random selection process, geographic area, and / or trip ticket landings data.

b. Owners of vessels requiring the use of VMS will be notified of such requirement by certified mail at the address listed on their permit.

c. Notwithstanding applicable requirements pursuant to provisions in LAC 76:VII.371, any vessel required to use VMS under this provision must use the VMS system provided by the department,

d. Presumption. If a VMS unit fails to record or transmit the required signal of a vessel's position (identified by the indicator light), the vessel shall be deemed to have incurred a VMS violation, for as long as the unit fails to record or transmit a signal, unless a preponderance of evidence shows that the failure to transmit was due to an unavoidable malfunction, or disruption of the transmission that occurred while the vessel was declared out of the fishery, as applicable, or was not at sea. If the indicator light is on, then the unit is presumed to be functioning properly; however, if the indicator light is off then the unit is presumed to not be recording or transmitting. The permit holder shall have an affirmative duty to immediately notify the Department of Wildlife and Fisheries (LDWF) if the VMS fails to record or transmit the required signal or if the indicator light indicates such a failure.

e. Replacement. If the indicator light on the VMS unit is not working, then upon notification to LDWF, a new unit shall be re-installed in no later than seven days. During the period without a functional VMS unit, it is the affirmative duty of the permit holder to report daily to LDWF, prior to departure, the vessel's anticipated fishing location and estimated time on water, and upon return, the vessel's actual fishing location and time on water.

f. Access. All vessel owners shall allow the LDWF, and their authorized wildlife enforcement agents or designees access to the vessel's VMS unit and data, if applicable, and location data obtained from its VMS unit, if required, at the time of or after its transmission to the vendor or receiver, as the case may be.

g. Tampering. Tampering with a VMS, a VMS unit, or a VMS signal, is prohibited. Tampering includes any activity that is likely to affect the unit's ability to operate

properly, signal, or accurately compute the vessel's position fix.

h. Violation. Failure to abide by any regulation set forth by this section regarding the use or operation of a VMS by a vessel taking oysters for commercial purposes under the authority of the oyster seed ground vessel permit, shall be a violation of the Louisiana Revised Statutes and shall result in immediate revocation of the permit governed herein and shall constitute a class 1 violation under the authority of R.S. 56:23. All fish taken or possessed by a person in violation of these rules shall be deemed illegally taken and possessed. The provisions of this Section do not exempt any person from any other laws, rules, regulation, and license requirements for this or other jurisdictions.

F. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:610(L), R.S. 56:6, R.S. 56:23, and R.S. 56:433.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 34:2681 (December 2008), amended LR 38:

#### **Family Impact Statement**

In accordance with Act No. 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

#### **Public Comments**

Interested persons may submit written comments relative to the proposed Rule to Mr. Jason Froeba, Office of Fisheries, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Thursday, March 1, 2012.

Stephen W. Sagraera  
Chairman

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Vessel Monitoring Systems; Oyster Seed Ground Vessel Permit**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed Rule amendments will give the Secretary of the Louisiana Department of Wildlife and Fisheries the authority to require the use of a vessel monitoring system on vessels from which oysters are taken for commercial purposes under the authority of the Oyster Seed Ground Vessel Permit in accordance with R.S. 56:433.1. The department will pay all equipment, installation, maintenance, and service costs associated with the use of these vessel monitoring systems. It is anticipated that the proposed Rule amendments will result in an increase in expenditures by the department in the amount of \$804,300 in FY 2011-2012. This is the anticipated cost to purchase and install 766 vessel monitoring systems on the vessels of Commercial Oyster Seed Ground Vessel Permit holders. Further, beginning in FY 2012-2013, the Louisiana Department of Wildlife and Fisheries is anticipated to incur annual recurring costs of \$634,248 for service fees for the transmission and receipt of data by the vessel monitoring systems. Funding will be provided by the Office of Community Development through an interagency transfer through FY 14. The Office of Community Development has been awarded a grant by the United States Department of Housing and Urban

Development for the costs that result from this cooperative agreement.

The proposed Rule amendments will have no impact on local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections to state or local governmental units from the proposed Rule amendments. There will be no fee for the installation of equipment on the vessels of Commercial Oyster Seed Ground Vessel Permit holders or the transmission of data using this equipment.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Rule amendments would require that an individual have a vessel monitoring system installed on their vessel in order to take oysters from public natural reefs, or oyster seed grounds or reservations, except those in Calcasieu Lake or Sabine Lake. There were 766 Seed Ground Vessel Permits issued in 2010. These individuals will only be affected by the proposed Rule because they will be required to make

their vessels available for the installation and, if necessary, maintenance of the vessel monitoring systems prior to taking oysters from public natural reefs, or oyster seed grounds or reservations, except those in Calcasieu Lake or Sabine Lake. These individuals will incur no costs as a result of the proposed Rule amendments.

The proposed Rule amendments will have a positive impact on the receipts and income of businesses and individuals who manufacture, install, and service the vessel monitoring systems.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule amendments are anticipated to have no effect on competition. The proposed Rule amendments are anticipated to have a minimal effect on employment. Any positive effect on employment in the private sector would be the result of the installation of the vessel monitoring system equipment on the vessels of Seed Ground Vessel Permit holders.

Lois Azzerello  
Undersecretary  
1202#034

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

# Committee Reports

## COMMITTEE REPORT

### Senate Committee on Commerce

#### Report of Senate Committee Emergency Rule Oversight Hearing on LAC 35:I:1505

Editor's Note: This Emergency Rule may be viewed on page 3416 of the December 20, 2010 edition of the *Louisiana Register*.

January 23, 2012

I. This document shall constitute the report required under the Administrative Procedure Act, 49:953(B), concerning an emergency rule oversight committee meeting of the Senate Committee on Commerce, Consumer Protection, and International Affairs ("committee") held at the state capitol on Friday, January 20, 2012.

II. The committee convened a meeting to exercise oversight jurisdiction on emergency rule LAC 35:I:1505 adopted by the Louisiana Racing Commission ("commission").

III. After consideration of testimony, the committee voted to reject this emergency rule, finding it unacceptable under statutory requirements for the criteria and issuance of an emergency rule under the Administrative Procedure Act.

IV. La. R.S. 49:953(B)(1) provides that an emergency rule may be adopted if an agency finds that an imminent peril to the public health, safety, or welfare exists. The statute further requires an agency statement to justify such action, including that the "agency statement of its reason for finding it necessary to adopt an emergency rule shall include specific reasons why the failure to adopt the rule on an emergency basis would result in imminent peril to the public health, safety, or welfare."

As stated in Louisiana Attorney General Opinion No. 97-32, issued in 1997, emergency rules are an exception to the usual rulemaking process containing fundamental safeguards of notice, hearing, and public participation. An emergency rule rendered without the inclusion of the facts justifying its issuance is invalid and unenforceable. The facts stated in the emergency notice must reflect that the harms which justify emergency rulemaking will occur before regular rulemaking by normal procedure can result in an amelioration of the crisis. Suppositions are insufficient. "An emergency is not something that *may* happen or *could* happen; an emergency is something that is about to happen or has already happened."

