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Executive Orders

EXECUTIVE ORDER EWE-79-6

WHEREAS, in the absence of further action by me, the Prison Study Commission will automatically expire on August 1, 1979; and

WHEREAS, Louisiana's state and parish correctional systems have been compelled to provide substantial additional adequate correctional services at considerable cost to the public; and

WHEREAS, such systems have in several instances been subjected to Federal District Court decrees requiring the delivery of additional correctional facilities and services; and

WHEREAS, such systems must also continue to be responsive to anticipated future and expanding requirements and needs which are essential if the state and parishes are to maintain adequate correctional services; and

WHEREAS, the 1979 Legislature has authorized the sale of bonds totalling 30.4 million dollars for the construction and renovation of local prisons and related facilities; and

WHEREAS, the existing Prison Study Commission has received funding from the National Institute of Corrections and the Law Enforcement Assistance Administration which can be used to insure the effective utilization of the bond proceeds; and

WHEREAS, the Prison System Study Commission has, since its inception in August, 1976, inter alia, (1) developed a substantial base of information concerning state and parish correctional systems, (2) offered useful and timely recommendations to the state for the planning and funding of correctional services, and (3) developed effective working relationships with the many components of the criminal justice system; and

WHEREAS, the best interests of the state will be served by the maintenance and development of a long-range program and adequate planning for the establishment of correctional institutions, facilities, and services in the future.

NOW, THEREFORE, I, EDWIN EDWARDS, Governor of the State of Louisiana, by virtue of the power vested in me by the Constitution and the laws of this state, do hereby continue and reestablish the Prison Study Commission as hereinafter prescribed.

The Commission shall be composed of fifteen members, five of whom shall be appointed by the Governor, five by the Speaker of the House of Representatives of the Legislature of Louisiana, and five by the President of the Senate of the Legislature of Louisiana.

The Commission shall apply for federal and state grants that are available to fund the performance of the responsibilities in this resolution which are to be performed by the Commission.

The Commission shall provide assistance to the Department of Corrections in the planning of standards and guidelines for delivery of correctional services at the parish level in conformity with the provisions of Act 231 of the 1979 Legislature.

The Commission shall be available to provide information and give testimony regarding the delivery of correctional services at the state and parish level in those substantive areas of the Commission's responsibility.

The Commission shall continue to work in conjunction with the Department of Corrections and other corrections agencies to plan for the future growth of a Louisiana correctional system which will meet the requirements of the federal and state constitutions and statutes.

The Commission shall consider the problems of the delivery of correctional services for juvenile offenders as these problems relate

to the entire Louisiana state and parish correctional systems, and shall initiate the development of basic information required to generate recommendations regarding the delivery of these services.

The Commission shall review all plans for construction, acquisition, or remodeling of state-funded prisons and jails and shall otherwise assist the Department of Corrections in reviewing requests for funding made by local authorities.

The Commission may draw upon the resources and staff of the Legislative Fiscal Office, the Legislative Council, and all state agencies whose functions relate to the criminal justice system to assist it in the development of information and preparation of analyses of such information in developing a comprehensive program to plan and fund adequate correctional services for the future and in providing recommendations and assistance to the state for the implementation of the comprehensive program.

This Commission shall cause to be prepared a written report of its findings and recommendations which shall be submitted to the Governor and Legislature by March 1st of each year that the Commission is in existence.

BE IT FURTHER RESOLVED that this Commission shall terminate on August 1, 1981, unless recreated by the Legislature prior to that date.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to have affixed the Great Seal of the State of Louisiana at the Capitol in the City of Baton Rouge, on this 27th day of July, A.D. 1979.

Edwin Edwards
Governor of Louisiana

Emergency Rules

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

The State Board of Elementary and Secondary Education at its meeting on July 30, 1979, exercised those powers conferred by the emergency provisions of the Administrative Procedures Act, R.S. 49:953B, to adopt a revision to the implementation dates for high school graduation requirements. This action was taken to eliminate undue hardship and to protect the welfare of the children of Louisiana who will be entering the ninth grade in the fall semester of the 1979-80 school year.

Rule 3.01.51n

(Revision to present policy)

The Board adopted revised implementation dates for high school graduation requirements to be effective with students entering the ninth grade in the 1979-80 school year and directed that the implementation dates be the same for the nonpublic and public schools.

James V. Soileau, Executive Director
Board of Elementary and Secondary Education

DECLARATION OF EMERGENCY

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

In accordance with the provisions of R.S. 40:29, the Department of Health and Human Resources, Office of Family Security, has increased, effective August 1, 1979, the Medically Needy Income Eligibility Standards as follows:

Rural—Medically Needy Income Eligibility Standard

Family Size	AFDC Flat Grant Amount	Monthly Monies	Quarterly Monies
1	\$ 53	\$ 125	\$ 375
2	98	133	399
3	139	192	576
4	173	233	699
5	206	275	825
6	236	317	951
7	267	358	1074
8	297	400	1200
9	325	433	1299
10	354	475	1425
11	384	517	1551
12	416	558	1674
13	450	600	1800
14	483	650	1950
15	516	692	2076
16	549	733	2199
17	582	783	2349
18	615	825	2475
19	651	875	2625
20	687	916	2748
21	723	967	2901
22	759	1017	3051
23	795	1067	3201
24	831	1117	3351
25	867	1167	3501
26	903	1217	3651
27	939	1267	3801
28	975	1317	3951
29	1011	1367	4101
30	1047	1417	4251

Urban—Medically Needy Income Eligibility Standard

Family Size	AFDC Flat Grant Amount	Monthly Monies	Quarterly Monies
1	\$ 57	\$ 133	\$ 399
2	110	150	450
3	152	208	624
4	187	250	750
5	221	300	900
6	252	342	1026
7	281	375	1125
8	311	417	1251
9	340	458	1374
10	368	492	1476
11	399	533	1599
12	431	575	1725
13	462	617	1851
14	495	667	2001
15	528	708	2124
16	564	758	2274
17	591	792	2376
18	629	842	2526

Urban—Continued

Family Size	AFDC Flat Grant Amount	Monthly Monies	Quarterly Monies
19	668	892	2676
20	707	950	2850
21	746	1000	3000
22	785	1050	3150
23	824	1100	3300
24	863	1150	3450
25	902	1200	3600
26	941	1250	3750
27	980	1300	3900
28	1019	1350	4050
29	1058	1400	4200
30	1097	1450	4350

In the near future appropriate revisions shall be made to Section 19-107.

These increases will allow the Medical Assistance Program to be in compliance with federal regulations 42 CFR 435.1007 which sets these standards at 133 1/3% of the AFDC flat grant amount payments. These payments have been increased effective July 1, 1979. Noncompliance with the federal regulations would result in loss of federal financial participation in Louisiana's Medical Assistance Program.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

DECLARATION OF EMERGENCY

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

The Louisiana Legislature has approved the Appropriations Act which included an average increase of 10% to Aid to Families with Dependent Children (AFDC) and General Assistance (GA) cases effective July, 1979. Because this increase was not approved until after the checks for July, 1979 were written, supplementary payments to cover the increase will be issued from State Office. New flat grant amounts effective July, 1979 are as follows:

I. Increased Flat Grant Amount to be Included in Every AFDC Assistance Payment Budget

A. Non-Urban Grant

Household Size	Flat Grant Amount
1	\$ 53
2	98
3	139
4	173
5	206
6	236
7	267
8	297
9	325
10	354
11	384
12	416
13	450
14	483
15	516
16	549
17	582
18	615

For each additional person add \$36 to the flat grant amount

B. Urban Grant (Orleans, Jefferson, St. Bernard, E.B.R.)

Household Size	Flat Grant Amount
1	\$ 57
2	110
3	152
4	187
5	221
6	252
7	281
8	311
9	340
10	368
11	399
12	431
13	462
14	495
15	528
16	564
17	591
18	629

For each additional person add \$39 to the flat grant amount

II. Increased Payment in General Assistance.

A. Persons in Certification Allowable Per Person

13 years and older	\$50
Birth through 12 years	\$35

B. Value of Available Income In-Kind.

	Food	Clothing	Incidentals
13 years and older	\$37.00	\$8.00	\$5.00
Birth through 12 years	\$24.00	\$6.00	\$4.50

C. GA Maximum Grants.

1. Regular Grant. The maximum amount paid for a regular grant (to include one-person Indochinese cases) shall be:

- a. \$75 when only one person is included in the certification.
- b. \$109 when two or more persons are included in the certification.

2. Special Grant. The maximum amount paid for a special GA grant shall be:

- a. \$110 when the budget plan includes an allowance for a special grant and only one person is included in the certification. \$115 when a special diet is approved and there are two or more persons in the certification.
- b. \$126 when the budget plan includes an allowance for special care in a foster family placement or discharge from a state mental institution.
- c. \$120 when the budget includes one person and an allowance is necessary for special care in his own home or home of a relative or in a private home by an unrelated person. \$125 when the budget includes two or more persons and special care as explained above is necessary.

3. Other Grants. The grants of eligible patients in Carville as specified in E.B. 963, and GA 111 and Handicapped Children (Type 94 and 96 cases) are being increased as follows:

- a. Patients in Carville—grants will be increased from \$30 to \$35.
- b. Ga 111 and Handicapped Children—The amount paid shall be the family budgetary deficit subject to \$110 maximum without inclusion of the extra cost of the child's special diet and/or essential transportation (if any) plus the cost of this item or items subject to a maximum of \$278.
- c. GA recipient receiving skilled nursing care in a skilled nursing home or care in an intermediate care facility, the personal care needs amount shall be \$22. The maximum

payment amount is \$22, therefore, all GA recipients in long term care (LTC) facilities will receive a \$5 increase and newly certified GA, LTC recipients will receive a maximum grant of \$22.

4. Indochinese One-person Households. Indochinese one-person households shall receive payment in accordance with the payment level applicable to a one person GA certification.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

DECLARATION OF EMERGENCY

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

In accordance with the provisions of R.S. 40:29, the Department of Health and Human Resources, Office of Family Security, has increased, effective with the August, 1979, payments for July, 1979, services, the rates of reimbursement to long term care facilities participating in the Medical Assistance Program. The rates for the specified levels of care are as follows:

	Daily	Monthly
Skilled Nursing Facility (SNF)	\$26.73	\$813.04
Intermediate Care Facility I (ICF I)	\$24.43	\$743.08
Intermediate Care Facility II (ICF II)	\$19.37	\$589.17

This increase will allow the Medical Assistance Program to be in compliance with federal regulations 42 CFR 447.273 and the cost related portion of the Title XIX State Plan. This regulation specifies that the Medicaid agency must pay for long term care facility services on a reasonable cost-related basis. Noncompliance with these federal regulations and the methodology for determining the rates as spelled out in the Title XIX State Plan would result in the loss of federal financial participation in Louisiana's Medical Assistance Program.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

DECLARATION OF EMERGENCY

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

In accordance with the provisions of R.S. 40:29, the Department of Health and Human Resources, Office of Family Security, has increased, effective with August, 1979 payments, for July, 1979 services in Skilled Nursing Facilities, Intermediate Care Facilities I, and Intermediate Care Facilities II, the reimbursement rate not to exceed the seventy-fifth percentile of arrayed costs reflected in costs reports submitted by these type facilities.

This increase in the percentile of arrayed costs reflects cost of living increases in nursing homes. Immediate increase in the percentile of arrayed costs is necessary to assure continuity of care for some twenty thousand medicaid recipients in nursing homes participating in the Medical Assistance Program. Additionally, this adjustment assures compliance with the 1979 Appropriations Bill, Act 10.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of Family Security

In accordance with the provisions of R.S. 40:29, the Department of Health and Human Resources, Office of Family Security has increased, effective July 15, 1979, the dispensing fee allowance for prescriptions under the pharmaceutical services program. The maximum fee is set at \$3.28.

This increase will allow the Medical Assistance Program to be in compliance with the 1979-80 appropriations bill. The Louisiana Legislature, through the General Appropriation Act 10 of 1979, has appropriated the necessary funds to provide and mandate this increase at the beginning of the fiscal year. This fee increase was felt to be justified by the rise in the Consumer Price Index for 1979.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of Family Security

In accordance with the provision of R.S. 40:29, the Department of Health and Human Resources, Office of Family Security, has implemented policy, effective August 23, 1979, that will require chiropractors and dentists to submit their claims for reimbursement from the Medical Assistance Program within six months from the date of service.

The time limitation being placed on chiropractors and dentists is similar to the one imposed on physicians effective January 1, 1979. Furthermore, this action will allow the Medical Assistance Program to be in total compliance with federal regulation 42 CFR 447.45. This regulation was published as a final rule in the *Federal Register*, Volume 44, Number 103, Friday, May 23, 1979, pages 30341-30345. Noncompliance with these regulations would result in the loss of federal financial participation in the Medical Assistance Program.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

Rules

RULES

Department of Agriculture Office of Agricultural and Environmental Sciences

Sugarcane Rust and Sugarcane Smut Regulation

I. Pests: Sugarcane Rust, *Puccinia melanocephala* Syd. and Sugarcane Smut, *Ustilago scitaminea* Syd.

II. Agent or Inspector: An authorized representative of the Commissioner of the Louisiana Department of Agriculture.

III. Inspection, Control and Eradication Authority:

a. Agents of the Louisiana Department of Agriculture shall be allowed entrance onto any property or premise to determine if the pests exist on such and to take such action as, in the judg-

ment of the State Entomologist, is necessary to control or eradicate the pests wherever found.

b. No person, firm or corporation shall in any way interfere with an agent of the Louisiana Department of Agriculture in carrying out the provisions of this regulation, or interfere with the application of suppressive measures for the control and eradication of the Sugarcane Rust and/or Sugarcane Smut should they be introduced into the State of Louisiana.

IV. Quarantined Area: Regulated area--Any area outside the State of Louisiana.

V. Regulated Products: Sugarcane plants, stalks, cuttings, seed, and any other part thereof and the same products of the genus *Erianthus* and, also, all equipment used in the production, harvest, and processing of sugarcane outside the boundaries of Louisiana.

VI. Conditions Governing Shipment of Regulated Products: Regulated products from the regulated area are prohibited entry into the State of Louisiana unless each shipment is accompanied by a special permit issued by the Louisiana State Entomologist. A special permit will be issued only after regulated products are treated in a manner approved by the State Entomologist.

VII. Control and Eradication Measures: Regulated products shipped into the State of Louisiana in violation of this regulation are subject to destruction or return to the point of origin at the discretion of the State Entomologist.

VIII. Penalties: Any person, firm, or corporation found guilty of violating the provisions of this Quarantine and Regulations is subject to the penalties provided by Section 1736 of Part III of Chapter 12 of Title 3 of the Louisiana Revised Statutes of 1950.

IX. Revision: This regulation may be revised or amended at any time as conditions and circumstances warrant.

Richard Carlton
State Entomologist

RULES

Department of Commerce Racing Commission

§20.10(E) No jockey, or spouse thereof, shall own a race horse participating in the state in racing; nor shall either have any interest in one.

* * * *

§21.6 No jockey agent, or spouse thereof, shall be the owner of any race horse, nor shall either have any interest in one.

Albert M. Stall, Chairman
Racing Commission

RULES

Governor's Special Commission on Education Services

State Guaranteed Student Loan Program

Rule 1. Who May Apply for Loans. Persons who are bona fide residents of Louisiana and United States citizens and who enroll or plan to enroll as full-time undergraduate or graduate students in a college or university in Louisiana or in the United States are eligible to apply for state guaranteed loans. Also eligible to apply are medical students attending schools outside the United States who have been refused admission to the medical schools or colleges in the state of Louisiana because of lack of accommodations.

Students who have not been graduated from high school, but who have been admitted to Louisiana colleges and universities on the basis of the early admissions policy are eligible to apply for state guaranteed loans.

Also eligible are full-time students in vocational, business, or technical schools in Louisiana; and in vocational schools outside of Louisiana, when the course of study is not available within the state.

Approval of loans will be based upon the student's academic record and a recommendation by the school student financial aid officer of the need for financial assistance to meet educational expenses. The lender will determine the actual amount of loan.

All students who are eligible for student loans automatically qualify for federal interest benefits, regardless of family income.

Students may continue to borrow each year while enrolled as full-time students. A complete application is required each time a loan is made including transcript of grades, and federal Form OE1260.

Rule 2. Academic Requirements.

a. Students are expected to be in good standing academically to be eligible for a student loan. High school graduates are required to have at least "C" average grades (2.0 on a 4.0 system) for four years in the academic subjects of English, mathematics, social studies, and the sciences, or an American College Test (ACT) composite score of at least 18.

b. When any school grades are recorded numerically, they are first transposed to alphabetical grades according to applicable schedules. The following table will be used for determination of the "C" average for high school grades.

70-79—"D"	89-94—"B"
80-88—"C"	95-100—"A"

c. Students may also qualify with an average score of at least 45 in the five categories of the general education development (GED) test.

d. Academically ineligible high school graduates may attain eligibility status by earning at least "C" average grades in the first semester of post-secondary education equivalent to a college semester. Students attending proprietary business schools are not required to have a "C" average.

e. Post-secondary students are required to have a "C" average for all school grades, or a "C" average grade for the immediate past two full semesters, in order to be eligible for an initial or subsequent student loan. Academic borderline cases may qualify for one semester.

f. Eligibility of graduate and professional school students is based on grades obtained in graduate work, after the initial semester or year. For professional schools (i.e. schools of law, medicine, etc.) sometimes the student receives only a "satisfactory" grade.

g. If student is on academic probation for a temporary period, but also has at least "C" average grades overall, he may be eligible for a loan. Other probation or suspension status generally results in ineligibility.

Rule 3. How and Where to Apply. A student who wishes to apply for a state guaranteed loan will:

a. Contact the student aid office of the school where the student plans to enroll and secure an application, federal Form OE1260, and information about the program.

b. Complete the personal information required, and attach a transcript of scholastic record.

c. Sign affidavit in Part A of federal Form OE1260 in presence of notary. Notary must sign and affix notary seal.

d. Then have parents, guardian, or spouse complete the family information on the application and affix signatures where applicable.

e. Return the application to the student aid office of the school.

f. The student aid officer will review the application and the scholastic record, as well as determine the student's financial need for a loan, and record the recommendation on federal Form OE1260.

g. If the student aid officer favorably recommends a loan on federal Form OE1260, the form and the application will be signed, and school copy of the application retained. Student will then take application, transcript, and federal form to the bank, credit union, or savings and loan association of his choice.

h. Normally, loans are based on estimated needs for a full school year beginning with the fall semester. Loans are also made for one semester only. The lender will prepare a note for each semester, and student will sign notes. Lender will determine actual amount of loan. (See alternate schedule for vocational, etc.—Rule 11.)

i. The lender will complete lender section of application and federal Form OE1260; then forward all papers to the Loan/Grant Division of the Governor's Special Commission on Education Services.

j. The Commission will return the approved lender copy of application, the federal form, and the endorsed note(s) to the lender, and notify the school and the student of the approval of the loan.

k. The lender will forward the check for the student to the student aid officer, who will distribute checks to students who are registered at the school.

l. The deadline for fall semester loans is November 1; for spring semester loans, March 1. Other deadlines are applicable to vocational, and colleges on the quarter system.

* * * *

Rule 5. Repayment. When the student leaves school, arrangements are made by the student with the lender to pay out the loan in monthly installments with interest. Normally, loans are repaid within a maximum of six years or less, beginning not sooner than nine months after leaving school, with minimum monthly installments of thirty dollars each. A repayment period of at least five years is required when monthly installments are more than thirty dollars. The interest paid by the Commission to the lender on a student's behalf is not required to be repaid. Repayment of the loan may be accelerated without penalty, and student borrower may thereby save interest costs. Special repayment schedules are authorized upon agreement between the borrower and lender. (See Rule 18, the Payout Note.)

* * * *

Rule 8. Guarantee; Interest; Special Allowance. The Louisiana guarantee to lenders is one hundred percent of unpaid principal and interest. The federal statute prescribes seven percent simple interest on current loans, plus a special allowance not to exceed five percent in any twelve-month period, which is paid by the federal government in addition to the seven percent interest on loans disbursed after November 8, 1965. The special allowance percentage is adjusted quarterly and, when added to the seven percent interest rate, can average twelve percent for the last four consecutive quarters. Since August 1, 1969, the special allowance has varied from 6.25 percent to .75 percent.

The interest and special allowance are presently paid to lenders by the Governor's Special Commission on Education Services (GSCES) each six months about January 15 and July 15 for periods ending December 31 and June 30. After payment to lenders, GSCES immediately requests a refund from the federal government for their portion of interest and special allowance.

* * * *

Rule 10. Full-time Student Defined.

a. Regular College Semester.

10.2 Exclusion from Application of this Section.

10.2.1 The following matters are excluded from the application of this Section: Emissions of lead pursuant to and in compliance with the terms of a variance granted by the Commission.

10.2.2 Any person claiming exclusion from the application of this Section under this provision shall apply to the Commission through the Technical Secretary for exclusion in accordance with Section 2211 of the Act. The applicant shall furnish such information as the Commission may reasonably require to enable it to make a determination. The Commission may make such determinations and such conditions as may be appropriate to the activity in question. A person granted an exclusion under this provision may be required to furnish the Commission with plans satisfactory to the Commission for implementing any reasonable control measures which may be developed or which may otherwise become available.

10.3 Measurement of Concentrations.

10.3.1 Lead concentrations shall be measured by the methods listed in Table 2 or by such other equivalent methods approved by the Department. The publications or their replacements listed in Table 2 are incorporated as part of these regulations by reference.

10.3.2 The sampling and analytical procedures employed and their numbers, duration and location of samples to be taken to measure ambient levels of air contaminants shall be consistent with obtaining accurate results which are statistically significant and representative of the conditions being evaluated.

* * * *

19A.0 Emission Standards for Leadened Particulate Matter. All regulations outlined in Section 19.0 regarding particulate matter also apply to particulate emissions that have any lead component.

* * * *

In Table 1, Primary Ambient Air Quality Standards, and Table 1a, Secondary Ambient Air Quality Standards, insert the following entry directly under the entry for nitrogen dioxide:

Air Contaminant	Standards-Maximum Permissible Concentration
Lead	1.5 ug/m ³ (maximum arithmetic mean averaged over a calendar quarter)

* * * *

In Table 2, Ambient Air-Methods of Contaminant Measurement, insert the following entry under the entry for nitrogen dioxide:

Air Contaminant	Sampling Interval	Analytical Method
Lead	24 Hours	Any method complying with reference method in Title 40, Code of Federal Regulations, Part 50, Appendix G

* * * *

18.2 Control of Smoke. The emission of smoke from any combustion unit (other than a flare, as described in Section 18.3 below) or from any type of burning in a combustion unit (other than a flare), including the incineration of industrial, commercial, institutional and municipal wastes, shall be controlled so that the shade or appearance of the emission is not darker than twenty percent opacity as to obscure vision to a degree equivalent to the above except that emitted during the cleaning of a fire box or building of a new fire, soot blowing or lancing, charging of an incinerator, equipment changes, ash removal and rapping of precipitators may have an opacity in excess of twenty percent for one period of four minutes in any sixty consecutive minute period.

* * * *

19.5.1 Control of Particulate Matter and/or Suspended Particulate Matter. The emission of particulate matter and/or suspended particulate matter from any source other than new or

ers shall be controlled so that the shade or appearance of the emission is not denser than twenty percent opacity; except that emitted may have an opacity in excess of twenty percent for a period of four minutes in any sixty consecutive minutes.

For new or existing fluid catalytic cracking unit incinerator-waste heat boilers, emissions shall not exceed thirty percent opacity except that emitted may be denser than thirty percent opacity for one six-minute average per hour without violating this standard.

Emissions already less than that allowed by the process weight rate limitation (Table 3) will be considered by the Technical Secretary for exemption from the provisions of this subsection.

When the presence of uncombined water is the only reason for failure of an emission to meet the requirements of this subsection, this subsection will not apply.

William A. Cherry, M.D., Chairman
Air Control Commission

RULES

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

The Department of Health and Human Resources, Office of Family Security has changed the maximum level (cap rate) for long term care eligibility for an individual to \$624.60, and the double cap rate for a couple occupying the same room in a long term care facility to \$1,249.20. This increase will allow the Medical Assistance Program to be in compliance with federal regulation 42 CFR 435.230 and 435.1011 which sets the cap rate at three hundred percent of the Supplemental Security Income payment amount. Effective July 1, 1979, this amount increased to \$208.20.

* * * *

The Office of Family Security has also adopted maximum allowable costs (MACs) for the following drugs when dispensed on prescriptions.

Amoxicillin 250 mg. caps.	\$0.2108 per capsule
Amoxicillin 500 mg. caps.	0.3942 per capsule
Hydrochlorothiazide 25 mg. tabs.	0.250 per tablet
Hydrochlorothiazide 50 mg. tabs.	0.0306 per tablet

In no case may a recipient be required to provide payment for any differences in a prescription price that may occur with the implementation of MACs, nor may our office use a cost which exceeds the established maximums except as follows.

The Department of Health, Education, and Welfare's regulations provide that when a physician certifies that a specific brand is medically necessary for a particular patient, the MAC limitations for that medication will not apply. In this case their specific guidelines provide that:

1. The certification must be in the physician's handwriting.
2. The certification may be written directly on the prescription, or on a separate sheet which is attached to the prescription.
3. A standard phrase written on the prescription, such as "brand necessary" will be acceptable.
4. A printed box on the prescription blank that could be checked by the physician to indicate brand necessity is unacceptable.
5. A handwritten statement transferred to a rubber stamp and then stamped on the prescription blank is unacceptable.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

RULES

Department of Health and Human Resources Office of Family Security

(Editor's Note: The Department of the State Register has chosen not to publish the increases in the Thrifty Food Plan amounts nor the maximum allowable income standards under the option provided in R.S. 49:954.1C. Interested persons may inspect these tables at the office of the Department of the State Register, or may obtain copies by contacting the Office of Family Security, Department of Health and Human Resources, Box 44065, Baton Rouge, Louisiana 70804.)

The Department of Health and Human Resources, Office of Family Security has adopted the increases to the maximum allowable income standards, the increase in the standard deduction to \$70, the increase in the shelter deduction above or in combination with the dependent care deduction not to exceed \$90, and the increases in the Thrifty Food Plan Amounts.

William A. Cherry, M.D. Secretary
Department of Health and Human Resources

RULES

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, has adopted the Voluntary Quit Provisions of the Food Stamp Program in accordance with federal regulations as specified in the *Federal Register*, Volume 44, Number 58, Friday, March 23, 1979, pages 17,982 - 17,985. The Voluntary Quit Provision is stated below:

Voluntary Quit. No applicant household whose primary wage earner voluntarily quit his/her most recent job without good cause shall be eligible to participate as specified below:

Application Processing.

1. When the household files an application, the eligibility worker shall determine if any currently unemployed (i.e., employed less than twenty hours per week or receiving less than weekly earnings equivalent to the federal minimum wage multiplied by twenty hours) household member who is required to register for full-time work has quit his/her most recent job (i.e., employment involving twenty hours or more per week or having received weekly earnings equivalent to the federal minimum wage multiplied by twenty hours) without good cause within the last sixty days. Changes in employment status that result from reducing hours of employment while working for the same employer, terminating a self-employment enterprise, or resigning from a job at the demand of the employer will not be considered as a voluntary quit.

2. If a determination of voluntary quit is established, the eligibility worker shall then determine if that member is the household's primary wage earner. The primary wage earner shall be the household member, age eighteen or over, who was acquiring the greatest amount of earned financial support for the household at the time of the quit. The primary wage earner is determined by comparing the projected earnings of the member who quit employment in the month the voluntary quit occurred as if he/she had not ceased employment against the actual or, if not available, the projected earnings of the remaining household members.

3. Upon determination that the primary wage earner voluntarily quit employment, the eligibility worker shall determine if the voluntary quit was with good cause. If the voluntary quit was not for good cause, the household's application for participation shall be denied for a period of two months beginning with the month of the quit. The household shall be advised of the reason for the denial and of its right to reapply and/or request a fair hearing.

4. If an application for participation is filed in the second month of disqualification, the eligibility worker shall use the same application for the denial of benefits in the remaining month of disqualification and certification for any subsequent month(s) if all other eligibility criteria are met.

Exemptions from Voluntary Quit. The following persons are exempt from voluntary quit provisions:

1. Primary wage earners in households certified for food stamps at the time of the quit.

2. Persons exempt from full-time work registration provisions.

Good Cause. Good cause for leaving employment shall include:

1. Discrimination by an employer based on age, sex, color, handicap, religious beliefs, national origin or political beliefs.

2. Work demands or conditions that render continued employment unreasonable, such as working without being paid on schedule.

3. Acceptance by the primary wage earner of other employment, or enrollment of at least half-time in any recognized school, training program, or institution of higher education that requires the primary wage earner to leave present employment.

4. Acceptance by any household member of employment or enrollment of at least half-time in any recognized school, training program or institution in another parish which requires the household to move and thereby requires the primary wage earner to leave employment.

5. Resignations by persons under the age of 60 which are recognized by the employer as retirement.

6. Employment which becomes unsuitable by not meeting the criteria after the acceptance of employment.

7. Acceptance of a bona fide offer of employment of more than twenty hours a week or in which the weekly earnings are equivalent to the federal minimum wage multiplied by twenty hours which, because of circumstances beyond the control of the primary wage earner, subsequently either does not materialize or results in employment of less than twenty hours a week or weekly earnings of less than the federal minimum multiplied by twenty hours.

8. Leaving a job in connection with patterns of employment in which workers frequently move from one employer to another such as migrant farm labor or construction work. There may be some circumstances where households will apply for food stamp benefits between jobs, particularly in cases where work may not yet be available at the new job site. Even though employment at the new site has not actually begun, the quitting of the previous employment shall be considered as with good cause if part of the pattern of that type of employment.

Verification. The eligibility worker shall request verification of the household's statement to the extent that the information given by the household is questionable. The primary responsibility for providing verification rests with the household. If it is difficult or impossible for the household to obtain documentary evidence in a timely manner, the eligibility worker shall offer assistance to the household to obtain the needed verification. Acceptable sources of verification include but are not limited to the previous employer, employee associations, union representatives and grievance committees or organizations. Whenever documentary evidence cannot be obtained, a collateral contact

shall be substituted. The eligibility worker is responsible for obtaining verification from acceptable collateral contacts provided by the household.

If the household and the eligibility worker are unable to obtain requested verification from these or other sources because the cause of the quit resulted from circumstances that for good reason cannot be verified, such as a resignation from employment due to discrimination practices or unreasonable demands by an employer or because the employer cannot be located, the household will not be denied access to the Food Stamp Program.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

RULES

Department of Health and Human Resources Office of Management and Finance

Rules and Sliding Billing Scale for Certain Programs Operated by the Office of Mental Health and Substance Abuse, Office of Mental Retardation, and Office of Human Development

In accordance with the provisions of R.S. 40:29, the following rules and sliding billing scale have been adopted by the Department of Health and Human Resources (DHHR), Office of Management and Finance, for residential programs provided by state administered mental hospitals, schools for the retarded, and private facilities, agencies, or individuals under the auspices of the Office of Human Development (OHD), and to include charges for evaluation services when provided by the Office of Human Development.