As pointed out by the Louisiana First Circuit Court of Appeal in *Premier Games, Inc. v. State*, 761 So. 2d 707 (La. App. 1st Cir. 2000), "We believe that the statute's [R.S. 49:953] requirement of a statement of reasons for such a finding demands more than a conclusory statement, but contemplates a description of the facts and circumstances which justify the conclusion that imminent peril exists."

Through testimony and discussion the committee determined that the commission's declaration and statement of reasons claiming "imminent peril" justifying emergency issuance of this rule were insufficient as required by law.

V. A copy of the emergency rule found unacceptable is attached to this report. In accordance with the provisions of La. R.S. 49:968(F)(2), this report, in the form of multiple copies, will be delivered to the Louisiana Racing Commission, the governor, and the Louisiana Register. Each copy shall have the same effect as an original.

VI. In accordance with the provisions of R.S. 49:953(B)(4)(c), upon receipt of this report by the Louisiana Racing Commission, the rule found unacceptable "shall be nullified and shall be without effect."

Daniel "Danny" Martiny  
Chairman

1202#006

# Potpourri

## POTPOURRI

### Department of Agriculture and Forestry Horticulture Commission

#### Landscape Architect Registration Exam

The next landscape architect registration examination will be given June 11-12, 2012, beginning at 7:45 a.m. at the Nelson Memorial Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending the application and fee is as follows.

New Candidates:	February 24, 2012
Re-Take Candidates:	March 23, 2012
Reciprocity Candidates:	April 27, 2012

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, P.O. Box 3596, Baton Rouge, LA 70821-3596, phone (225) 952-8100.

Any individual requesting special accommodations due to a disability should notify the office prior to March 23, 2012. Questions may be directed to (225) 952-8100.

Mike Strain, DVM  
Commissioner

1202#001

## POTPOURRI

### Department of Children and Family Services Division of Programs

#### Temporary Assistance to Needy Families (TANF) Caseload Reduction

The Department of Children and Family Services, hereby gives notice that, in accordance with federal regulations at 45 CFR 261.40, the Temporary Assistance to Needy Families (TANF) Caseload Reduction Report for Louisiana is now available to the public for review and comment.

In order to receive a caseload reduction credit for minimum participation rates, the agency must submit a report based on data from the Family Independence Temporary Assistance Program (FITAP) and the Strategies to Empower People Program (STEP) containing the following information:

1. a listing of, and implementation dates for, all state and federal eligibility changes, as defined at §261.42, made by the state after FY 2005;
2. a numerical estimate of the positive or negative impact on the applicable caseload of each eligibility change (based, as appropriate, on application denials, case closures, or other analyses);

3. an overall estimate of the total net positive or negative impact on the applicable caseload as a result of all such eligibility changes;

4. an estimate of the State's caseload reduction credit;

5. a description of the methodology and the supporting data that it used to calculate its caseload reduction estimates;

6. a certification that it has provided the public an appropriate opportunity to comment on the estimates and methodology, considered their comments, and incorporated all net reductions resulting from federal and state eligibility changes; and

7. a summary of all public comments.

Copies of the TANF Caseload Reduction Report may be obtained by writing Tara Prejean, Department of Children and Family Services, P.O. Box 94065, Baton Rouge, Louisiana 70804-9065, by telephone at (225)342-4096, or via e-mail at tara.prejean@la.gov.

Written comments regarding the report should also be directed to Ms. Prejean. These must be received by close of business on 30 days.

Ruth Johnson  
Secretary

1202#072

## POTPOURRI

### Department of Environmental Quality Office of the Secretary

2008-2010 Permit Rule SIP, VOC Rule SIP,  
Misc Rule SIP and GHG Tailoring Rule SIP

Under the authority of the 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 submit to the Environmental Protection Agency (EPA) revisions to the State Implementation Plan (SIP) affecting rule revisions to LAC 33: III.Air. These include the Title V SIP, Volatile Organic Compounds SIP, General Rule Miscellaneous SIP, and Green House Gas SIP.

If any party wishes to have a public hearing on this matter, one will be scheduled and the comments gathered at such hearing will be submitted as an addendum to the original submittal. All interested persons are invited to submit written comments concerning revisions no later than 4:30 p.m., March 23, 2012. to Vivian Aucoin, Office of Environmental Services, P.O. Box 4314, Baton Rouge, LA 70821-4314 or faxed to (225) 219-3240 or emailed to vivian.aucoin@la.gov.

A copy of this document may be viewed from 8 a.m. to 4:30 p.m. in the DEQ Public Records Center, Room 127, 602 N. Fifth Street, Baton Rouge, LA. This SIP revision is available on the internet at: <http://www.deq.louisiana.gov/portal/tabid/2381/Default.aspx>.

Herman Robinson, CPM  
Executive Counsel

1202#042

**POTPOURRI**

**Office of the Governor  
Commission on Law Enforcement and  
Administration of Criminal Justice**

Public Hearing—Formula for Distribution of Federal Funds  
(LAC 22:III.Chapter 57)

The Commission on Law Enforcement and Administration of Criminal Justice hereby gives notice that it will hold a public hearing on March 1, 2012 at 10 a.m. at the Marriott Baton Rouge, 5500 Hilton Ave., Baton Rouge, LA 70808. The purpose of this public hearing will be for the Commission on Law Enforcement to receive comments from the public regarding proposed modification to the formula for distribution of federal funds under its jurisdiction.

Joey Watson  
Executive Director

1202#032

**POTPOURRI**

**Department of Natural Resources  
Office of Conservation**

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, La. R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Swartz Fairbanks	Monroe	M	Swartz Fairbanks	001	990468
Cng Producing Company	Fort Jackson	L	Simica S Pivach Et Al	001	217713
Cyclops Oil and Gas 1969	Crew Lake	M	Mgr Tusc Suc; Alsbrook	001	131005
Sam H Riggs	Caddo Pine Island	S	Riggs Fee	001	990469

Operator	Field	District	Well Name	Well Number	Serial Number
Sam H Riggs	Caddo Pine Island	S	Riggs Fee	002	990470
Sam H Riggs	Caddo Pine Island	S	Riggs Fee	003	990471
Panotech Exploration Corp.	Bayou La Rose	L	V1 Sua;G B Voorhies	001	74397
Map Drilling Company	Broussard	L	L Mt Ra Sua;S Girouard	004	209584
Map Drilling Company	Broussard	L	L Mt Ra Sub;S Girouard Jr Etal	005-ALT	212040
Map Drilling Company	Cypress Island	L	Bayou Tortue Livestock Inc Swd	002	191453
Map Drilling Company	Manila Village	L	Sl 4190	001	105141
Map Drilling Company	Manila Village	L	Sl 4190	002	109387
Map Drilling Company	Outside Island	L	Vua;J S Broussard	001	193676

James H. Welsh  
Commissioner

1202#022

**POTPOURRI**

**Department of Natural Resources  
Office of Conservation  
Environmental Division**

Legal Notice—Docket No. ENV 2012-L01

Notice is hereby given that the Commissioner of Conservation will conduct a hearing at 9:00 a.m., Wednesday, March 21, 2012, at the LaSalle Building located at 617 North Third Street, Baton Rouge, Louisiana.