I. Admissions. State Hospitals, Schools, and Private Programs Where OHD Funds Are Utilized Toward the Cost of Care—Admissions for treatment shall be made available to all appropriate residents of the State of Louisiana. Residency shall be established by a permanent legal address within the state and an expressed intention to live within the state in the future when this is not in opposition to applicable state and federal regulations. Persons seeking treatment in a facility or by a program shall furnish all information requested by that program and, if different, the DHHR agency responsible for placement decisions.

II. General Regulations.

A. Schedule for Charges—Billing for services rendered will be sent at least quarterly to the client or his responsible person in accordance with the applicable fee schedule, based on the total family income and the number of dependents as defined in Section IV. There shall be adequate documentation of the information used in establishing the fee, which shall become a permanent part of the client's record.

B. Failure to Provide Information—A person responsible for the payment of charges for services rendered who refuses to supply the information necessary for an accurate determination of the required rate of charges for services rendered shall be presumed to be able to pay the full cost of services rendered and shall be billed accordingly. Any person who is potentially eligible for medical assistance benefits from any federal or state program who refuses to apply for and follow through with application for said benefits shall be presumed to be able to pay the full cost of services rendered and shall be billed accordingly or, in the case of voluntary, nonemergent services, may be refused DHHR assistance, dependent upon individual program policies. Up-

dated information shall be supplied by the responsible party to DHHR of any change in income, employment, or family composition, which may result in an adjusted fee. A periodic check, no less than annually, will be made with the responsible party to make fee adjustments as necessary for continuing services to a client.

C. Insurance—An insurance company that the responsible party alleges has issued a policy or contract covering the charges for treatment and services rendered shall be billed the full cost of services rendered. Billings shall be made directly to the insurer by the treating facility after securing execution of the forms necessary, including an assignment of benefits to the treatment facility by the responsible person. The responsible party shall be billed in accordance with the applicable fee schedule up to the amount of charges not covered and paid by insurance. If the responsible person refuses to execute the forms necessary to assign the benefits under the policy alleged by him to cover the charges for treatment and services rendered and the forms necessary to file an insurance claim in accordance with that policy, that responsible party shall be presumed to be able to pay at the full cost of services rendered and shall be billed accordingly or, in the case of voluntary, non-emergent services, may be refused DHHR assistance, dependent upon individual program policies.

D. Medical Assistance—All persons eligible to receive medical assistance benefits from any federal or state program shall be eligible for free treatment provided the program as administered has agreed to cover the appropriate services for treatment. In the event that the program does not cover the appropriate services for treatment, the responsible party shall be charged and billed in accordance with these rules and regulations.

E. Third Party Cases and Release of Information—Upon receipt of a letter from an attorney or an insurance company requesting a patient's records, that attorney or company shall be sent, within thirty days from the receipt, a bill for charges applicable to that patient. At the same time as the mailing of that bill, a copy of that patient's file pertaining to charges for services and their collection, as well as a copy of the requesting letter, shall be forwarded to the Office of Central Collection of the Department of Health and Human Resources in Baton Rouge. Patient's records are not to be released until a properly executed consent by the patient, parent, or guardian is received and the fee for copies of records is paid in advance, except to any office of the Department of Health and Human Resources for the purpose of facilitating the meeting of its responsibilities.

F. Exceptions—The Secretary or his designee(s) will be authorized to approve exceptions to the fee schedule, for documented reasons such as other excessive emergency or medical costs, family hardships resulting in unusual and unexpected expenses, etc.

III. Other Applicable Income, Earned and Unearned, in State Schools and Hospitals and in Private Residential Placements Receiving Financial Support from the Office of Human Development.

A. DHHR payments shall be made to supplement the basic contribution as determined by the sliding fee schedule, plus amounts or benefits available to the client from other sources, such as social security, supplemental security income, veteran's benefits, special education, and vocational rehabilitation, as well as private insurance.

B. Upon admission to a residential facility, procedures will generally be initiated which may lead to the payment of benefits on behalf of the client directly to a DHHR program or the treating facility. Except for some portion which may be assigned to the client's account based on his identified needs, the remainder of the benefits available shall apply toward the cost of care at

the facility. Any amount remaining above the cost of care shall return to the client's personal account or family.

C. A portion of the income which a client may earn while residing in the treatment facility will be applied toward the cost of care if it exceeds a basic amount which may be allowed for the client's personal expenses or savings.

D. If the income for a family, from which the contribution by the responsible party is determined according to the fee schedule, includes benefits of the client's which are applied toward the cost of care and the client allowance, the amount of these benefits may be deducted from the income of the family. The client may still be considered a dependent when referring to the fee schedule since the responsible party will still be contributing toward the cost of care and still have some extra expenses in regard to the client.

E. If benefits from these other available sources are not able to be made directly to the DHHR program or residential facility, the recipient of the benefits may be held responsible for payment of the applicable benefits to the appropriate DHHR program.

IV. Definitions.

A. **Gross Income:** The monthly sum of income received from sources identified by the U.S. Census bureau in computing the median income and defined in the Code of Federal Regulations, Volume 45, Section 228.66.

B. **Adjusted Income:** As used herein means the gross family income during the most current calendar year, as defined above, with deductions from the total family gross income of \$1,000 for each person dependent on that income and on federal and state income taxes paid on that income.

C. **Dependent:** As used herein, means all persons dependent on the household income as accepted by the Internal Revenue Service (IRS) for federal income tax purposes. In the case of a minor not claimed as a dependent for income tax purposes, the parents are still responsible for a contribution based on the fee schedule but may increase the dependent deductions by the client(s) in question.

D. **Family:** For purposes of establishing fees under these procedures, the basic family unit is defined as consisting of one or more adults and children, if any, related by blood, marriage, or adoption, and residing in the same household. Where related adults, other than spouses, or unrelated adults reside together, each will be considered a separate family, unless they are included as part of the family unit for federal income tax reporting purposes. Children living with nonlegally responsible relatives, emancipated minors, and children living under the care of unrelated persons will be considered a member of the family, if any, that claims that child as a dependent for federal income tax purposes. In maternity homes, minors seen without the consent and knowledge of parents or legal guardians will be considered as separate family units and will be charged according to the minor's own income whether the source is allowance or earnings.

E. **Responsible Persons:** As used herein, the client's parents or guardians if the client is under the age of eighteen unless someone else claims the client as a dependent for federal income tax purposes, in which case it is that person. If the client is over eighteen, he is responsible for his contribution based on his gross family income and allowed deductions, unless he is claimed as a dependent for income tax purposes, in which case the claimant becomes responsible for the fee toward the cost of care based on the claimant's family income.

F. **DHHR Residential Facilities and Out-of-Home Placements:** State mental hospitals and schools for the retarded, in-patient treatment facilities, and out-of-home care programs operated or partially funded by the Office of Mental Health and

Substance Abuse, Office of Mental Retardation, or Office of Human Development, including foster care, group home care, and DHHR placement of delinquent children and children in need of supervision.

V. Fee Determination for DHHR Residential Facilities and Out-of-Home Care.

The monthly fee for these services, as defined above, shall be determined according to formulas based on the Louisiana median income and applicable state and federal regulations. Families with an adjusted income of less than fifty percent of the state median income adjusted for the number of dependents will be provided with service at no charge. If the service provided is funded through Title XX, any fee determination will conform to the applicable Title XX Comprehensive Annual Services Plan for the state. DHHR will develop sliding fee schedules based on these formulas and furnish them to all appropriate agencies and persons requesting them. These schedules will be revised as the official state median income changes. Adjustments of the median income for family size shall be computed according to the method utilized for Title XX eligibility determination described in the Code of Federal Regulations, Volume 45, Section 228.60 (d)(2).

A. Public and private psychiatric hospital placements funded by DHHR shall utilize the following formula for the first sixty days of placement, not to exceed the actual cost of care. This fee will not be collected from one family for more than sixty days in any consecutive twelve-month period. In computing the fee to be charged, DHHR will round the actual fees for these services to the nearest dollar.

Adjusted Family Income as a Percent of the State Median Income based on Family Size	Fee as a Percent of Adjusted Income
Under 50%	none
50-54.9%	10%
55-59.9%	12%
60-64.9%	14%
65-69.9%	16%
70-74.9%	18%
75-79.9%	20%
80-84.9%	22%
85-89.9%	24%
90-94.9%	26%
95-99.9%	28%
100-104.9%	30%
105-109.9%	32%
110-114.9%	34%
115-119.9%	36%
120-124.9%	38%
125-129.9%	40%
130-134.9%	42%
135-139.9%	44%
140-144.9%	46%
145-149.9%	48%
150% and over	50% of adjusted income, not to exceed cost of care

B. Out-of-home residential and treatment programs operated or partially funded by the Office of Mental Retardation and Office of Human Development, and public or private psychiatric hospital placements of more than sixty days duration in a twelve-month period which are operated or partially funded by the Office of Mental Health and Substance Abuse or the Office of Human Development, shall utilize the following formula for each family member in placement, not to exceed the cost of care and when collection of this fee is not in violation of other state or federal regulations. It is understood that this fee is assessed for care and treatment only, not an educational component that is

available to all children free of charge. If the service provided is funded through Title XX, any fee determination will conform to the applicable Title XX Comprehensive Annual Services Plan for the state.

Adjusted Family Income as a Percent of the State Median Income based on Family Size	Fee as a Percent of Adjusted Income
Under 50%	none
50-54.9%	3%
55-59.9%	3.35%
60-64.9%	3.70%
65-69.9%	4.05%
70-74.9%	4.40%
75-79.9%	4.75%
80-84.9%	5.10%
85-89.9%	5.45%
90-94.9%	5.80%
95-99.9%	6.15%
100-104.9%	6.50%
105-109.9%	6.85%
110-114.9%	7.20%
115-119.9%	7.55%
120-124.9%	7.90%
125-129.9%	8.25%
130-134.9%	8.60%
135-139.9%	8.95%
140-144.9%	9.30%
145-149.9%	9.65%
150% and above	10% of adjusted family income, not to exceed cost of care

IV. OHD Evaluation Services.

All persons provided evaluation services under the auspices of the Office of Human Development (OHD) shall be assessed a fee for each chargeable service when the family income is above fifty percent of the state median income for that family size. Chargeable services provided through the (proposed) OHD Client Evaluation Program may include various types of evaluations and treatment services necessary to determine the need for a restrictive placement or to prevent the need for a more restrictive placement. These services will be offered only when not available through another publicly funded resource. If the service is funded through Title XX, any fee assessed shall conform to the appropriate Title XX Comprehensive Annual Services Plan for the state. The cost of these services upon which the fee will be assessed will be determined by OHD as part of the project approval process when private providers submit proposals and budgets for funding consideration, and will be based upon the cost of the service computed for collections under Title XIX when that cost is available. The responsible person will be notified of the base cost and agree to their required contribution prior to the provision of the service when possible. Persons whose gross family income is less than one-half of the current state median income adjusted for family size will be eligible for services without charge. Persons whose gross family income is more than one hundred fifty percent of the current state median income adjusted for family size will be charged the full cost of services provided. Adjustment of the median income for family size shall be computed according to the method utilized for Title XX eligibility determination described in the Code of Federal Regulations, Volume 45, Section 228.60 (d)(2). In computing the fee to be charged, DHHR will round the actual fees for these services to the nearest quarter dollar. Between these two levels, fees will be adjusted in accordance with the following formula:

Gross Family Income as a Percent of Median Income Adjusted for Family Size	Fee as a Percent of Cost
50-54.9%	4% of cost
55-59.9%	8%
60-64.9%	12%
65-69.9%	16%
70-74.9%	20%
75-79.9%	25%
80-84.9%	30%
85-89.9%	35%
90-94.9%	40%
95-99.9%	45%
100-104.9%	50%
105-109.9%	55%
110-114.9%	60%
115-119.9%	65%
120-124.9%	70%
125-129.9%	75%
130-134.9%	80%
135-139.9%	85%
140-144.9%	90%
145-149.9%	95%
150% and above	100%

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

RULES

**Department of Health and Human Resources
Board of Examiners of Psychologists**

Definition of Resident

A resident of the State of Louisiana for the purposes of this Act is a person who:

1. Is domiciled in Louisiana, or
2. Practices psychology in the State of Louisiana for a period of time exceeding thirty days in any calendar year.

Definition of Applicant for Licensure

A. An applicant is a person who submits to the Board the required application fee and the complete prescribed application which includes evidence that the person:

1. Is at least twenty-one years of age; and,
2. Is of good moral character; and,
3. Is a citizen of the United States or has declared an intention to become a citizen. A statement by the person, under oath, to apply for citizenship upon becoming eligible to make such application shall be sufficient proof of compliance with this requirement; and,
4. Is a resident or has declared, under oath, the intention to become a resident of the State of Louisiana; and,
5. Holds a doctoral degree with a major in psychology from a university offering a full-time graduate course of study in psychology that is approved by the Board with such requirements as designated in the Board's rules and regulations; and,
6. Is not in violation of any of the provisions of R.S. 36:2351-2368 and the rules and regulations adopted thereunder.

B. Applicant status shall not be used for professional representation.

C. An applicant who is denied candidacy status, and thus licensure, by the Board based on the evidence submitted as required under A above, may reapply to the Board after two years have elapsed, and having completed additional training meeting the

requirements of the law and as defined in the rules and regulations adopted by the Board.

Definition of Candidate for Licensure

A. A candidate for licensure is an applicant (as defined in the rules and regulations of the Board) who:

1. Has been judged by the Board to have met the requirements set forth under the definition of applicant and
2. Is therefore admitted to the written examination.

B. An applicant may be admitted to candidacy, and therefore may take the required written examination, prior to completion of the two years of full-time supervised and documented postdoctoral experience which is required for licensure and as defined in the rules and regulations of the Board.

C. A candidate for licensure may retake the written examination as frequently as it is offered by the Board; however, the candidate shall not be allowed to take the examination more than three times without meeting the minimum criterion set by the Board for successful completion.

D. A candidate shall have a maximum of four years to pass the written examination.

E. A candidate who fails to pass the written examination three times (as in C above) or within four years (as in D above) shall be removed from candidacy for licensure and shall not be issued a license to practice psychology in Louisiana.

F. The above requirements of a written examination shall not prohibit a modified administration of the examination to an otherwise qualified candidate who is handicapped and whose handicap would interfere with the ability of the candidate to demonstrate satisfactory knowledge of psychology as measured by the examination.

G. A candidate who successfully completes the written examination will be admitted to the oral examination before the Board.

H. A candidate who successfully completes the oral examination, in the judgment of the Board, shall be issued a license in psychology upon the completion of the two years of full-time supervised and documented postdoctoral experience which is required for licensure under R.S. 37:2351-2368 and as defined in the rules and regulations of the Board.

I. A candidate denied licensure under the preceding provisions, may reapply to the Board after more than two years have elapsed from the effective date of the notification by the Board of such denial.

Rules and Regulations for Supervision of Unlicensed Psychologists

This document details reasonable minimal standards for supervised practice and establishes the legal, administrative and professional responsibility of the licensed psychologist designated as supervisor.

The supervisory function serves a multiplicity of purposes. Supervision provides guidance in administrative issues in the practice setting, continues and expands education in skills, offers emotional support, and provides evaluation for purposes of the supervisee's growth, as well as administrative judgment relative to the supervisee's capacity for autonomous professional function. The supervisor assigns work, sets realistic standards for achievement, and offers evaluation of the supervisee's performance. The supervisor offers a perspective on the relationship between the supervisee's assignment, the rest of the setting and the facilities available outside of the setting, in order that the supervisee's professional procedures are intelligently placed within the context of all of the systems affecting and influencing the client. In addition to all of this, the supervisor must deal with those personal characteristics of the supervisee which either enhance or interfere with work efficiency. The private actions and behaviors of the supervisee which are not relevant to nor expressed in the work setting shall not be dealt with in the supervisory relationship. The supervisor shall limit supervi-

sion to those areas in which he/she has professional expertise, as well as develop the specialized skills necessary to render competent supervision.

Supervised Practice as Prerequisite for Licensure.

I. Duration and Setting of Supervised Practice.

A. Two years of full-time (or equivalent) supervised and documented postdoctoral experience shall be required for licensure.

1. Credit shall not be granted for practice in connection with course work practicum experience for which graduate credits are granted, nor for the predoctoral internships unless specifically assigned by the supervising psychologist.

2. To be credited toward the two year full-time requirement, each assignment in a setting or integrated program shall be of at least six months duration and at least half-time. Any half-time assignments shall extend the period of supervision proportionately beyond two calendar years. This requirement must be completed within five calendar years; for cause shown, the Board may grant extensions.

B. Supervised experience shall be credited for professional practice only if obtained in a public or private agency, institution, or organization which will provide an opportunity for contact with other disciplines, and an opportunity to utilize a variety of theories and work with a broad range of populations and techniques.

1. The contribution of at least one other discipline whose expertise is germane, into the evaluation and intervention decisions in professional problem areas is a necessary aspect of professional training and practice.

2. The unlicensed psychologist shall clearly indicate the supervisory relationship in the provision of all psychological services. Public announcement of fees and services, and contact with lay or professional public shall be offered only in the name of the supervising psychologist. Billing for psychological services shall be in the name of the supervising psychologist.

3. Experience in other settings may be considered only by prior arrangement with, and approval of, the Board.

II. Qualifications of Supervisors.

A. Responsibility for the overall supervision of the supervisee's professional growth resides in the licensed psychologist. Supervising psychologists shall have at least one year of experience beyond the granting of their license and shall have training in the specific area of practice in which they are offering supervision. Specific skill training may be assigned to other specialists, under the authority of the supervising psychologist. The nonpsychologist specialist shall have clearly established practice and teaching skills demonstrable to the satisfaction of both the supervising psychologist and the supervisee.

B. The supervisor shall limit the number of persons supervised so as to be certain to maintain a level of supervision and practice consistent with professional standards insuring the welfare of the supervisee and the client.

C. The supervisor shall not be a member of the supervisee's immediate family.

III. Amount of Supervisory Contact. There shall be one hour per week as a minimum for general professional supervision. Exceptions to the requirement must have prior approval by the Board. Specific case discussion and skill training require additional supervisory contact. Supervision is to be conducted on a one-to-one basis, and shall not be substituted for by group seminars or consultation even though they may be excellent training procedures in their own right. It is likely that more than one hour per week would be required, especially with supervisees of lesser experience.

IV. Conduct of Supervision.

A. The Board recognizes that the variability in preparation for practice of the trainee will require individually tailored supervision. The specific content of the supervised procedures will have to be worked out between the individual supervisor and the supervisee.

B. The licensed psychologist who provides supervision for the candidate for licensure must have legal functional authority over and professional responsibility for the work of the supervisee. This means that the supervisor must be available to the supervisee at the point of the decision making. The supervisor's relationship with the supervisee shall be clearly differentiated from that of consultant, who may be called in at the discretion of the consultee, and who has no functional authority for, nor none of the legal or professional accountability for the services performed or for the welfare of the client.

V. Evaluation and Accreditation of Supervised Practice.

A. The Board shall require submission of information by the supervisor(s) which will enable it to evaluate and credit the extent and quality of the candidate's supervised practice. The form requesting such information shall cover the following:

1. Name of supervisee.
2. Educational level of supervisee.
3. Supervisor's name, address, license number, date and state in which granted, and area of specialization.
4. Name and nature of setting in which supervised practice took place.
5. Dates of practice covered in this report.
6. Number of practice hours during this period.
7. Supervisee's duties.
8. Number of one-to-one supervisory hours.
9. Assessment of supervisee's performance.

B. Supervised practice time during which the supervisor deems the supervisee's performance to have been unacceptable shall not be credited toward the required supervised practice hours.

Rules and Regulations for Supervision of Unlicensed Assistants in Providing Psychological Services

A. Conditions for Utilization of Assistants.

1. Unlicensed assistants providing psychological services must be under the direct and continuing professional supervision of a licensed psychologist.

2. In order to maintain ultimate legal and professional responsibility for the welfare of every client, a licensed psychologist must be vested with functional authority over the psychological services provided by unlicensed assistants.

3. Supervisors shall have sufficient contact with clients, and must be empowered to contact any client in order to plan effective and appropriate services and to define procedures. They shall also be available for emergency consultation and intervention.

4. Work assignments shall be commensurate with the skills of the assistant and procedures shall under all circumstances be planned in consultation with the supervisor.

5. The supervisory contact with assistants shall occur in the service delivery setting, unless otherwise approved by the Board of Examiners.

6. Public announcement of fees and services, and contact with lay or professional public shall not be offered in the name of the unlicensed assistant.

7. Billing for psychological services shall not be in the name of an unlicensed assistant.

B. Responsibilities of Supervisors.

1. The supervisor is accountable for the planning, course and outcome of the work. The conduct of supervision shall insure the

welfare of the client, and the ethical and legal protection of the assistant.

2. The supervisor shall establish and maintain a level of supervisory contact consistent with professional standards insuring the welfare of clients seen by the assistant, as well as sufficient contact so as to be accountable in the event that ethical or legal issues are raised.

a. There shall be one hour per week as a minimum for supervisory contact. Exceptions to this requirement must have prior approval of the Board.

b. It is likely that more than one hour per week would be required for assistants of lesser experience.

c. The supervisor shall limit the number of assistants supervised so as to insure the above.

d. The supervisor shall be available for emergency consultation at the request of the assistant.

3. The supervisor shall have competence in the specific area of practice in which supervision is being given.

4. An ongoing record of supervision shall be maintained which details the types of activities in which the assistant is engaged, and the level of competence in each. This record shall be kept in such form as may be prescribed by the Board.

5. Neglect in maintaining the above standards of practice may result in suspension or revocation of the supervisor's license to practice.

Wayne A. Greenleaf, Ph.D., Chairman
Board of Examiners of Psychologists

RULE

Department of Transportation and Development

Amendment to the Rules and Regulations for Trucks, Vehicles, and Loads

A licensed wrecker transporting a combination of vehicles may exceed the legal length limit provided in R.S. 32:382A(2) (a) provided that each separate vehicle, including the wrecker meets the legal length limits provided by R.S. 32:382.

George A. Fischer, Secretary
Department of Transportation and Development

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

The Louisiana Wildlife and Fisheries Commission, at its regular public meeting held in New Orleans, Louisiana on July 24, 1979, adopted, via resolution of the Wildlife and Fisheries Commission, the following rules and regulations concerning the 1979 alligator season.

The Louisiana Department of Wildlife and Fisheries recommends that an alligator season be hereby established in accordance with the following regulations: No exceptions to these procedures will be permitted, and anyone taking alligators contrary to these regulations will be charged in accordance with the Louisiana Revised Statutes and/or the Endangered Species Act of 1973:

1. Open area—Parishes of Cameron, Calcasieu, Vermilion, Iberia, St. Mary, Terrebonne, Lafourche, St. Charles, Jefferson, Plaquemines, St. Bernard, and St. Tammany. Coastal marshes and swamp areas including converted marshland. Over three

hundred thousand alligators are present in this area outside of refuges.

2. Harvest season—The open season shall run for a thirty-one-day period beginning on September 7, 1979, and continue through October 7, 1979. Size: no alligators under four feet in length may be taken.

3. Harvest methods—Alligators may be taken only during daylight hours, between one-half hour before official sunrise to one-half hour after sunset. Special instructions will be issued to the holders of alligator hunter licenses shortly before the opening of the season describing detailed methods regarding the skinning of alligators. Skins processed contrary to the specific requirements of the Department will be considered illegal and will be confiscated by Department personnel. Pole hunting is prohibited to protect the nesting female population.

4. Licenses—An alligator hunter must have a valid commercial alligator hunter license to take, transport, or sell alligators or their skins. The fee for the resident license is twenty-five dollars per year and for the nonresident is one hundred fifty dollars per year. These licenses are nontransferable. In order to obtain a resident license, the hunter must have resided in Louisiana for one year preceding the season. He must complete application forms provided by the Department and furnish proof that he owns the land or has an agreement with the landowner to hunt alligators on the specified property. Information as to the location and acreage of the property must be provided. Applications must be submitted beginning August 1, 1979. The alligator hunter license will be issued only after the hunter has satisfactorily complied with the above requirements. Nonresident hunters must coordinate their hunt through landowners and licensed resident hunters. A fur buyer license or fur dealer license is required for purchasing and handling raw alligator skins in Louisiana. An alligator parts dealer's license is required of anyone purchasing alligator parts (other than hides) for resale, manufacturing, processing and distribution, excluding retailers and restaurants. Persons or firms entering alligators in interstate/foreign commerce in the course of a commercial activity must be licensed in accordance with state and federal regulations.

5. Tagging—In addition to a valid commercial alligator hunting license, the hunter must also obtain from the Department, and have in his possession while hunting, official tags which must be firmly attached to each alligator skin immediately upon taking. Numbered tags will be issued to license holders for a sum of five dollars. The tags must be attached in the last six inches of the tail. The tag must remain attached to the skin until finally processed by the fabricator. It shall be illegal to possess alligator skins in Louisiana without valid official tags attached. Official alligator tags will be issued only to alligator hunters and farmers, and only to those who have authorized applications. The number of tags will be issued on the basis of the area and quality of the habitat, and the rate per acre will be fixed based on extensive population estimates. Tags will be issued for alligator habitat only, based on final decision of the technician. No more than this fixed number of tags will be issued. Each official tag will bear a characteristic number and a duplicate tab, and the tag numbers issued to each hunter will be recorded. Unused tags must be returned to the Department. Lost or stolen tags will not be replaced but must be reported. Tags can be used only on the lands applied for and approved on the application. Tags furnished by the Louisiana Department of Wildlife and Fisheries must be attached to all alligator meat/parts upon transfer by a hunter or farmer.

6. Alligator Farmers and Breeders—Licensed alligator farmers or breeders will be issued permits to kill and skin their alligators but must follow the same rules and regulations which apply to wild alligators.

7. Harvest Rates—Tags will be issued on the following basis, with the exception of alligator farmers, breeders, and the nuisance complaint program.

Parish	Tag Allotment/Marsh Type		
	Brackish	Intermediate	Fresh
Cameron	1:200	1:75	1:75
Calcasieu	1:200	1:75	1:75
St. Tammany	1:200	1:75	1:75
Vermilion	1:75	1:75	1:225
Iberia	1:200	1:75	1:125
St. Mary	1:200	1:75	1:125
Terrebonne	1:150	1:75	1:125
Lafourche	1:200	1:150	1:100
Jefferson	1:275	1:250	1:200
St. Charles	1:275	1:250	1:200
Plaquemines	1:275	1:250	1:200
St. Bernard	1:275	1:250	1:200
Dewatered marsh	1:400		
Inland swamp	1:300		

8. Sale of Alligator Skins—All alligator skins taken during the alligator season shall be checked and the stub tab clipped by personnel of the Louisiana Department of Wildlife and Fisheries prior to the hides leaving the state. Special skinning instructions will be verified, and any skins not prepared according to instructions issued in advance of season will be considered illegal. Unused tags will be returned to Department personnel no later than fifteen days after the close of the season. Buyers/dealers must abide by special skinning instructions or be subject to forfeiture of improperly skinned hides.

9. Buyer/Dealer Hide Records—All buyers and dealers making purchases of alligator hides shall maintain a complete set of records of all purchases and sales on forms furnished by the Department. Such records will include names and addresses of buyers and/or sellers, alligator hide tag number, date, and length. Dealers will submit records prior to shipping out-of-state and no later than fifteen days following the close of the season.

10. Shipment—All raw alligator skins shipped out-of-state must bear official shipping tags provided by the Department. Forms provided must be filled out completely and returned to the Department within fifteen days following the close of the season.

11. Sale of Meat and Parts—Meat and other parts from lawfully taken alligators can only be sold within the State of Louisiana. Anyone purchasing alligator parts for resale, manufacturing, processing and distribution, excluding retailers and restaurants, shall purchase an alligator parts dealer's license from the Department for fifty dollars. Alligator hunters, farmers, and parts dealers shall maintain records of all transactions, purchases, and sales on forms provided by the Department. These forms shall be submitted to the Department within thirty days following the close of the season and thereafter at sixty-day intervals until all parts are sold. All alligator meat and parts, excluding hides, shall be tagged with an official alligator parts tag (color: blue) to be furnished by the Department. Hunters, farmers, and dealers shall furnish a bill of sale to all retailers and restaurants purchasing alligator parts. This bill of sale shall be maintained for a period of six months.

An alligator nuisance removal program will be incorporated into the harvest season within the parishes open for alligator hunting. This program will allow the taking of problem alligators within the confines of municipal, ward, or parish responsibility where there are alligator/people conflicts. Alligators taken under this program must be taken in accordance with state regulations and local regulations and ordinances. This nuisance removal program depends upon close cooperation of state, parish, and local authorities.

Tags will be issued to a local governing body and hunters will be selected by them. The number of tags issued will be based on the number of complaints received. The Commission is hopeful this

program will lessen the threat to people and property by reducing human/alligator contact.

The administrative responsibility for conducting this season shall rest with the Secretary of the Louisiana Department of Wildlife and Fisheries.

J. Burton Angelle, Secretary
Department of Wildlife and Fisheries

Notices of Intent

NOTICE OF INTENT

Department of Agriculture Office of Animal Health Services Livestock Sanitary Board

The Department of Agriculture, Office of Animal Health Services, Livestock Sanitary Board, proposes to delete from its Regulation 2, Governing the Admittance of Livestock to Fairs, Livestock Shows, Breeder's Association Sales, Rodeos and Racetracks, and Regulation 28, Governing Equine Infectious Anemia, those parts which state horses reacting positively to the Coggins test may be identified by picture. The Board then proposes to amend Regulations 2 and 28 to require that all horses reacting positively to the Coggins test be identified by hot brand, cold brand, freeze brand or tattoo "72A."

Interested persons may submit written comments through September 3, 1979, to Dr. Forrest E. Henderson, State Veterinarian, Box 1951, Baton Rouge, Louisiana 70821. Dr. Henderson is the person responsible for responding to inquiries about the proposed rule changes.

Forrest E. Henderson, D.V.M.
State Veterinarian

NOTICE OF INTENT

Department of Agriculture Seed Commission

In accordance with Section 1432 of Title 3 of the Louisiana Revised Statutes of 1950, as amended, and the provisions of the Administrative Procedures Act, R.S. 49:951-968, as amended, notice is hereby given of intent to amend Certified Seed Regulation 29 titled Regulation Governing Tagging of All Classes of Certified Seed.

This amendment will allow the definition of "lot" to reflect practices of bulk storage and, also, remove the provision for placement of official seal on all bags.

Proposed Regulation Governing Tagging of all Classes of Certified Seed

I. Definition of Terms.

C. "Lot" shall mean the permanent identity given to a certain quantity of seed entered for certification, which is uniform in its quality and has been field inspected and found to meet the field standards for its class of certified seed.

* * * *

IV. Tagging Requirements.

A. Before any seed sold as certified seed leaves the premises of the certified grower or processor of certified seed, each bag

must be tagged and the lot numbers on the certified tags must conform to the lot numbers already marked on the bags.

Written comments and inquiries may be addressed to Mr. Richard Carlton, Secretary, Louisiana Seed Commission, Box 44153, Baton Rouge, Louisiana 70804, through September 3, 1979. Mr. Carlton is the person responsible for responding to inquiries about the proposals.