At such time, the Commissioner, or his designated representative, will conduct a hearing pursuant to LAC Title 43, Part XIX. Subpart 1. Statewide Order No. 29-B relative to the matter of Clyde Reese et al. versus Carl Oil & Gas Co. et al., Docket Number 84390-C, 15<sup>th</sup> Judicial District Court, Vermilion Parish, pertaining to a plan for the evaluation of environmental damage to property in the West Gueydan Field in Section 5, Township 12 South, Range 2 West.

Any concerns should be directed to:  
Office of Conservation  
Environmental Division  
P.O. Box 94275  
Baton Rouge, Louisiana 70804  
Re: Docket No. ENV 2012-L01  
By order of:

James H. Welsh  
Commissioner

1202#083

**POTPOURRI**

**Department of Natural Resources  
Office of the Secretary  
Fishermen's Gear Compensation Fund**

Loran Coordinators

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 10 claims in the amount of \$41,259.71 were received for payment during the period January 1, 2012-January 31, 2012.

There were 9 paid and 1 denied.

Latitude/longitude coordinates of reported underwater obstructions are:

2910.829	8924.703	Plaquemines
2914.380	9017.600	Lafourche
2926.085	9017.862	Lafourche
2932.503	9100.349	Terrebonne
2937.420	8934.800	Plaquemines
2944.370	8933.271	Saint Bernard
2956.969	8924.235	St. Bernard
3005.061	8931.831	St. Bernard
3008.691	8936.660	St. Tammany

A list of claimants and amounts paid can be obtained from Gwendolyn Thomas, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804 or you can call (225) 342-9388.

Scott A. Angelle  
Secretary

1202#072

**POTPOURRI**

**Workforce Commission  
Office of Workers' Compensation**

Public Hearing—Substantive Changes to Proposed Rules  
(LAC 40:I.Chapter 27)

The Office of Workers' Compensation published a Notice of Intent to amend its rules in the December 20, 2011 edition of the Louisiana Register. The notice solicited written comments. As a result of its analysis of the written comments received, the OWCA proposes to amend Chapter 27 to read as follows.

**Title 40**

**LABOR AND EMPLOYMENT**

**Part I. Workers' Compensation Administration**

**Subpart 2. Medical Guidelines**

**Chapter 27. Utilization Review Procedures**

**§2701. Statement of Policy**

A. - A.2. ...

B. The law provides that after the promulgation of the medical treatment schedule, medical care, services, and treatment due, pursuant to R.S. 23:1203, et seq., by the employer to the employee incurred in the treatment of work-related injuries or occupational diseases [hereinafter referred to as "illness(es)"] shall mean care, services, and treatment in accordance with the medical treatment schedule.

1. ...

2. It is also deemed to be in the best interest of all of the parties in the system that fees for services reasonably performed and billed in accordance with the reimbursement schedule should be promptly paid. Not paying or formally contesting such bills by filing LWC-WC-1008 (disputed claim for compensation), with the Office of Workers' Compensation within 60 days of the date of receipt of the bill may subject the carrier/self-insured employer to penalties and attorneys fees. Additionally, frivolous contesting of the bill may subject the carrier/self-insured employer to penalties and attorneys fees.

3. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with RS 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 Louisiana Workforce Commission, Office of Workers' Compensation, LR 38:

**§2715. Medical Treatment Schedule Authorization and Dispute Resolution**

A. Purpose. It is the purpose of this section to facilitate the management of medical care delivery, assure an orderly and timely process in the resolution of care-related disputes; identify the required medical documentation to be provided to the carrier/self-insured employer to initiate a request for authorization as provided in R.S. 23:1203.1(J); and provide for uniform forms, timeframes, and terms for suspension of prior authorization process, withdrawal of request for authorization, authorization, denial, and dispute resolution in accordance with R.S. 23:1203.1.

B. Statutory Provisions

1. Emergency Care

a. In addition to all other Utilization Review rules and procedures, R.S. 23:1142 provides that no prior consent by the carrier/self-insured employer is required for any emergency medical procedure or treatment deemed immediately necessary by the treating health care provider. Any health care provider who authorizes or orders diagnostic testing or treatment subsequently held not to have been of an emergency nature shall be responsible for all of the charges incurred in such testing or treatment. Such health care provider shall bear the burden of proving the emergency nature of the diagnostic testing or treatment.

b. Fees for those services of the health care provider held not to have been of an emergency nature shall not be an enforceable obligation against the employee or the employer or the employer's workers' compensation insurer unless the employee and the payor have agreed upon the treatment or diagnostic testing by the health care provider.

2. Non-Emergency Care. In addition to all other utilization review rules and procedures, the law (R.S. 23:1142) establishes a monetary limit for non-emergency medical care. No health care provider shall incur more than a total of \$750 in non-emergency diagnostic testing or treatment without the mutual consent of the carrier/self-insured employer and the employee. The statute further provides significant penalties for a carrier's/self-insured employer's arbitrary and capricious refusal to approve necessary care beyond that limit.

### 3. Medical Treatment Schedule

a. In addition to all other utilization review rules and procedures, R.S. 23:1203.1 provides that after the promulgation of the medical treatment schedule, medical care, services, and treatment due, pursuant to R.S. 23:1203 et seq., by the employer to the employee shall mean care, services, and treatment in accordance with the medical treatment schedule.

b. Pursuant to R.S. 23:1203.1(I), medical care, services, and treatment that varies from the promulgated medical treatment schedule shall also be due by the employer when it is demonstrated to the medical director of the office of workers' compensation by a preponderance of the scientific medical evidence, that a variance from the medical treatment schedule is reasonably required to cure or relieve the injured worker from the effects of the injury or occupational disease given the circumstances.

c. Pursuant to R.S. 23:1203.1(M), with regard to all treatment not covered by the medical treatment schedule, all medical care, services, and treatment shall be in accordance with Subsection D of R.S. 23:1203.1.

d. All requests for authorization of care beyond the statutory non-emergency monetary limit of \$750 are to be presented to the carrier/self-insured employer. In accordance with these Utilization Review Rules, the carrier/self-insured employer or a utilization review company acting on its behalf shall determine if such request is in accordance with the medical treatment schedule. If the request is denied or approved with modification and the health care provider determines to request a variance from the medical director, then a LWC-WC-1009 shall be filed as provided in Subsection G of this Section.

e. Disputes shall be filed by any aggrieved party on a LWC-WC-1009 within 15 calendar days of receipt of the denial or approval with modification of a request for authorization. The medical director shall render a decision as soon as practicable, but in no event later than 30 calendar days from the date of filing. The decision shall determine whether:

- i. the recommended care, services, or treatment is in accordance with the medical treatment schedule; or
- ii. a variance from the medical treatment schedule is reasonably required; or
- iii. the recommended care, services, or treatment that is not covered by the medical treatment schedule is in

accordance with another state's adopted guideline pursuant to Subsection D of R.S. 23:1203.1.

f. In accordance with LAC 40:I.5507.C, any party feeling aggrieved by the R.S. 23:1203.1(J) determination of the medical director shall seek a judicial review by filing a Form LWC-WC-1008 in a workers' compensation district office within 15 calendar days of the date said determination is mailed to the parties. A party filing such appeal must simultaneously notify the other party that an appeal of the medical director's decision has been filed. Upon receipt of the appeal, the workers' compensation judge shall immediately set the matter for an expedited hearing to be held not less than 15 days nor more than 30 calendar days after the receipt of the appeal by the office. The workers' compensation judge shall provide notice of the hearing date to the parties at the same time and in the same manner.

g. R.S. 23:1203.1(J) provides that after a health care provider has submitted to the carrier/self-insured employer the request for authorization and the information required pursuant to this Section, the carrier/self-insured employer shall notify the health care provider of their action on the request within five business days of receipt of the request.

### C. Minimum Information for Request of Authorization

1. Initial Request for Authorization. The following criteria are the minimum submission by a health care provider requesting care beyond the statutory non-emergency medical care monetary limit of \$750 and will accompany the LWC-WC-1010:

- a. history provided to the level of the condition and as provided in the Medical Treatment Schedule;
- b. physical findings/clinical tests;
- c. documented functional improvements from prior treatment, if applicable;
- d. test/imaging results; and
- e. treatment plan including services being requested along with the frequency and duration.

2. To make certain that the request for authorization meets the requirements of this Subsection, the health care provider should review the medical treatment schedule for each area(s) of the body to obtain specific detailed information related to the specific services or diagnostic testing that is included in the request. Each section of the medical treatment schedule contains specific recommendations for clinical evaluation, treatment and imaging/testing requirements. The medical treatment guidelines can be viewed on Louisiana's Workforce Commission website. The specific URL is [http://www.laworks.net/WorkersComp/OWC\\_MedicalGuidelines.asp](http://www.laworks.net/WorkersComp/OWC_MedicalGuidelines.asp).

3. Subsequent Request for Authorizations. After the initial request for authorization, subsequent requests for additional diagnostic testing or treatment does not require that the healthcare provider meet all of the initial minimum requirements listed above. Subsequent requests require only updates to the information of Subparagraph 1.a-e above. However such updates must demonstrate the patient's current status to document the need for diagnostic testing or additional treatment. A brief history, changes in clinical findings such as orthopedic and neurological tests, and measurements of function with emphasis on the current, specific physical limitations will be important when seeking

approval of future care. The general principles of the medical treatment schedule are:

- a. the determination of the need to continue treatment is based on functional improvement; and
- b. the patient's ability (current capacity) to return to work is needed to assist in disability management.

D. Submission and Process for Request for Authorization

1. To initiate the request for authorization of care beyond the statutory non-emergency medical care monetary limit of \$750 per health care provider, the health care provider shall submit LWC-WC-1010 along with the required information of this section by fax or email to the Carrier/Self Insured Employer.

2. The carrier/self-insured employer shall provide to the OWC a fax number and/or email address to be used for purposes of these rules and particularly for LWC-WC-1010 and 1010A. If the fax number and/or email address provided is for a utilization review company contracted with the carrier/self-insured employer, then the carrier/self-insured employer shall provide the name of the utilization review company to the OWC. All carrier/self-insured employer fax numbers and/or email addresses provided to the OWC will be posted on the office's website at [www.laworks.net](http://www.laworks.net). If the fax number or e-mail address is for a contracted utilization review company, then the OWC will also post on the web the name of the utilization review company. When requesting authorization and sending the LWC-WC-1010 and 1010A, the health care provider shall use the fax number and/or email address found on the OWC website.

3. Pursuant to R.S. 23:1203.1, the five business days to act on the request for authorization does not begin for the carrier/self-insured employer until the information of Subsection C and LWC-WC-1010 is received. In the absence of the submission of such information, any denial of further non-emergency care by the carrier/self-insured employer is prima facie, not arbitrary and capricious.

E. First Request

1. If a carrier/self-insured employer determines that the information required in Subsection C of this Section has not been provided, then the carrier/self-insured employer shall, within five business days of receipt of LWC-WC-1010, notify the health care provider of its determination. Notice shall be by fax or e-mail to the healthcare provider and shall include the provider-submitted LWC-WC-1010 with the "first request" section completed to indicate a delay due to lack of information and LWC-WC-1010A identifying the information that was not provided. A copy of the LWC-WC-1010 and all information faxed or emailed to the health care provider shall also be faxed or emailed to the claimant attorney, if any. On the same business day, a copy of the LWC-WC-1010 and all information faxed or emailed to the health care provider shall also be sent by regular mail to the claimant's last known address.

a. The health care provider must respond by fax or e-mail to the carrier/self-insured employer's request for additional information within 10 business days of receipt of the request.

b. If the health care provider agrees that the additional information from the first request is due, then such information shall be provided along with LWC-WC-1010 and 1010A.

c. If the health care provider disagrees that the additional information in the first request is due, then the health care provider shall return the LWC-WC-1010 and 1010A with an explanation describing why the health care provider believes all required information has been previously provided.

d. If the health care provider fails to respond to the first request within 10 business days of receipt, then such failure to respond shall result in a withdrawal of the request for authorization without further action by the OWC or the carrier/self-insured employer. In order to obtain authorization for care the health care provider will be required to initiate a new request for authorization with a new LWC-WC-1010 pursuant to this Section.

e. The carrier/self-insured employer must respond by fax or e-mail within five business days of receipt of a timely submitted response from the health care provider.

i. If the health care provider responds timely with additional information and the carrier/self-insured employer determines that the requested information has been provided, then the carrier/self-insured employer has five business days to act on the request for authorization pursuant to R.S. 23:1203.1(J) and these Rules. Subsection G of this Section provides the rules regarding whether a request for authorization is approved, approved with modification, or denied.

ii. If the health care provider responds timely with additional information but the carrier/self-insured employer determines that the requested information has again not been provided, then the carrier/self-insured employer shall return LWC-WC-1010 to the health care provider, and indicate suspension of prior authorization process due to lack of information.

iii. If the health care provider responds timely with the appropriate forms and an explanation as to why no additional information is necessary and

iv. the carrier/self-insured employer determines that the request for information has been satisfied, then the carrier/self-insured employer has five business days to act on the request for authorization pursuant to R.S. 23:1203.1(J) and these rules. Subsection G of this Section provides the rules regarding whether a request for authorization is approved, approved with modification, or denied.

v. the carrier/self-insured employer determines that the requested information has still not been provided, then the carrier/self-insured employer shall return to the health care provider the LWC-WC-1010 indicating suspension of prior authorization process due to lack of information.