Richard Carlton, Secretary
Seed Commission

NOTICE OF INTENT

Department of Agriculture Structural Pest Control Commission

In accordance with the authority vested in the Louisiana Structural Pest Control Commission by Section 1263 of Title 40 of the Louisiana Revised Statutes of 1950 and in accordance with the provisions of the Administrative Procedures Act, R.S. 49:951-968, as amended, notice is hereby given of intent to amend Rule III A1. This amendment will allow regular quarterly meetings of the Structural Pest Control Commission to be held at any location within the domicile of the Commission, East Baton Rouge Parish. Particular meetings may still be held at any location after due notification is given.

Rule III. Enforcement and Administration; Employment of necessary personnel. (Section 1263)

A. Place and frequency of meetings.

1. All meetings shall be held in the domicile of the Commission, East Baton Rouge Parish, unless a change of place is determined desirable for particular meetings which will be indicated in the notices calling same.

Written comments and inquiries may be addressed to Mr. Richard Carlton, Secretary, Louisiana Structural Pest Control Commission, Box 44153, Baton Rouge, Louisiana 70804 through September 3, 1979. Mr. Carlton is the person responsible for responding to inquiries about the proposed rules.

Richard Carlton, Secretary
Structural Pest Control Commission

NOTICE OF INTENT

Department of Commerce Racing Commission

The Louisiana State Racing Commission does hereby give notice in accordance with law that it intends to adopt amendments to Section 5.7 of the Racing Commission Rules.

Proposed Section

§5.7 In the event a regularly named rider, trainer, or racing official, other than a steward, is unable for any reason to perform, the stewards may select a substitute therefor. Upon suspicion of fraud, conflict of interest or misconduct, the stewards may excuse a horse or replace any rider, trainer, or racing official other than a steward.

Copies of the amended Section 5.7 may be obtained by telephoning the Commission at (504) 568-5870 or by writing to Suite 1020, One Shell Square, 701 Poydras Street, New Orleans, Louisiana 70139.

The office of the Commission will be open from 9:00 a.m. to 4:00 p.m. and interested persons may call Ms. Rosalie Robinson during this time, holidays and weekends excluded. Interested per-

sons may submit written comments relative to these proposed rules through September 12, 1979. Ms. Robinson is the person responsible for responding to inquiries about the proposed rule.

Albert M. Stall, Chairman
Racing Commission

NOTICE OF INTENT

Department of Commerce Racing Commission

The Louisiana State Racing Commission proposes to amend Rules 19.7 and 45.11. Interested persons may submit written comments through September 12, 1979, to Suite 1020, One Shell Square, 701 Poydras Street, New Orleans, Louisiana 70139. Ms. Rosalie Robinson is the person within the agency who is responsible for responding to inquiries about the proposed rule changes. The texts of the proposed new rules follow:

LAC 11-6:19.7

A trainer shall not enter or start a horse that is not in serviceably sound racing condition, has been trachea-tubed, or has been nerved. However, horses that have had a posterior digital (heel nerve) neurectomy or cryosurgical intervention in the areas reserved for posterior digital neurectomies performed on one or more feet, may be permitted to race. All horses that have been nerved shall be so designated on the foal certificate and be certified by the practicing veterinarian. All horses that have been nerved prior to this rule must also be certified, and it is the responsibility of the trainer to see that such nerving will be carried on the foal certificate. All nerved horses, high or low, must be published on the bulletin board in the racing secretary's office. Any horse that is high nerved shall not be permitted to enter in a race. A trainer shall not enter or start a horse which has been "nerve blocked" or treated with, or been given any drug internally, externally or by hypodermic injection, except as permitted in LAC 11-6:54. Nor shall a trainer enter or start a horse which is not properly plated, is blind or whose vision is seriously impaired in both eyes, is on a stewards', veterinarian's, starter's or disqualified list or is permanently barred from racing in any jurisdiction.

LAC 11-6:45.11

Where a claimed horse has had a posterior digital (heel nerve) neurectomy performed prior to the claim, the claimant shall have forty-eight hours from the moment that the horse becomes a starter to protest the claim. Cryosurgical intervention in the areas reserved for posterior digital neurectomies, shall be considered "heel nerved."

Albert M. Stall, Chairman
Racing Commission

NOTICE OF INTENT

Board of Trustees for State Colleges and Universities

In accordance with the laws of the State of Louisiana and with reference to the provisions of Title 30 of the Louisiana Revised Statutes of 1950, as amended, and under the authority of Article VIII, Section 6 of the 1974 Constitution, a public hearing will be held in the Mineral Board Hearing Room, State Land and Natural Resources Building, Baton Rouge, Louisiana, beginning at 9:30 a.m. on September 7, 1979.

At such hearing the Board will consider amendment to Part VII, Faculty and Staff Personnel Policies and Procedures, and specifically:

7.5D, Leaves of Absence (delete).

7.8A, Public Office Seeking (amend).

The Board of Trustees for State Colleges and Universities shall accept written comments until 4:30 p.m., September 3, 1979, at the following address: Miller Shamburger, Board of Trustees for State Colleges and Universities, Box 44307, Baton Rouge, Louisiana 70804.

The public is made aware of the proposed policies and procedures in compliance with R.S. 49:951-968. All interested persons will be accorded reasonable opportunity to submit data, views, comments or arguments at the regular September Board meeting.

Bill Junkin, Executive Director
Board of Trustees for State Colleges and Universities

NOTICE OF INTENT

Governor's Special Commission on Education Services Loan/Grant Division

The Loan/Grant Division of the Governor's Special Commission on Education Services intends to amend its policies and procedures for inclusion of the new loan limits for undergraduate and vocational students as enacted into law by the 1979 Louisiana Legislature, and signed into law by the Governor to become Act 761.

A copy of the proposed changes will be available for inspection at the office of the Commission, 721 Government Street, Baton Rouge, Louisiana, until September 5, 1979. Persons who desire to do so may submit comments or suggestions in writing to Mr. Richard W. Petrie, Director, Loan/Grant Division, Governor's Special Commission on Education Services, Box 44127, Baton Rouge, Louisiana 70804.

Richard W. Petrie, Director, Loan/Grant Division
Governor's Special Commission of Education Services

NOTICE OF INTENT

Board of Elementary and Secondary Education

The State Board of Elementary and Secondary Education intends to adopt the following as policy at its September meeting:

1. State Plan for Elementary Secondary Education Act Title II.
2. Revision to implementation dates for high school graduation requirements.
3. Policy prohibiting installation of cruise control devices on school buses and prohibiting the switchover of school buses from gasoline to butane fuel, because of the safety factor involved.
4. Policy relative to school calendars for vocational-technical schools.
5. State Department of Education Bulletin No. 1533, *Guidelines for Tuition Exemption Continuing Education Program for Teachers*.

Interested persons may comment on the proposed policy changes and/or additions, in writing, until 4:30 p.m., September 12, 1979, at the following address: James V. Soileau, Executive Director, State Board of Elementary and Secondary Education, Box 44064, Baton Rouge, Louisiana 70804. Mr. Soileau is the person responsible for responding to inquiries about the proposals.

James V. Soileau, Executive Director
Board of Elementary and Secondary Education

NOTICE OF INTENT

Office of the Governor Division of Administration Office of Contractual Review

The Office of the Governor, Division of Administration, Office of Contractual Review, proposes to adopt the following proposed rules:

Section 8.2 So that the Civil Service Commission may, by authority of its Rule 4.1(e), add the positions of independent contractors to the unclassified state service, all contracts for professional, personal, and consulting services and for provision of social services shall be submitted to the Director of State Civil Service for his review and approval or disapproval, prior to the effective date of the contract and prior to its submittal to the Office of Contractual Review.

Section 8.3 Upon receipt of written approval of a contract from the Director of State Civil Service, said contract may then be submitted to the Office of Contractual Review pursuant to the requirements of R.S.39:1481, et seq.

The proposed rules would be additions to existing regulations and should be cited as LAC 1-4:8.2 and 8.3. Interested persons may submit written comments to Paul R. Mayer, Jr., Director of Contractual Review, Box 44095, Baton Rouge, Louisiana 70804. Comments will be received through September 3, 1979. Mr. Mayer is the person within the agency responsible for responding to inquiries about the proposed rules.

Paul R. Mayer, Jr., Director
Office of Contractual Review

NOTICE OF INTENT

Office of the Governor Engineers Selection Board

The Louisiana Engineers Selection Board is presently developing Rules of Organization and Rules of Selection Procedure, based on those rules adopted by the previous Board (that Engineers Selection Board which was established by Act 721 of the 1975 Regular Legislative Session, R.S. 38:2310 through R.S. 38:2316, Revised Statutes of 1950).

Interested persons may attend a public meeting for the purpose of discussing and adopting these rules on Wednesday, September 19, 1979, in Senate Committee Room A, Basement Floor of the State Capitol Building, Baton Rouge, Louisiana at 9:30 a.m. The person responsible for responding to inquiries about the proposed rules is Ms. Sharon Roberts, Facility Planning and Control Department, Box 44095, Baton Rouge, Louisiana 70804, telephone (504) 342-7221.

J. Ben Meyer, Jr., Director
Facility Planning and Control Department

NOTICE OF INTENT

Office of the Governor Commission on Law Enforcement and Administration of Criminal Justice

In accordance with the applicable provisions of the Administrative Procedures Act, R.S. 49:951, et seq., notice is hereby given

that the Louisiana Commission on Law Enforcement and Administration of Criminal Justice intends to adopt a Fiscal Year 1980 Louisiana Law Enforcement Comprehensive Plan at its regular meeting on September 26, 1979, at 1:00 p.m. at the Bellemont Motor Hotel in Baton Rouge, Louisiana.

The proposed Plan will be available for public inspection between the hours of 8:00 a.m. and 4:30 p.m., on any working day after August 21, 1979, at the offices of the Louisiana Commission on Law Enforcement and Administration of Criminal Justice, Room 615, 1885 Wooddale Boulevard, Baton Rouge, Louisiana.

Interested persons may submit their views and opinions up to fifteen days following publication of this Notice of Intent to Mr. Lloyd Baptiste, Louisiana Commission on Law Enforcement and Administration of Criminal Justice, Room 615, 1885 Wooddale Boulevard, Baton Rouge, Louisiana 70806.

Wingate M. White, Executive Director
Commission on Law Enforcement
Administration of Criminal Justice

NOTICE OF INTENT

Department of Health and Human Resources Air Control Commission

In order to correct deficiencies in the State Implementation Plan for the U. S. Clean Air Act, the Commission proposes that the Air Control Commission Regulations be modified as follows:

Regulations to cover control of hydrocarbon emissions from vacuum producing systems and from process unit turnarounds in petroleum refineries will be added.

Section 6 of the Regulations will be revised to include a statement requiring that "Lowest Achievable Emission Rate," (LAER) be required of all new sources of hydrocarbon emissions in nonattainment areas and to insure that all other sources controlled by the applicant are in compliance with the Regulations prior to issuing a permit to any new source.

The State Implementation Plan revision adopted by the Commission on March 27, 1979, contains a statement about consideration of new "Control Technique Guidelines" (CTG's) for adoption as promulgated by the U. S. Environmental Protection Agency. That statement is to be strengthened to state that regulations will be adopted after consideration of the new CTG's.

The Commission also proposes to consider other minor changes and revisions to Regulations or State Implementation Plan as warranted.

Proposed Rules

Addition to the State Implementation Plan (SIP): Future Control Technique Guidelines.

In order to comply with U. S. Environmental Protection Agency (EPA) guidelines established for the approvability of State Implementation Plans (SIP's), the Commission will, within twelve months after publication of any EPA "control technique guideline" as an addition to reasonably available control technology (RACT) for any volatile organic compound, evaluate the guideline and adopt revisions to the Regulations to incorporate such controls.

All such Regulation revisions will then be promptly submitted to the EPA for approval. Such regulations will, as a minimum, be applicable to sources in oxidant nonattainment areas, as is required to demonstrate attainment of the oxidant standard.

Additions to the Air Control Commission Regulations;

§6.3.8 A statement that any proposed new or modified source in an area which has been designated as "nonattainment" by the EPA will be built or modified to achieve the "lowest achievable emission rate" (LAER) as established by the EPA, and a statement

that the owners or operators of such proposed new or modified source do not own or operate any other existing major stationary source in Louisiana which is not in compliance with applicable portions of the SIP or is not on a schedule of actions, officially adopted by the Commission, to achieve compliance.

* * * *

§22.17 Refinery Vacuum Producing Systems.

(a) Emissions of volatile organic compounds from steam jet ejectors and mechanical vacuum pumps shall be controlled by one of the applicable methods specified in Section 22.8.

(b) Emissions of volatile organic compounds from a hotwell with a contact condenser shall be controlled by covering the hotwell and controlling the vapors by one of the applicable methods specified in Section 22.8.

Sources affected by this section of the Regulations shall achieve compliance promptly according to a compliance schedule approved by the Louisiana Air Control Commission, but in no event later than December 31, 1982.

§22.18 Refinery Process Unit Tumaround. Emissions of volatile organic compounds from petroleum refinery process unit tumarounds shall be controlled by pumping the liquid contents to storage and depressurizing the processing units to 5 psig (pounds per square inch gauge) or below before venting to the atmosphere. Control of the vapors during the depressurization prior to venting to atmosphere shall be accomplished by one of the applicable methods specified in Section 22.8.

Sources affected by this section of the Regulations shall achieve compliance promptly according to a compliance schedule approved by the Louisiana Air Control Commission, but in no event later than December 31, 1982.

* * * *

The Commission will meet at 10:00 a.m., September 25, 1979, in the New Orleans City Council Chambers, 1300 Perdido Street, to discuss and consider the adoption of the proposed Regulations and State Implementation Plan revisions, and possible additional minor changes in its Regulations.

The person within the agency responsible for responding to inquiries about the proposed rule modifications is James F. Coerver, Box 60630, New Orleans, Louisiana 70160; telephone (504) 568-5121. Written comments may be submitted to the above address through September 24, 1979.

Data concerning these proposed changes will be available for review at the following locations at least thirty days prior to the meetings:

1. State Office Building, 325 Loyola Avenue, Room 409, New Orleans.
2. East Baton Rouge Parish Health Unit, 353 North Twelfth Street, Room 83, Baton Rouge.
3. State Office Building, 1525 Fairfield Avenue, Fifth Floor, Shreveport.
4. Office of Health Services Building, 1505 North Nineteenth Street, Monroe.
5. Calcasieu Parish Health Unit, 721 Prien Lake Road, Lake Charles.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

NOTICE OF INTENT

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

The Department of Health and Human Resources, Office of Family Security, proposes to adopt the following policies and rules in the Medical Assistance Program:

1. Policy that will set reimbursement rates not to exceed the seventy-fifth percentile of arrayed costs reflected in cost reports submitted by the long term care facilities.

2. Increase in the dispensing fee allowance for prescriptions under the pharmaceutical services program. The maximum fee will be set at \$3.28.

3. Policy that will permit reimbursement at the lower of either the usual and customary charge or the state's established fee schedule to dentists participating in the Medical Assistance Program. This clarification in the reimbursement policy of the Medical Assistance Program will assure compliance with federal regulations requiring all providers of medical service to charge and be reimbursed for services no more than is charged to the general public.

4. Increase in the rates of reimbursement to long term care facilities participating in the Medical Assistance Program. The rates for the specified levels of care will be as follows:

	Daily	Monthly
Skilled Nursing Facility (SNF)	\$26.73	\$813.04
Intermediate Care Facility I (ICF I)	24.43	743.08
Intermediate Care Facility II (ICF II)	19.37	589.17

5. Policy that would require chiropractors and dentists to submit their claims for reimbursement within six months from the date of service.

6. Changes in the medically needy income eligibility standards as follows:

Rural—Medically Needy Income Eligibility Standard

Family Size	AFDC Flat	Monthly Monies	Quarterly Monies
	Grant Amount		
1	\$ 53	\$ 125	\$ 375
2	98	133	399
3	139	192	576
4	173	233	699
5	206	275	825
6	236	317	951
7	267	358	1074
8	297	400	1200
9	325	433	1299
10	354	475	1425
11	384	517	1551
12	416	558	1674
13	450	600	1800
14	483	650	1950
15	516	692	2076
16	549	733	2199
17	582	783	2349
18	615	825	2475
19	651	875	2625
20	687	916	2748
21	723	967	2901
22	759	1017	3051
23	795	1067	3201
24	831	1117	3351
25	867	1167	3501
26	903	1217	3651
27	939	1267	3801
28	975	1317	3951
29	1011	1367	4101
30	1047	1417	4251

Urban—Medically Needy Income Eligibility Standard

Family Size	AFDC Flat	Monthly Monies	Quarterly Monies
	Grant Amount		
1	\$ 57	\$ 133	\$ 399
2	110	150	450
3	152	208	624

Urban—Continued

Non-Urban Grant

Family Size	AFDC Flat Grant Amount	Monthly Monies	Quarterly Monies
4	187	250	750
5	221	300	900
6	252	342	1026
7	281	375	1125
8	311	417	1251
9	340	458	1374
10	368	492	1476
11	399	533	1599
12	431	575	1725
13	462	617	1851
14	495	667	2001
15	528	708	2124
16	564	758	2274
17	591	792	2376
18	629	842	2526
19	668	892	2676
20	707	950	2850
21	746	1000	3000
22	785	1050	3150
23	824	1100	3300
24	863	1150	3450
25	902	1200	3600
26	941	1250	3750
27	980	1300	3900
28	1019	1350	4050
29	1058	1400	4200
30	1097	1450	4350

Household Size	Flat Grant Amount
8	297
9	325
10	354
11	384
12	416
13	450
14	483
15	516
16	549
17	582
18	615

For each additional person add \$36 to the flat grant amount.

B. Urban Grant (Orleans, Jefferson, St. Bernard, E.B.R.)

Household Size	Flat Grant Amount
1	\$ 57
2	110
3	152
4	187
5	221
6	252
7	281
8	311
9	340
10	368
11	399
12	431
13	462
14	495
15	528
16	564
17	591
18	629

For each additional person add \$39 to the flat grant amount

II. Increased Payment in General Assistance.

A. Persons in Certification	Allowable Per Person
13 years and older	\$50
Birth through 12 years	\$35

B. Value of Available Income In-Kind.

	Food	Clothing	Incidentals
13 years and older	\$37.00	\$8.00	\$5.00
Birth through 12 years	\$24.50	\$6.00	\$4.50

C. GA Maximum Grants.

1. Regular Grant. The maximum amount paid for a regular grant (to include one-person Indochinese cases) shall be:

- a. \$75 when only one person is included in the certification.
- b. \$109 when two or more persons are included in the certification.

2. Special Grant. The maximum amount paid for a special GA grant shall be:

- a. \$110 when the budget plan includes an allowance for a special grant and only one person is included in the certification; \$115 when a special diet is approved and there are two or more persons in the certification.
- b. \$126 when the budget plan includes an allowance for special care in a foster family placement or discharge from a state mental institution.
- c. \$120 when the budget includes one person and an allowance is necessary for special care in his own home or

In the near future appropriate revisions shall be made to Section 19-107.

Interested persons may submit written comments on the proposed policy changes through September 3, 1979, at the following address: Mr. Alvis D. Roberts, Assistant Secretary, Office of Family Security, Box 44065, Baton Rouge, Louisiana 70804. Mr. Roberts is the person responsible for responding to inquiries about these proposed rules.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

NOTICE OF INTENT

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

In accordance with the Appropriations Act of the 1979 Louisiana Legislature, the Department of Health and Human Resources, Office of Family Security, proposes to adopt revisions which increase the Aid to Families with Dependent Children (AFDC) flat grant amounts and increase payments in General Assistance as follows:

I. Increased Flat Grant Amount to be Included in Every AFDC Assistance Payment Budget.

A. Non-Urban Grant

Household Size	Flat Grant Amount
1	\$ 53
2	98
3	139
4	173
5	206
6	236
7	267

home of a relative or in a private home by an unrelated person. \$125 when the budget includes two or more persons and special care as explained above is necessary.

3. Other Grants. The grants of eligible patients in Carville as specified in E.B. 963, and GA I11 and Handicapped Children (Type 94 and 96 cases) will be increased as follows:

a. Patients in Carville grants will be increased from \$30 to \$35.

b. GA I11 and Handicapped Children—The amount paid shall be the family budgetary deficit subject to \$110 maximum without inclusion of the extra cost of the child's special diet and/or essential transportation (if any) plus the cost of this item or items subject to a maximum of \$278.

c. GA recipient receiving skilled nursing care in a skilled nursing home or care in an intermediate care facility, the personal care needs amount shall be \$22. The maximum payment amount is \$22; therefore, all GA recipients in long term care (LTC) facilities will receive a \$5 increase and newly certified GA, LTC recipients will receive a maximum grant of \$22.

4. Indochinese One-person Households. Indochinese one person households shall receive payment in accordance with the payment level applicable to a one-person GA certification.

Additional copies of this material may be secured from the Office of Family Security, Planning and Policy Formulation Section, Box 44065, Baton Rouge, Louisiana 70804.

Interested persons may submit written comments on the proposed policy changes through September 3, 1979, at the following address: Mr. Alvis D. Roberts, Assistant Secretary, Office of Family Security, Box 44065, Baton Rouge, Louisiana 70804. Mr. Roberts is the person responsible for responding to inquiries about the proposed rule.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

NOTICE OF INTENT

Department of Health and Human Resources Office of Health Services and Environmental Quality

Notice is hereby given that the Department of Health and Human Resources, Office of Health Services and Environmental Quality proposes revisions to Chapter XV, Schools and Public Buildings, of the Sanitary Code of the state. The revisions are for the purpose of updating those provisions of the Code covering school lighting and fenestration to permit designs in accord with recently developed lighting technology and air conditioning, heating, and cooling.

Basically, the changes will permit lighting designs to conform with a visual comfort probability (VCP) system for light comfort resulting in monetary savings in school lighting systems as well as improved comfort in lighting systems (glare). The changes will also delete provisions requiring fenestration to permit more economical designs for environmental control—heating, cooling, and ventilation.

Copies of the proposed rules are available for review in the Office of Health Services and Environmental Quality, Louisiana State Office Building, 325 Loyola Avenue, Room 403, New Orleans, Louisiana 70112 or can be obtained by writing or telephoning: Charles E. Bishop, Jr., Assistant Director, Division of Environmental Services, Office of Health Services and Environmental Quality, Box 60630, New Orleans, Louisiana 70160, Telephone: 504-568-5101.

Interested persons may submit written comments through Noon, September 7, 1979, to Dr. J. T. Hamrick, Acting Assistant

Secretary, Office of Health Services and Environmental Quality, Box 60630, New Orleans, Louisiana 70160.

William A. Cherry, M.D.
Secretary and State Health Officer
Department of Health and Human Resources

NOTICE OF INTENT

Department of Health and Human Resources Office of Human Development

The Department of Health and Human Resources, Office of Human Development, proposes to revise the eligibility criteria for day care which will allow more children who are Title XX eligible to receive the service. Specifically, the criteria in regard to provision of day care will be revised and expanded to provide that the service may be utilized when the Title XX income eligible parent or caretaker-relative is a full-time participant in an agency approved training plan or is attending high school on a regular basis. In these situations, it is the intention of the Office of Human Development to provide day care to the family in order that the parent or caretaker-relative may receive training or education which will result in gainful employment.

In addition, the Office of Human Development proposes to increase the monthly rate of payment to licensed day care centers and family day care homes. The proposed maximum rate of monthly payment to family day care homes will be \$73.92 for each eligible child. The Office of Human Development proposes to increase the maximum rate of monthly payment to licensed day care centers to \$112.42 for each eligible child. However, the payment rate for eligible children in licensed day care centers shall not exceed the amount the center charges for private paying children up to the maximum of \$112.42.

Interested persons may submit written comments on the proposed policy changes from August 20, 1979 through September 3, 1979, to Melvin Meyers, Jr., Assistant Secretary, Office of Human Development, Department of Health and Human Resources, Box 44371, Baton Rouge, Louisiana 70804.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

NOTICE OF INTENT

Department of Health and Human Resources Office of Licensing and Regulation Division of Licensing and Certification

The Department of Health and Human Resources, Office of Licensing and Regulation, Division of Licensing and Certification, intends to adopt the following proposed minimum standards for licensure of juvenile detention centers.

Interested persons may comment on the proposed standards, in writing, through September 4, 1979, at the following address: Mr. Steve Phillips, Supervisor of Licensing and Certification, Division of Licensing and Certification, Box 3767, Baton Rouge, Louisiana 70821. A public hearing will be held on September 4, 1979, from 10:00 a.m. until noon. The hearing will be in the Mineral Board Hearing Room of the Natural Resources Building.

Proposed Minimum Standards for Licensure of Juvenile Detention Centers

I. Introduction: The matter of providing appropriate detention care for Louisiana's troubled youths has been a continuing concern of many citizens, including members of the legislative, execu-

tive, and judicial branches of government. As a result of this concern, the 1978 Regular Session of the Louisiana Legislature enacted House Concurrent Resolution 28 authorizing and directing the Department of Health and Human Resources, in conjunction with the Louisiana Commission on Law Enforcement, to develop minimum levels of care, licensing, and monitoring procedures for juvenile detention centers. The Department of Health and Human Resources, in accordance with R.S. 46:51, is authorized to make rules and regulations for the licensure and supervision of public child welfare activities involving parish, municipal and private agencies, institutions, and individuals caring for children.

The minimum standards for detention care contained herein were established by a committee of individuals from the Department of Health and Human Resources, the Louisiana Commission on Law Enforcement and Administration of Criminal Justice, the Department of Public Safety, the Louisiana Juvenile Detention Association, the Louisiana Association of Criminal Justice Social Workers, and juvenile detention and shelter care practitioners. These standards are designed to provide secure custody of juveniles, humane treatment, and appropriate health and welfare practices for the well-being of detained youths.

II. Definitions: For the purposes of these "Standards":

A. "Juvenile"/"Child" means a person less than seventeen years of age. In delinquency proceedings "juvenile"/"child" also means a person under twenty-one years of age, who committed a delinquent act before attaining the age of seventeen years.

B. "Detention" is the provision of temporary care to children under physically restricting circumstances pending a court hearing, disposition or the execution of a court order.

C. "Juvenile detention center" is a specially designed facility providing care to children under circumstances which are physically restricting.

D. "Parents" means either parent if they are married and living together. If one parent is dead, or if the parents are divorced, legally separated, separated in fact, or unmarried, it means a parent or person having legal custody of the child. If no parent has legal or actual custody, it means the person, institution, agency, or association of persons having legal or actual custody.

E. "Intake" is the process by which a juvenile is admitted to detention pursuant to Chapter V of these standards.

F. "Admitting officer" is a peace officer, probation officer, and/or person designated and authorized by the court to detain children in a detention facility.

G. "Shall" or "must" means that the rule, regulation or standard is mandatory.

H. "May" or "should" means that the rule, regulation or standard is permissive.

I. "Jail" is a secure facility designed for the care, custody and control of adult offenders.

III. General Provisions:

A. These licensing standards apply to all juvenile detention centers.

B. The detention administrator shall issue written policies, procedures, and directives to implement and supplement all aspects of these standards. The detention administrator shall insure that:

1. Detention staff are knowledgeable of applicable provisions of these detention standards.
2. All rules for children detained are posted where accessible and/or otherwise made known to each child in an understandable manner.
3. Relevant detention facility rules and information are made available to parents of children detained.

C. There shall be a written statement that describes the philosophy, goals or purposes of the facility, which is reviewed at least annually and updated if necessary.

D. There shall be a written plan that provides for continuing operations in the event of a work stoppage or other job action. Copies of this plan shall be available to all supervisory personnel, who are required to familiarize themselves with it.

E. Written policy and procedure shall provide that juveniles are not subject to discrimination based on race, national origin, color, creed, sex, or physical handicap.

F. The facility administration shall have a grievance procedure for employees which has been approved by the governing authority.

G. There shall be a written resident grievance procedure, which is made available to all detained juveniles.

H. The agency operating a detention facility shall be a legal entity or a part of a legal entity. If the agency is a nonprofit organization, it shall be incorporated in the governmental jurisdiction where located and in accordance with the legal requirements of that jurisdiction. If the agency is from the public sector, it shall have the authority to establish and operate a detention center.

I. Written policy and procedure shall provide for regular meetings and case conferences between the staff of probation agencies, shelter facilities, the court, the local law enforcement agency, and detention facility staff to develop and maintain sound interagency policies and procedures.

J. Policy and procedure shall provide that the facility administrator cooperate with the interstate compact administrator in the return of juveniles charged with juvenile offenses to the requesting state, pursuant to the provisions of the Interstate Compact on Juveniles.

K. Insurance coverage shall be provided for the facility, which includes coverage for the physical plant, equipment, and personal and property injury to employees, volunteers, residents, and third parties.

L. The legal entity administering a facility shall have a policy to protect all employees whose duties include the care, treatment or supervision of juveniles from financial loss arising out of any claim or judgment occurring as a result of alleged negligence which results in personal injury to a juvenile, provided that, the acts complained of were within the scope of employment and did not result from the willful and wanton act or gross negligence of the employees.

M. The facility administration shall not have a policy which categorically excludes employment of ex-offenders.

N. The facility administrator shall be appointed by the chief executive officer or governing board of the parent agency.

O. The qualifications, authority, tenure, and responsibilities of the facility administrator shall be specified by the parent agency.

P. The term of the facility administrator shall be continuous and may be terminated only by the appointing authority for good cause and subsequent to a formal and open hearing on specific charges, if requested.

Q. In the case of death of any detained child, the facility administrator or his designated representative shall immediately notify the coroner.

R. It shall be the duty of the Department of Health and Human Resources, through its duly authorized agents, to visit and inspect, without previous notice, each center at least annually.

1. Licensing personnel may enter any facility at any time both for licensure and to investigate complaints. They shall be immediately admitted to such place upon request for such admittance and may confer with any child or employee privately and without interference.

2. Follow-up visits and inspections will be made as needed. The purpose of these visits is to determine if all rules and regulations of the Department are strictly observed and followed by all persons connected with the facility.

S. No child or employee shall be punished or threatened with punishment for talking to licensing personnel.

T. After each licensing inspection an exit interview will be held by the licensing personnel with the administrator and/or other appropriate facility personnel. A written report listing deficiencies, if any shall be mailed to the facility as soon as possible, specifying a reasonable time-frame in which the facility shall correct any deficiencies.

U. Subsequently, if the license is refused, suspended or revoked because a facility is not suitable, is not properly managed, or does not meet minimum requirements for licensure, the procedure is as follows:

1. The Secretary, Department of Health and Human Resources, or his designee, by registered or certified letter, shall advise the facility administrator of the reasons for refusal, suspension, or revocation, and its rights of appeal. The facility administrator shall, in turn, immediately notify his immediate supervisor(s).

2. Within thirty days after receipt of such notice, the facility administrator may request in writing a hearing in order to appeal the decision.

3. The Secretary or his designee shall set a hearing to be held within thirty days after receipt of such request. The hearing shall be held in the immediate vicinity of the center requesting appeal.

4. The Secretary or his representative shall conduct the hearing. Within ten days after the hearing, he shall advise the appellant, by registered or certified letter, of his decision, either confirming or reversing the original decision. If the license is refused, suspended or revoked, the facility shall be given thirty days to meet those standards delineated by the licensing agency.