2.a. A carrier/self-insured employer who fails to return LWC-WC-1010 within the 5 business days as provided in this Subsection is deemed to have denied such request for authorization. A health care provider, claimant, or claimant's attorney if represented who chooses to appeal a denial pursuant to this Subsection shall file a LWC-WC-1009 pursuant to Subsection J of this Section.

b. A request for authorization that is deemed denied pursuant to this subparagraph may be approved by the carrier/self-insured employer within 10 calendar days of being deemed denied. The approval will be indicated in



Section 3 of LWC-WC-1010. The medical director shall dismiss any appeal that may have been filed by a LWC-WC-1009. The carrier/self-insured employer shall be given a presumption of good faith regarding the decision to change the denial to an approval provided that the LWC-WC-1010 which indicates "approved" in Section 3 is faxed or emailed within the 10 calendar days.

F. Appeal of Suspension of Prior Authorization Process

1. If the health care provider disagrees with the suspension of prior authorization process, the provider, within five business days of receipt of the suspension, shall file an appeal with the medical services section of the OWC. The appeal shall include:

- a. a copy of the LWC-WC-1010 submitted to the carrier/self-insured employer. The health care provider should complete the appropriate section of the form indicating that an appeal is being requested; and
- b. a copy of LWC-WC-1010A; and
- c. a copy of all information previously submitted to the carrier/self-insured employer.

2. The medical services section shall, within 10 business days of receipt of the filed LWC-WC-1010,

- a. determine whether the information provided satisfied the provisions of Subsection C of this Section; and
- b. issue a written determination to the health care provider, claimant and carrier/self-insured employer.

3. If the medical services section determines that the requested information was not provided, then the health care provider will be required to submit the information to the carrier/self-insured employer within five business days of receipt of the decision of the medical services section.

a. If the information is provided as required by decision of the medical services section, the carrier/self-insured employer shall have five business days to act on the request for authorization pursuant to R.S. 23:1203.1(J) and these rules. Subsection G of this Section provides the rules regarding a request for authorization being approved, approved with modification, or denied.

b. Failure of the health care provider to provide the information within 5 business days of receipt of the decision of the medical services section shall result in a withdrawal of the request for authorization without further action by the OWC or the carrier/self-insured employer. In order to obtain authorization, the medical provider will be required to initiate a new request for authorization pursuant to this Section.

4. If the medical services section determines that the requested information was provided, then within 5 business days of receipt of the decision of the medical services section decision, the carrier/self-insured employer shall act on the request for authorization pursuant to R.S. 23:1203.1(J) and these rules with the information as previously provided. Subsection G of this Section provides the rules regarding a request for authorization being approved, approved with modification, or denied.

5. Failure of the carrier/self-insured employer to act on the request within the five business days will be deemed a denial of the request for authorization. A health care provider, claimant, or claimant's attorney if represented who chooses to appeal a denial pursuant to this subparagraph shall file a LWC-WC-1009 pursuant to Subsection J of this Section.

6. A request for authorization that is deemed denied pursuant to this subparagraph may be approved by the carrier/self-insured employer within 10 calendar days of being deemed denied. The approval will be indicated in section 3 of LWC-WC-1010. The medical director shall dismiss any appeal that may have been filed by a LWC-WC-1009. The carrier/self-insured employer shall be given a presumption of good faith regarding the decision to change the denial to an approval provided that the LWC-WC-1010 which indicates "approved" in Section 3 is faxed or emailed within the 10 calendar days.

G. Approval or Denial of Authorization for Care

1. Request for authorization covered by the medical treatment schedule. Upon receipt of the LWC-WC-1010 and the required medical information in accordance with this Section, the carrier/self-insured employer shall have five business days to notify the health care provider of the carrier/self-insured employer's action on the request. Based upon the medical information provided pursuant to this Section the carrier/self-insured employer will determine whether the request for authorization is in accordance with the medical treatment schedule.

a. The carrier/self-insured employer will return to the health care provider Form 1010, and indicate in the appropriate section on the form that "The requested treatment or testing is approved" if the request is in accordance with the medical treatment schedule; or

b. The carrier/self-insured employer will return to the health care provider, claimant, and the claimant's attorney if one exists, the LWC-WC-1010, and indicate in the appropriate section on the form "The requested treatment or testing is approved with modification" if the carrier/self-insured employer determines that modifications are necessary in order for the request for authorization to be in accordance with the medical treatment schedule, or that a portion of the request for authorization is denied because it is not in accordance with the medical treatment schedule. The carrier/self-insured employer shall include with the LWC-WC-1010 a summary of reasons why a part of the request for authorization is not in accordance with the medical treatment schedule and explain any modification to the request for authorization. The LWC-WC-1010 and the summary of reasons shall be faxed or emailed to the health care provider and to the claimant attorney, if any. On the same business day, a copy of the LWC-WC-1010 and the summary of reasons shall also be sent by regular mail to the claimant's last known address; or

c. The carrier/self-insured employer will return to the health care provider, the claimant, and the claimant's attorney if one exists, the LWC-WC-1010, and indicate in the appropriate section on the form "the requested treatment or testing is denied" if the carrier/self-insured employer determines that the request for authorization is not in accordance with the medical treatment schedule. The carrier/self-insured employer shall include with the LWC-WC-1010 a summary of reasons why the request for authorization is not in accordance with the medical treatment schedule. The LWC-WC-1010 and the summary of reasons shall be faxed or mailed to the health care provider and to the claimant attorney, if any. On the same business day, a copy of the LWC-WC-1010 and the summary of reasons

shall also be sent by regular mail to the claimant's last known address

2. Request for authorization not covered by the medical treatment schedule. Requests for authorization of medical care, services, and treatment that are not covered by the medical treatment schedule in accordance to R.S. 23:1203.1(M), must follow the same prior authorization process established for all other requests for medical care, services, and treatment. A request for authorization that is not covered by the medical treatment schedule exists when the requested care, services, or treatment are for a diagnosis not addressed by the medical treatment schedule. The health care Provider requesting care, services, or treatment that is not covered by the medical treatment schedule may submit documentation sufficient to establish that the request is in accordance with R.S. 23:1203.1(D). After timely receipt of the LWC-WC-1010, the submitted documentation if any, and the required medical information in accordance with this Section, the carrier/self-insured employer shall determine whether the request for authorization is in accordance with R.S. 23:1203.1(D). In making this determination, the carrier/self-insured employer shall review the submitted documentation, but may apply another guideline that meets the criteria of R.S. 23:1203.1(D). The carrier/self-insured employer has five business days to notify the health care provider of the carrier/self-insured employer's action on the request.

a. The carrier/self-insured employer will return to the health care provider the LWC-WC-1010, and indicate in the appropriate section on the form that "The requested treatment or testing is approved" if the request is in accordance with R.S. 23:1203.1(D); or

b. the carrier/self-insured employer will return to the health care provider, claimant, and the claimant's attorney if one exists, the LWC-WC-1010, and indicate in the appropriate section on the form "The requested treatment or testing is approved with modification" if the carrier/self-insured employer determines that modifications are necessary in order for the request for authorization to be in accordance with R.S. 23:1203.1(D), or that a portion of the request for authorization is denied because it is not in accordance with R.S.23:1203.1(D). The carrier/self insured employer shall include with the LWC-WC-1010 a summary of reasons why a part of the request for authorization is not in accordance with R.S. 23:1203.1(D). The LWC-WC-1010 and the summary of reasons shall be faxed or emailed to the health care provider and to the claimant attorney, if any. On the same business day a copy of the LWC-WC-1010 and the summary of reasons shall also be sent by regular mail to the claimant's last known address; or

c. the carrier/self-insured employer will return to the health care provider, the claimant, and the claimant's attorney if one exists, the LWC-WC-1010, and indicate in the appropriate section on the form "the requested treatment or testing is denied" if the carrier/self-insured employer determines that the Request for Authorization is not in accordance with R.S. 23:1203.1(D). The carrier/self-insured employer shall include with the LWC-WC-1010 a summary of reasons why the request for authorization is not in accordance with R.S. 23:1203.1(D). The LWC-WC-1010 and the summary of reasons shall be faxed or emailed to the health care provider and to the claimant attorney, if any. On

the same business day a copy of the LWC-WC-1010 and the summary of reasons shall also be sent by regular mail to the claimant's last known address.

3. Summary of Reasons. The summary of reasons provided by the carrier/self-insured employer with the approval with modification or denial shall include:

- i. the name of the employee;
- ii. the date of accident;
- iii. the name of the health care provider requesting authorization;
- iv. the decision (approved with modification, denied);
- v. the clinical rationale to include a brief summary of the medical information reviewed;
- vi. the criteria applied to include specific references to the medical treatment schedule, or to the guidelines adopted in another state if the requested care, services or treatment is not covered by the medical treatment schedule; and
- vii. a Section labeled "Voluntary Reconsideration" pursuant to Paragraph I.2 of this Section that includes a phone number that will allow the health care provider to speak to a person with the carrier/self-insured employer or its utilization review company with authority to reconsider a denial or approval with modification.

4. Upon receipt of the LWC-WC-1010 and the required medical information in accordance with this Section, the carrier/self-insured employer shall have five business days to notify the health care provider of the carrier/self-insured employer's action on the request. Based upon the medical information provided pursuant to this Section, and other information known to the carrier/self-insured employer at the time of the request for authorization, the carrier will return to the health care provider, claimant, and claimant's attorney if one exists, the LWC-WC-1010 and indicate in the appropriate section on the form "the requested treatment or testing is denied because:

- a. "the request for authorization or a portion thereof is not related to the on-the-job injury"; or
- b. "the claim is non-compensable"; or
- c. "other" and provide a brief explanation for the basis of denial.

5. The LWC-WC-1010 and the summary of reasons shall be faxed or emailed to the health care provider and the claimant attorney, if any. On the same business day a copy of the LWC-WC-1010 and the summary of reasons shall also be sent by regular mail to the claimant's last known address.

H. Failure to respond by carrier/self-insured employer. A carrier/self-insured employer who fails to return LWC-WC-1010 with Section 3 completed within the 5 business days to act on a request for authorization as provided in this Section is deemed to have denied such request for authorization. A health care provider, claimant, or claimant's attorney if represented who chooses to appeal a denial pursuant to this subparagraph shall file a LWC-WC-1009 pursuant to Subsection J of this Section.

I. Reconsideration Prior to LWC-WC-1009 Decision

1. R.S. 23:1203.1(L) provides that it is the intent of the legislature that, with establishment of the medical treatment schedule, medical and surgical treatment, hospital care, and other health care provider services shall be

delivered in an efficient and timely manner to injured employees.

2. In furtherance of that goal, the LWC-WC-1010 and the summary of reasons provided by the carrier/self-insured employer with the denial or approved with modification will include a statement that the health care provider is encouraged to contact the carrier/self-insured employer to discuss reconsideration of the denial or approval with modification. The carrier/self-insured employer shall include on the summary of reasons a section labeled "voluntary reconsideration," and include a phone number that will allow the health care provider to speak to a person with the carrier/self-insured employer or its utilization review company with authority to reconsider the previous denial or approval with modification.

3. Reconsideration after denied or approved with modification. If the carrier/self-insured employer determines that the requested care should now be approved, it will return to the health care provider, the claimant, and the claimant's attorney if one exists within 10 calendar days of the denial or approval with modification, the LWC-WC-1010, and in the appropriate section on the form indicate "the prior denied or approved with modification request is now approved." Such approval ends the utilization review process as it relates to the request. A LWC-WC-1009 or 1008 shall not be filed regarding such request. The carrier/self-insured employer shall be given a presumption of good faith regarding the decision to change its decision of denied or approved with modification to approved after discussing the request with the health care provider.

4. Reconsideration after deemed denied due to failure to respond. A request for authorization that is deemed denied pursuant to Subsection H of this Section may be approved by the carrier/self-insured employer within 10 calendar days of the request for authorization as indicated on the LWC-WC-1010. The approval will be indicated in Section 3 of LWC-WC-1010. The medical director shall dismiss any appeal that may have been filed by a LWC-WC-1009. The carrier/self-insured employer shall be given a presumption of good faith regarding the decision to change the denial to an approval provided that the LWC-WC-1010 which indicates "approved" in Section 3 is faxed or emailed within 10 calendar days of the request for authorization.

J. Review of denial, approved with modification, deemed denied, or variance by LWC-WC-1009.

1. Any aggrieved party who disagrees with a request for authorization that is denied, approved with modification, deemed denied pursuant to Subsection E.2, F.5, and H, or who seeks a determination from the medical director with respect to medical care, services, and treatment that varies from the medical treatment schedule shall file a request for review with the OWC. The request for review shall be filed within 15 calendar days of

a. receipt of the LWC-WC-1010 by the health care provider indicating that care has been denied or approved with modification; or

b. the expiration of the fifth business day without response by the carrier/self-insured employer pursuant to Paragraphs E.2, F.5, and H of this Section.

2. The request for review shall include:

a. LWC-WC-1009 which shall state the reason for review is either:

i. a request for authorization that is denied; or  
ii. a request for authorization that is approved with modification; or

iii. a request for authorization that is deemed denied pursuant to Paragraphs, E.2, F.5, and H; or

iv. a variance from the medical treatment schedule is warranted; and

b. a copy of LWC-WC-1010 which shows the history of communications between the health care provider and the carrier/self-insured employer that finally resulted in the request being denied or approved with modification; and

c. all of the information previously submitted to the carrier/self-insured employer; and

d. In cases where a variance has been requested, the health care provider or claimant shall also provide any other evidence supporting the position of the health care provider or the claimant including scientific medical evidence demonstrating that a variance from the medical treatment schedule is reasonably required to cure or relieve the claimant from the effects of the injury or occupational disease given the circumstances.