5. If the facility is unable to meet the standards within this time-frame, funding received from the Department of Health and Human Resources shall be discontinued. A copy of this refusal, suspension, or revocation shall be made available to the district attorney.

6. Notwithstanding any other sections of this appeal procedure, if the Secretary finds that public health, safety, or welfare requires emergency action, summary suspension of licensure and funding may be ordered pending proceedings for revocation, suspension, refusal of license, or other action. Such findings shall be in writing, shall be delivered to the facility administrator by registered mail, and may be incorporated in the original notice specified in Section 1 or in any subsequent notices or decisions rendered pursuant to this appeal procedure.

V. Nothing contained in the standards and requirements hereby fixed shall be construed to prohibit city, parish, or city and parish agency operating a local detention facility from adopting standards and requirements governing its own employees and facilities, provided such standards and requirements exceed and do not conflict with these standards and requirements. Nor shall these regulations be construed as authority to violate any state or local fire safety standards, building standards, health and safety codes, or other applicable codes.

IV. Admission Criteria:

A. Only peace officers, probation officers, and/or persons designated by the court, who are specialized in juvenile training and the Code of Juvenile Procedure, should be authorized to detain children in a detention center. There should be a policy by which the facility administrator or a person designated by said

administrator would refuse an admission if the admission does not meet the criteria for admission pursuant to these standards and the Code of Juvenile Procedure. An intake or admission form for each child presented for admission shall be completed and signed by the admitting officer, stating the following information:

1. Date.
2. Full name, address, telephone number.
3. Birthdate, age.
4. Race, sex.
5. Father's name, address, and telephone number.
6. Mother's name, address, and telephone number.
7. Name, address, and telephone number of person with whom the child is living.
8. Person(s) notified of detention and by whom.
9. A plain and concise statement of the facts and circumstances of the officer's taking the child into custody, and a plain and concise statement of facts and circumstances showing a basis for juvenile jurisdiction.
10. Court of jurisdiction.
11. Signature of admitting officer and agency.
12. Signature of detention employee receiving child.

B. When signatures of both admitting officer and detention employee receiving the child have been affixed to the admission form, the detention center shall assume custody of the child.

C. Only children who are alleged to be delinquent or held in contempt of court in accordance with the Code of Juvenile Procedure, Article 34, Paragraph C and Article 83, Paragraph C, shall be detained in a detention center. Detention care should be used only when there is reason to believe that:

1. The child will commit injury to the persons or property of others or cause injury to himself or be subject to injury by others; or,
2. The child will run away or be taken away as to be unavailable for proceedings of the court or its officers; or,
3. The child has no parent, guardians, custodian, or other person able to provide adequate supervision or care or take him/her to further appointments with the court or law enforcement agencies.

D. No child shall be admitted if intoxicated, visibly under the influence of drugs, or shows evidence of being ill, injured, or psychotic, until examined by a physician. A written statement from the physician stating that the child can be detained without endangering himself or others shall accompany the child to the detention facility after said examination.

V. Intake Procedures:

A. Pursuant to Article 35, Code of Juvenile Procedure, juvenile detention centers shall maintain a permanent record of certain information as to each child admitted. The record shall include:

1. The child's name and address.
2. The reason for the child's being taken into custody.
3. The date and time of child's entry into the center.
4. The name of the officer bringing the child to the center and the department of the officer.

The record in which such information is kept shall not be open for public inspection. Peace officers, probation officers, counsel representing the child, the district attorney, authorized officers of the court, and the Department of Health and Human Resources licensing personnel shall have access to the records. The records shall be kept in chronological order. Entries shall be made upon admission of each child.

B. At the time of admission, all money and personal property other than that which the child is allowed to keep pursuant to local policies shall be listed in writing in the presence of the child and the list shall be signed by the child and the detention facility

admitting employee. The list shall be retained after signing and the monies and belongings shall be placed in a safe and secure place. At the time of release the belongings shall be returned and the list shall be signed as having been returned to the child by both the child and the releasing employee in the presence of the person receiving the child. All weapons and other illegal articles shall be turned over to the admitting officer and receipt of same shall be signed by him, the child, and the detention employee receiving the child.

C. Upon admission, each child shall be given a shower and inspected by staff for bruises, lice, venereal disease, etc. A physician shall be consulted immediately if there is cause to believe the child is ill or injured. If extenuating circumstances arise and a child cannot be showered immediately, he/she shall be kept separate from the other children until such time as a shower can be administered.

D. Upon admission, each child shall be issued clean clothing. If the policy of the facility is not to provide clothing, the child's clothing shall be washed immediately and be given back to him to wear.

E. Necessary clean linen shall be issued upon admission and clean linens shall be issued at least once weekly. If the child is a bedwetter, then clean linens shall be issued at least daily.

F. Upon admission, each child shall be given a copy of the rules and regulations of the facility and appropriate staff shall discuss and answer any questions the child might have.

G. At the time of admission to the facility, juveniles shall be informed in writing of the procedures for gaining access to medical services.

H. After admission, a record shall be maintained for each child. Records shall include, but not be limited to:

1. Intake form.
2. Court order, if applicable.
3. Height, weight.
4. Color of eyes and hair.
5. Religion.
6. Family physician, if any.
7. Prescribed medication and proper use.
8. Physical defects, handicaps, or allergic reactions.
9. Name of school and grade level.
10. Admitting employee's observation of physical conditions of each child at admission.
11. Whether the child is on probation and the name of probation officer, if applicable.

I. Upon admission, the detention personnel shall notify the parents of the detention if they have not already been notified.

J. Upon admission, each child shall be afforded the opportunity to make a telephone call to his parents/guardian or attorney, which may be local or, at his own expense, a long distance or collect call.

VI. Records

A. Each juvenile center shall maintain permanent records of all children detained pursuant to Article 35, Code of Juvenile Procedure. The record shall include:

1. The child's name and address.
2. The reason for the child's being taken into custody.
3. The date and time of the child's entry into the juvenile detention center.
4. The name of the officer bringing the child to the detention center.

B. The record shall also include:

1. The date and time of the child's release.
2. The name of the person to whom released.

C. Other written records shall be maintained regarding instances of an action taken regarding death, illness, accident,

injury, discipline and control, and other records as specified in these standards.

D. The operating authority responsible for and providing the services of a detention facility may require such other records and reports as necessary.

E. Records of a detention facility shall not be open for public inspection. The records shall be available to the Department of Health and Human Resources licensing personnel.

F. All case records maintained in the facility shall be marked "Confidential" and kept in locked files which are also marked "Confidential".

VII. Child Supervision and Care.

A. Daily Routine.

1. Activities for each day shall be scheduled in advance. Each day should be a structured one with specified times for work, school, recreation, meals, and other activities.

2. The daily schedule shall include a time for sleep which shall be no less than eight hours. Sleep schedules shall not be planned for the convenience of staff but shall meet the needs of the children.

B. Personal Hygiene.

1. Every child shall be required to maintain him/herself in a clean manner and the staff of the facility shall see that all necessary and desirable supplies are available to accomplish this.

2. Children shall be required to bathe or shower daily except for medical reasons, in which case they are to "sponge" bathe. Towels, washcloths, soap, and warm water shall be provided.

3. Shampoo, deodorant, toothbrushes, toothpaste, combs, or brushes, and other personal hygiene products shall be available at all times and children shall be allowed access to these on a reasonable basis.

4. Clean underwear shall be made available daily. Clean and presentable outerwear shall be made available as needed, but no less than every other day; every day is preferable.

5. Children shall be allowed to shave, under close supervision on an as needed basis.

6. Hair shall not be cut against a child's wishes.

C. Medical and Other Services.

1. A written plan to provide immediate medical and/or dental attention in case of illness or injury shall be developed and each staff member responsible for care of children shall be thoroughly familiar with it. The written plan shall include:

a. Arrangements for the emergency evacuation of the residents from the facility.

b. Arrangements for the use of an emergency medical vehicle.

c. Arrangements for the use of one or more designated hospital emergency rooms or other appropriate health facilities.

d. Arrangements for emergency on-call physician and dental services when the emergency health facility is not located in a nearby community.

e. Arrangements for a report surrounding the circumstances of the emergency to be made by the staff member who was present and forwarded to the administrator who shall keep same as part of the child's record.

2. A physician licensed in the state shall be responsible for the facility's medical services pursuant to written agreement between the facility and a physician or qualified medical authority.

3. The physician shall have no restrictions imposed upon him or her by the facility administration regarding the practice of medicine.

4. Data concerning health history and vital signs shall be collected by medically trained or qualified medical personnel. Collection of all other health appraisal data shall be performed only by qualified medical personnel. Review of the results of the medical examination, tests, and identification of problems, shall be done by a physician or designated qualified medical personnel. All health appraisal data shall be recorded on the health data forms approved by the responsible physician.

5. Juveniles' medical complaints shall be monitored and responded to daily by medically trained personnel. Appropriate triage by qualified medical personnel shall follow.

6. Where sick call is not conducted by a physician, a physician shall be available at least weekly to respond to juveniles' complaints regarding service which they did or did not receive from other health personnel.

7. A medical examination by a physician or a medical assessment by a Registered Nurse should be provided for any child who remains in custody for longer than seventy-two hours.

8. In any case where there is reason to believe a detained female is pregnant, a physician shall be consulted as soon as possible and his directions followed.

9. All child care staff members shall be trained in first aid and life-saving techniques to use in case of respiratory arrest, choking, epileptic seizures, injury or similar medical emergency. At least one such trained staff member shall be on duty at all times. Standard first aid supplies shall be kept available.

10. Staff members shall have training from the responsible physician and the official responsible for the facility and shall be accountable for administering prescribed medications on time and according to the physician's instructions. A record of the administration of medications issued shall be maintained in a manner and on a form approved by the responsible physician.

11. Children with contagious diseases should not be kept in detention unless there is no other alternative and shall not be allowed contact with other children while in the contagious stage.

12. In any case of serious injury or illness requiring the services of a physician, all reasonable efforts shall be made to notify the parents/guardians and administrator.

13. Children experiencing difficulty because of emotional stress shall be given the same consideration for appropriate help as those suffering from physical problems and shall be afforded access to mental health counseling and crisis intervention in accordance with their needs.

14. Transportation shall be available for use in emergencies.

15. Written policy and procedure shall govern the transportation of juveniles outside the facility and from one jurisdiction to another.

D. Food/Nutrition.

1. A child shall receive no fewer than three nutritionally balanced meals in a twenty-four hour period; these three meals shall meet the minimum standard requirements as set by the United States Department of Agriculture. A consulting nutritionist should be available.

2. Regular meals shall not be withheld for any reason.

3. Children requiring special diets for health and religious reasons shall be accommodated.

4. Children shall not be forced to eat any given food item.

5. There shall be a single menu for staff and juveniles.

6. Written policy and procedures shall require that accurate records are maintained of all meals served for a period of at least three months.

E. Education.

1. A program of academic instruction shall be provided by teachers certified by the Louisiana Department of Education. They should be certified in special education. Children shall be required to attend except for medical or disciplinary reasons.

2. Teachers should be employed by the local board of education but should be considered as part of the detention staff and shall be included in staff meetings and staff development programs.

3. The school day and curriculum shall be compatible with the local school system and with the child's present level of achievement.

4. The regular academic program shall be operated concurrently with the regular academic year of the local school system. Operation of the academic program on a twelve-month basis is preferred.

5. A wide variety of books, learning materials, visual aids, and other educational resources of an appropriate interest and learning level shall be provided.

6. The child's own school should be notified immediately of the child's detention and shall be requested to send a summary of the child's achievement and special problems. Also, the detention teacher should report back to the school regarding the child's educational progress and related problems.

F. Recreation.

1. A child shall be provided at least a daily recreation hour outside unless prohibited by inclement weather or there is sufficient reason to believe the child is an escape risk. Recreation shall be provided indoors in the absence of outdoor recreation.

2. Children with physical disabilities, injuries, or ailments shall not be required to participate in recreational activities that would lead to aggravation of the particular condition.

3. Athletic equipment, games, books, arts and crafts materials, and other recreational resources appropriate to the age and interest group detained shall be provided in sufficient quantity.

4. In addition to structured daily provisions of recreation and exercise, periodic periods of rest and relaxation shall be incorporated into the day's schedule.

G. Religion.

1. No child shall be deprived of the opportunity of religious counseling by a representative of his faith.

2. No child shall be required to attend religious services; no disciplinary action shall be taken toward a child who refuses to attend such services.

H. Work.

1. Children may be required to participate in cleaning duties in areas used by them.

2. Children shall not be allowed to clean areas not used by them, to perform personal services to staff, nor be used to replace employed staff.

3. Children shall not be allowed to work in the area of food preparation.

4. Under no circumstances shall a child be removed from detention in order to perform work in any other area.

I. Discipline.

1. Written rules of conduct prohibited within the facility and a schedule of appropriate disciplinary action to be taken for infractions shall be developed for each detention facility. They shall be made available for the detained children to read and for inspection by appropriate persons who have respon-

sibility for monitoring the facility. All staff members with authority to discipline the detained children shall be required to strictly adhere to these regulations.

2. Written policy and procedure shall insure that prior to privilege suspension the juvenile has the reasons for the restriction explained to him/her, and is afforded an opportunity to explain the behavior leading to suspension.

3. Each disciplinary action which results in a loss of privileges for a juvenile shall be recorded preferably in a log, and in the affected child's record. Such record shall be monitored by the administrator.

4. Corporal punishment, defined as slapping, kicking, hitting, arm twisting, hair pulling, or any other act intended to cause physical pain to the child, shall not be used. Only the minimum force needed to subdue a child who is out of control shall be used.

5. Isolation, defined as removal from peer contact by sight and sound, shall be used only when other alternatives have failed, when he/she is a threat to him/herself or others, when the child continually refuses to obey reasonable rules, or upon return from escape.

a. Room confinement by staff members should be for the minimum amount of time to effect control or a change of attitude and in no case shall be for more than twenty-four hours including sleeping time, in a forty-eight hour period, and only then when severe discipline appears to be warranted. The detention home administrator may extend the isolation period in extreme circumstances.

b. If the child is in an emotional state, he/she shall be observed at least each half hour. In other instances when isolation is used, a child shall be observed at least every hour. A record of the staff member's observation and reason for continued isolation after each observation shall be kept.

c. Any room used for isolation shall be lighted, safe, and comfortable with a means for outside communication in case of need.

6. Under no condition shall a child be deprived of any necessities, such as meals, sleep, bedding, medical attention, bathroom accessibility, or clothes for purposes of discipline.

7. Under no condition shall a staff member be allowed to use violent, profane, threatening, or abusive language toward a detained child.

8. No child shall have any authority over other children.

J. Visitation.

1. Under no condition shall the child's attorney, probation officer, social worker, or other involved professional be denied the right to visit the child except as prohibited by court order.

2. Each detention facility shall develop written visitation policies which allow for reasonable visiting times for parents/guardians and clergy. These shall be made available to the child and parents/guardians as soon as possible after admission.

3. Attorneys, probation officers, social workers, or other involved professionals shall not be confined to these hours, though they may be requested to visit at such times that will not interfere with meals or sleep.

K. Correspondence.

1. Under no condition shall a child be denied mail from his/her parents or guardians, attorney, social worker, or other professional. Such incoming mail shall not be opened by any employee except in the presence of the child receiving the mail to determine the presence of contraband; nor shall the employee read such mail unless requested to do so by the child.

2. Children shall be provided writing materials and postage for purposes of correspondence to parents or guardians, attorney, probation officer, social worker, or other involved professionals, member of clergy, public officials, and jurisdictional judges. Such outgoing mail shall not be read or censored by an employee. Mail may be examined for contraband.