3. In cases where the requested care, services, or treatment are not covered by the medical treatment schedule pursuant to R.S. 23:1203.1(M);

i. the health care provider may also submit with the LWC-WC-1009 the documentation provided to the carrier/self-insured employer pursuant to Paragraph G.2 of this Section; and

ii. the carrier/self-insured employer may submit to the medical director within five business days of receipt of the LWC-WC-1009 from the health care provider or claimant the documentation used to deny or approve with modification the request for authorization pursuant to R.S. 23:1203.1(D). A copy of the information being submitted to the medical director must be provided by fax or email to the health care provider and claimant attorney, if any, and on the same business day to the claimant by regular mail at his last known address.

4. The health care provider or claimant filing the LWC-WC-1009 shall certify that such form and all supporting documentation has been sent to the carrier/self-insured employer by email or fax. The OWC shall notify all parties of receipt of a LWC-WC-1009.

5.a. Within five business days of receipt of the LWC-WC-1009 from the health care provider or claimant, the carrier/self-insured employer shall provide to the medical director, with a copy going to the health care provider or claimant attorney, if any, via fax or email and on the same business day to the claimant via regular mail at his last known address, any evidence it thinks pertinent to the decision regarding the request being denied, approved with modification, deemed denied, or that a variance from the medical treatment schedule is warranted.

b. The medical director shall within 30 calendar days of receipt of the LWC-WC-1009, and consideration of any medical evidence from the carrier/self-insured employer

if provided within such five business days, render a decision as to whether the request for authorization is medically necessary and is

i. in accordance with the medical treatment schedule or,

ii. in accordance with R.S. 23:1203.1(D) if such request is not covered by the medical treatment schedule, or

iii. whether the health care provider or claimant demonstrates by a preponderance of the scientific medical evidence that a variance from the medical treatment schedule is reasonably required. The decision of the medical director shall be provided in writing to the health care provider, claimant, claimant's attorney if one exists, and Carrier/ Self-Insured Employer.

c. The decision of the medical director shall include:

i. the date the decision is mailed; and

ii. the name of the employee; and

iii. the date of accident; and

iv. the decision of the medical director; and

v. the clinical rationale to include a summary of the medical information reviewed; and

vi. the criteria applied to make the LWC-WC-1009 decision.

#### K. Appeal of 1009 Decision by Filing 1008

1. In accordance with LAC 40:I.5507.C, any party feeling aggrieved by the R.S. 23:1203.1(J) determination of the medical director shall seek a judicial review by filing a Form LWC-WC-1008 in a workers' compensation district office within 15 calendar days of the date said determination is mailed to the parties. The filed LWC-WC-1008 shall include a copy of the LWC-WC-1009 and the decision of the medical director. A party filing such appeal must simultaneously notify the other party that an appeal of the medical director's decision has been filed. Upon receipt of the appeal, the workers' compensation judge shall immediately set the matter for an expedited hearing to be held not less than 15 calendar days nor more than 30 calendar days after the receipt of the appeal by the office. The workers' compensation judge shall provide notice of the hearing date to the parties at the same time and in the same manner. The decision of the medical director may only be overturned when it is shown, by clear and convincing evidence that the decision was not in accordance with the provisions of R.S. 23:1203.1.

#### L. Variance to Medical Treatment Schedule

1. Requests for authorization of medical care, services, and treatment that may vary from the medical treatment schedule must follow the same prior authorization process established for all other requests for medical care, services, and treatment that require prior authorization. If a request is denied or approved with modification, and the health care provider or claimant determines to seek a variance from the medical director, then a LWC-WC-1009 shall be filed as provided in J of this Section. The health care provider, claimant, or claimant's attorney filing the LWC-WC-1009 shall submit with such form the scientific medical literature that is higher ranking and more current than the

scientific medical literature contained in the medical treatment schedule, and which supports approval of the variance.

2. A variance exists in the following situations:

a. the requested care, services, or treatment is not recommended by the medical treatment schedule although the diagnosis is covered by the medical treatment schedule.

b. the requested care, services, or treatment is recommended by the medical treatment schedule, but for a different diagnosis or body part.

c. the requested care, services, or treatment involves a medical condition of the claimant that complicates recovery of the claimant that is not addressed by the medical treatment schedule.

M. Emergency Care. In addition to all other rules and procedures, the health care provider who provides care under the "medical emergency" exception must demonstrate that it was a "medical emergency" in the following manner:

a. - b. ...

#### N. Change of Physician

1. Requests for change of treating physician within one field or specialty shall be made in writing to the carrier/self-insured employer and shall contain a clear statement of the reason for the requested change. Having exhausted the monetary limit for non-emergency treatment is insufficient justification, without other reasons. The carrier/self-insured employer shall notify all parties of the request, and of their action on the request, within five calendar days of date of receipt of the request. Failure to timely respond may result in assessment of penalties by the hearing officer.

2. Disputes over change of physician will be resolved in accordance with R.S. 23:1142(B).

O. Opposing Medical Opinions. In the event that there are opposing medical opinions regarding claimant's condition or capacity to work, the Office of Workers' Compensation Administration will appoint an independent medical examiner of the appropriate licensure class to examine the claimant, or review the medical records at issue. The expense of this examination will be set by the director and will be borne by the carrier/self-insured employer.

AUTHORITY NOTE: Promulgated in accordance with RS 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), repromulgated LR 18:257 (March 1992), amended by the Louisiana Workforce Commission, Office of Workers' Compensation, LR 38:

#### §2717. Medical Review Guidelines

A. - C.1.e. ...

2. Quality of Care. Quality care should:

a. be provided in a timely manner, without inappropriate delay, interruption, premature termination or prolongation of treatment, and emphasize an early, safe return to work;

b. seek the patient's cooperation and participation in the decisions and process of his or her treatment;

c. Be based on accepted principles of evidence based practice as established in R.S. 23:1203.1 and the

skillful and appropriate use of other health professionals and technology;

d. be provided with sensitivity to the stress and anxiety that illness can cause, and with concern for the patient's and family's overall welfare and should focus on improvement in function related to the physical demands of the injured workers' job.

e. use technology and other resources efficiently to achieve the treatment goal;

f. be sufficiently documented in the patient's medical record to allow continuity of care and peer evaluation.

3. Medical Necessity

a. The workers' compensation law provides benefits only for services that are medically necessary for the diagnosis or treatment of a claimant's work related illness, injury, symptom or complaint. Medically Necessary or Medical Necessity shall mean health care services that are:

i. clinically appropriate, in terms of type, frequency, extent, site, and duration, and effective for the patient's illness, injury, or disease; and

ii. in accordance with the medical treatment schedule and the provisions of R.S. 23:1203.1.

b. To be medically necessary, a service must be:

i. consistent with the diagnosis and treatment of a condition or complaint; and

ii. in accordance with the Louisiana medical treatment schedule; and

iii. - iv. ...

c. Services not related to the diagnosis or treatment of a work related illness or injury are not payable under the workers' compensation laws and shall be the financial responsibility of the claimant, and in appropriate cases, his health insurance carrier.

4. - 9. ...

D. Professional Justification

1. Medical Necessity. All claims submitted for payment to the carrier/self-insured employer must be reviewed for medical necessity and for compliance with the medical treatment schedule and the provisions of R.S. 23:1201.1. Medical necessity implies the use of technologies\* services, or supplies provided by a hospital, physician, or other provider that is determined to be:

a. - b. ...

c. In accordance with the medical treatment schedule and the provisions of R.S. 23:1203.1; and

1.d. - 2.\* ...

AUTHORITY NOTE: Promulgated in accordance with RS 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 Louisiana Workforce Commission, Office of Workers' Compensation, LR 38:

**§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**

Last Name: First: Middle: Street Address, City, State, Zip:  
Social Security Number: Date of Birth: Phone Number: Date of Injury:  
Employers Name: Street Address, City, State, Zip: Phone Number:  
Name: Adjuster: Claim Number (if known):  
Street Address, City, State Zip: Email Address: Phone Number: Fax Number:

**SECTION 2. REQUEST FOR AUTHORIZATION - To Be Filled Out By Health Care Provider**

Requesting Health Care Provider: Phone Number: Fax Number:  
Street Address, City, State Zip: Email:  
Diagnosis: CPT/DRG Code: ICD-9/DMS-4 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))

History provided to the level of condition and as provided by Medical Treatment Schedule  
 Physical Findings/Clinical Tests  
 Documented functional improvements from prior treatment  
 Test/imaging results  
 Treatment Plan including services being requested along with the frequency and duration

I hereby certify that this completed form and above required information was  Faxed to the Carrier/Self Insured Employer on this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ (month) (year)  Emailed \_\_\_\_\_ (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)

The requested Treatment or Testing is approved  
 The requested Treatment or Testing is approved with modifications (Attach summary of reasons and explanation of any modifications)  
 The requested Treatment or Testing is denied because  
 Not in accordance with Medical Treatment Schedule or R.S.23:1203.1(D) (Attach summary of reasons)  
 The request, or a portion thereof, is not related to the on-the-job injury  
 The claim is being denied as non-compensable  
 Other (Attach brief explanation)

I hereby certify that this response of Carrier/Self Insured Employer for Authorization was  Faxed to the Health Care Provider (and to the Attorney of Claimant if one exists, if denied or approved with modification) on this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ (month) (year)  Emailed \_\_\_\_\_ (day) \_\_\_\_\_ (month) \_\_\_\_\_ (year)

Signature of Carrier/Self Insured Employer: Printed Name:

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  Faxed to the Health Care Provider and Attorney of Claimant if one exists on this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ (month) (year)  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)

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  Faxed to the Health Care Provider on this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ (month) (year)  Emailed \_\_\_\_\_ (day) \_\_\_\_\_ (month) \_\_\_\_\_ (year)

Signature of Carrier/Self Insured Employer: Printed Name:

I hereby certify that a response to the First Request and accompanying Form 1010A was  Faxed to the Carrier/Self Insured Employer on this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ (month) (year)  Emailed \_\_\_\_\_ (day) \_\_\_\_\_ (month) \_\_\_\_\_ (year)

Signature of Health Care Provider: Printed Name:

**SECTION 5. SUSPENSION OF PRIOR AUTHORIZATION DUE TO LACK OF INFORMATION**

Suspension of Prior Authorization Process due to Lack of Information

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  Faxed to the Health Care Provider on this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ (month) (year)  Emailed \_\_\_\_\_ (day) \_\_\_\_\_ (month) \_\_\_\_\_ (year)

Signature of Carrier/Self Insured Employer: Printed Name:

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-XXX-XXXX) this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ (month) (year)

I hereby certify that this Appeal of Suspension of Prior Authorization was  Faxed to the Carrier/Self Insured Employer on this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ (month) (year)  Emailed \_\_\_\_\_ (day) \_\_\_\_\_ (month) \_\_\_\_\_ (year)

Signature of Health Care Provider: Printed Name:

**SECTION 6. DETERMINATION OF MEDICAL SERVICES SECTION**

The required information of LAC40:2715(C) was not provided  
 The required information of LAC40:2715(C) was provided

I hereby certify that a written determination was  Faxed to the Health Care Provider & Carrier/Self Insured Employer on this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ (month) (year)  Emailed \_\_\_\_\_ (day) \_\_\_\_\_ (month) \_\_\_\_\_ (year)

Signature: Printed Name:

**SECTION 7. HEALTH CARE PROVIDER RESPONSE TO MEDICAL SERVICES DETERMINATION**

I hereby certify that additional information, pursuant to the determination of Medical Services Section, was  Faxed to the Carrier/Self Insured Employer on this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ (month) (year)  Emailed \_\_\_\_\_ (day) \_\_\_\_\_ (month) \_\_\_\_\_ (year)

Signature of Health Care Provider: Printed Name:

B. LWC Form 1010A—First Request

**Public Hearing**

In accordance with R.S. 49:968(H)(2), a public hearing will be held on March 22, 2012, 9:00a.m. at the LWC Fourth Floor Administrative Office, Auditorium, located at 1001 N. 23rd Street, Baton Rouge.

Curt Eysink  
Executive Director

1202#077

LWC FORM 1010A - FIRST REQUEST  
PLEASE PRINT OR TYPE

P A T I E N T	<b>SECTION 1. IDENTIFYING INFORMATION</b>		
	Last Name: _____	First: _____ Middle: _____	Social Security Number: _____
	Employers Name: _____	Claim Number (if known): _____	
C A R R I E R	<b>SECTION 2. CARRIER/SELF INSURED EMPLOYER'S FIRST REQUEST FOR REQUIRED MINIMUM INFORMATION</b>		
	I have received a request for authorization for the above referenced matter and have determined it lacks the required minimum information of 40:2715(C) - Please check all that apply		
	<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		
	<b>COMMENTS</b> (Please provide a detailed explanation in support of your First Request)		
P R O V I D E R	<b>SECTION 3. HEALTH CARE PROVIDER RESPONSE TO FIRST REQUEST</b>		
	<input type="checkbox"/> Additional information has been provided - Attach Supporting Documentation		
	<input type="checkbox"/> Additional information has not been provided - Provide explanation below		
	<b>EXPLANATION</b>		

AUTHORITY NOTE: Promulgated in accordance with RS 23:1291.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers' Compensation, LR 38:

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