3. An opportunity to write letters as provided in paragraph 2, above, shall be provided on a reasonable basis.

4. Children should be allowed to send and receive personal correspondence from friends and relatives on a reasonable basis. This correspondence may be read by the detention administrator or his designee, but may not be withheld except for security reasons. The child shall be notified if outgoing mail is withheld and the reason. In any case, written policy and procedure shall require that incoming and outgoing mail shall not be held for more than twenty-four hours. Postage for personal correspondence may be provided by the detention center.

5. All cash sent to juveniles shall be retained for the juveniles and held for them in accordance with the procedures of the facility.

L. Safety.

1. Children shall not have access to any sharp or dangerous instrument such as razors, knives, scissors, tools, and other instruments except as they may be used for a specific purpose. When not in use they shall be kept under lock in an area inaccessible to children.

2. Drugs and medication shall be kept under double lock and key.

3. Cleaning supplies, poisons, and any other substance that could be inhaled or ingested to the detriment of the child shall be kept in an area inaccessible to the child.

4. Every precaution shall be used to eliminate any potential hazard which may place any child or staff member in danger of injury.

5. A plan of evacuation in case of fire, flood, or other disaster shall be developed and posted. This should be done in cooperation with local agencies such as fire department and civil defense agencies. Staff members shall periodically practice evacuation drills at least quarterly.

6. As required in the *Life Safety Code*, Articles 10-3141 and 10-3142:

a. Reliable means shall be provided to permit the prompt release of juveniles confined in locked sections, spaces, or rooms in the event of fire or other emergency.

b. Prompt release from secure areas shall be guaranteed on a twenty-four hour basis by sufficient personnel with ready access to the keys.

7. Alternative plans in case of loss of electricity shall be developed and staff members shall be made aware of these.

8. Emergency equipment shall be tested at least quarterly for effectiveness and be repaired or replaced if necessary.

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

10. All detention facilities shall comply with appropriate health, sanitation, fire, safety and any other such codes, rules or regulations as set by state or local governments.

VIII. Personnel:

A. Staff Composition.

1. There shall be a competent staff of administrative, supervisory, and maintenance personnel sufficient in number to provide for safety and constant supervision of all children under care.

2. All personnel in direct contact with juveniles, regardless of the nature of their jobs, should be carefully selected with

regard to their emotional maturity, personal qualifications suitable for working with disturbed children and youth, and special training and skills required for the position.

3. As defined in local statutes, a criminal record check shall be conducted on all new employees to ascertain whether there are criminal acts which have a specific relationship to job performance.

4. All personnel shall be required to pass a complete physical examination conducted by a licensed physician prior to employment.

a. All applicants must be found to be physically fit to perform detention duties by a licensed physician and no person shall be hired who has a communicable disease until he is free from disease.

b. Any employee found to be suffering from a communicable disease shall be temporarily relieved from duty until he provides certification from a licensed physician that he is free from the disease.

5. Staff: child ratio.

a. During waking hours there shall be a minimum ration of one staff person per each eight children.

b. During sleeping hours there shall be a minimum ration of one staff person per each sixteen children.

c. The staff included in these ratios may include paid child-care and program staff, but shall not include maintenance, janitorial, clerical, food service, laundry workers, and other similar support classifications.

6. Whenever children are detained there shall be a sufficient number of employees present, awake and on duty, for the purpose of supervising the activities of children and to insure their presence and safety.

7. A female staff member shall always be on duty when and where girls are detained and shall always accompany male staff entering girls' quarters; a male staff member shall always be on duty when and where males are detained and shall always accompany female staff entering boys' quarters.

8. Each facility shall establish a regular work week for all employees.

9. No child-care or support staff shall "live in" the detention facility.

10. There shall be on duty at all times an adult, who, by definition of job or delegated authority, is responsible for the administration of the facility.

B. Qualifications of Staff. None of the personnel provisions in this standard shall be interpreted to disqualify any person now employed on a regular basis in any juvenile detention center upon the effective date of ratification of these standards.

1. Detention Director (any person whose full-time employment is that of administrative responsibility for daily operation of the facility):

a. This position shall be filled by a person having a minimum of a baccalaureate degree in one of the social, behavioral, or administrative sciences or a related field from an accredited college or university, and when possible, by a person with graduate training.

b. The Detention Director shall also have not less than three years of experience, including experience working with juveniles and/or staff supervision and administration of a detention program.

2. Assistant Director: This position shall be filled by a person having a minimum of a baccalaureate degree in one of the social, behavioral, or administrative sciences or a related field from an accredited college or university. This person shall have a minimum of two years experience working with juveniles and/or staff supervision and administration of a detention program. This position is optional.

3. Program Supervisors (all personnel whose full-time employment consists of developing, implementing, and supervising detention programs). This position shall be filled by persons with a minimum of:

a. A high school education supplemented by a combination of three years of college and experience working with children or teenage groups; or,

b. Completion of a two-year certificate or associate degree in a behavioral science from an accredited community college, or other college.

This position is optional.

4. Child-Care Staff (all personnel whose full-time employment consists of providing daily programs to children): This position shall be filled by persons having a minimum of high school education and an expressed interest and ability to interact with children and youths in a positive manner.

5. All other staff should have training, experience, and competency in job role being performed plus a demonstrated interest and ability to interact with children and youths in a positive manner.

6. Job descriptions shall be provided in written form stating distinguishing features of the work, examples of the work, knowledge and skills, education and experience required.

7. Written policy shall outline experience and education substitutes for position qualifications.

C. Regulations.

1. The duties, responsibilities, and authority of established positions in a detention facility shall be clearly defined in writing.

2. The facility shall comply with all governmental regulatory requirements relating to employment and personnel practices.

D. Training.

1. The agency shall provide at least forty hours of orientation for all new direct child-care staff prior to job assignment. This orientation shall provide training which relates to the specific job function for which the employee was hired as well as relating to the needs of children.

2. A minimum of fifteen hours of continuing training shall be offered to and required of all staff each year. This training shall be job-related.

E. Volunteers.

1. Written policy and procedure shall specify the lines of authority, responsibility, and accountability for the volunteer service program, if applicable.

2. There shall be a staff member who is responsible for administering the volunteer services program.

3. Volunteers who serve in a detention center shall be carefully screened by the agency.

4. The agency administration or the parent agency shall provide against liability or tort claims in the form of insurance, signed waivers, or other legal provisions, valid in the jurisdiction in which the program is located.

IX. Physical Plant:

A. Site Selection for New Construction of Juvenile Detention Centers.

1. The site selected for a juvenile detention center shall meet all requirements and/or have the approval of the Department of Health and Human Resources, local zoning boards, parish and municipal governing bodies or commissions, and other responsible local bodies.

2. The site selected shall serve a geographic region combining the maximum detainable population (juvenile delinquents) with the minimal amount of travel time for courts, attorneys, law enforcement officials, and families of the detained juveniles.

3. The site shall permit ready accessibility to the juvenile courts, law enforcement, and legal services.

4. The site shall be reasonably accessible to parents and family members by available public transportation.

5. The site location shall be reasonably accessible to emergency medical, fire, and law enforcement services.

6. The site locale shall be reasonably accessible to support services such as trash pick-up, laundry services, and food delivery.

7. A site shall be selected that is serviced by an existing road or highway from the existing transportation network.

8. A site shall be selected that will be, or is already provided, power, water, telephone, and other utility services by the appropriate utility companies.

9. The site should be located so that there is a maximum travel time of sixty minutes to the detention center from a majority of the home communities of the juveniles detained.

10. The site selected should avoid a depressed area, industrial tract, or general shopping section.

11. The site shall avoid proximity to a jail or adult correctional facility or contiguity to any building except the juvenile court.

12. The site shall be large enough to provide an outdoor recreation area for the maximum capacity of children.

13. The site shall be located so as to prevent juveniles from seeing or being seen by passers-by except at a remote distance.

14. The site shall permit adequate space for staff and visitor parking.

15. The site located shall take into consideration future development options. Specifically, it shall:

a. Assure privacy against future encroachment by new construction on adjacent properties.

b. Permit possible future expansion of detention or erection of juvenile court facilities.

16. Community involvement in site-selection should be encouraged.

B. Design.

1. Design should be single-story buildings, not institutional or jail-like in appearance, and providing necessary security. All areas used by children, such as sleeping, eating and other activity areas, shall be restricted to the ground level.

2. The facility should be designed to include features of visibility and control, flexibility in use of rooms, ease of maintenance, ease of communication with children, and a bright and cheerful setting.

3. The design shall include separate specific areas for administering education, intake, storage, inside recreation, interviewing or counseling, health care, dining, cooking, visiting, showering, and sleeping.

4. The sleeping area shall not be designed as cells or dormitories.

a. A single occupancy room shall be at least seventy square feet, finished dimensions.

b. A double occupancy room without wash basin and toilet shall be at least seventy square feet, finished dimensions.

c. A double occupancy room with wash basin and toilet shall be at least eighty square feet, finished dimensions.

d. A single occupancy room with wash basin and toilet within the room is preferred.

5. The design shall include a secure outside recreation area with appropriate recreational equipment, good visual supervision, and a minimum of one thousand square feet per rated bed capacity.

a. There should be adequate paved area for basketball, volleyball and similar games, and a large grass area for softball, football, etc.

b. Facilities constructed prior to the adoption of these standards shall provide a minimum of thirty-six thousand square feet of secure, outdoor recreation area.

6. The facility shall be so constructed as to prevent passing contraband through or over a fence or wall.

7. Facility construction shall provide for the removal of architectural barriers to physically handicapped persons.

8. Both the building and grounds shall be designed to form an attractive addition to the community.

C. Construction.

1. All materials used in construction of detention centers shall meet the requirements of the State Building Code, Life Safety Code and other applicable codes.

2. All construction materials used shall be fire-resistive.

3. The exterior walls and roof shall be reinforced concrete, masonry, or other similar hard-surface materials.

4. The interior walls in areas used by children shall be of reinforced concrete, cement masonry or brick or other hard-surface material. Wall surfaces should have a hard, washable surface.

5. The floors shall consist of concrete, finished or smooth, and/or terrazzo and/or quarry tile and/or (in areas other than sleeping quarter) a durable, easily cleaned floor tile.

6. The ceilings shall consist of reinforced concrete, either finished or smooth, and/or steel or other similar hard-surface materials.

7. Glass used in construction shall be heavy safety or high tempered glass, Plexiglass, or Lexan and shall be properly installed.

a. All windows in sleeping room shall be institutional security/type sash with mesh detention screens of the best obtainable quality, mounted flush with the inside wall. Such screens should withstand a pressure of at least eight hundred pounds per square inch.

b. All windows which open should be operated by a removable crank.

8. Exterior doors shall be security-type doors and shall be keyed to both sides. The number of exits, width and location of exit doors, and swing of exit doors shall be in accordance with the state building code.

9. Sleeping rooms shall have solid hardwood doors, solid wood doors securely covered with metal and attractively finished, or flush-type 14-gauge hollow metal doors filled with sound-deadening insulation.

a. All sleeping room doors shall be equipped with one-quarter-inch tempered or very heavy safety glass panels at least ten inches square.

b. Doors shall be hinged to a metal frame set securely in the wall with sound-insulating strips on the jamb.

c. Hinge pins of doors shall be tamperproof and non-removable.

d. Doors to sleeping rooms should be arranged alternately so that they are not across the corridor from each other.

10. Each sleeping room should be equipped with a wash basin, a toilet, and provisions for drinking water.

a. Sturdy fixtures, of a noninstitutional design, and securely fastened to floor and/or wall shall be used.

b. Tamperproof, push-button type faucets with limited flow should be used.

11. There should be no exposed plumbing, and traps and shut-off valves should be accessible behind locked doors outside the sleeping room.

12. The facility should be constructed with floor drains in all living and activity areas, and should be equipped with emergency water shut-off valves.

a. Drains should be so constructed as to reduce the problem of stoppage and permit stoppage to be pushed through without clogging.

b. All flow drains should be provided with tamperproof grills.

13. Sufficient light shall be provided by institutional-type fixtures with indestructible lenses or protective lens covers. Fixtures, switches, and conduits should be tamperproof.

a. Lighting in an individual room should be sufficient to permit easy reading by a person with normal vision.

b. All light switches for sleeping rooms should be located in the corridor next to the door of each room. Switches may be provided for central as well as individual control outside each room.

c. Night lighting shall be incorporated into the primary illuminating fixture or provided in separate installation. Sleeping rooms should be equipped with night lights that are sufficient for night supervision but are not so bright as to interfere with children sleeping.

14. Separate and adequate showers shall be provided for both sexes, with not less than one shower for each five children.

a. The interior should be so constructed and arranged to give maximum visual control.

b. All hot water, for showers and basins alike, shall be thermostatically controlled.

c. At least one wash basin shall be provided for each five children.

d. At least one bathtub shall be provided.

15. A minimum of one toilet for each five children shall be provided in each living unit.

16. A minimum of one toilet shall be provided in the day area that allows reasonable accessibility to youths. Separate facilities should be provided for each sex.

17. There shall be a drinking fountain accessible to residents and staff.

18. An adequate laundry facility shall be available.

19. An adequate facility for food preparation and serving shall be available.

20. An adequate system of heating, ventilation, and air conditioning shall be provided. Component parts shall be inaccessible to children, and exposed vents shall be tamperproof. The system shall be installed with consideration for the safety and security of children and staff.

21. Educational, Dining, and Activity Areas.

a. A combination activity area shall be provided to include not less than one hundred square feet of inside area per rated capacity.

b. At least thirty square feet of clear space per rated capacity shall be provided in the day room on each living unit.

c. Open and unprotected glass expanses should not be included in the construction of these areas.

d. A room shall be provided for educational purposes.

22. Administrative/Professional Services Areas.

a. There shall be at least one control center for admissions, discharges, day and night security, visitor control, and principal administration of the facility. The control center shall provide for visual supervision over an interview room and visiting area and shall be located within the security perimeter but completely separate from juvenile living quarters.

b. Separate, secure areas shall be available for health care programs, interviewing, counseling, and visiting, although one single room may be equipped as a multipurpose room to provide two or more of the above needs.

c. The interview and visiting rooms should allow privacy, yet permit visual supervision by the staff.

23. Service and Maintenance Areas.

a. Separate areas for mechanical equipment shall be provided in a location inaccessible to the children.

b. Adequate and properly located storage 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.

c. Storage space for personal clothing shall be provided.

d. A separate locked cabinet/safe for money and other valuables shall be provided.

e. A minimum allowance of one hundred cubic feet of space per child shall be provided for storage.

f. All service and maintenance areas shall be provided with locking devices and shall be inaccessible to the children.

D. Security.

1. All areas in which detained children will be present shall be secure. The entire facility, including space not generally used by children, should be secure.

2. There shall be a system to physically count detained juveniles.

3. There shall be a procedure for notifying appropriate staff of increases and decreases in the population, on a shift by shift basis.

4. Written policy and procedure shall provide for daily inspection and maintenance of all security devices.

5. Audio monitoring devices shall be installed and operative in sleeping, isolation, and all individual rooms. The intercom station shall be located in the control central area(s) where the principal telephone(s) is located.

6. All locks shall be tamperproof.

a. Each child's room should have an extra heavy commercial or specially designed lock without any opening on the inside of the door. Control of door latch and keyed dead bolt shall be from the outside only.

b. All individual room doors should have identical keys. Other areas should be keyed alike under a master key system.

7. Doors for individual rooms shall have a view panel that allows maximum visual supervision of all parts of the room and shall be constructed in accordance with the provisions of Section IX, Part C of these standards.

8. Windows shall be secure and constructed in accordance with the provisions of Section IX, Part C of these standards.

9. All exposed screwheads throughout shall be tamperproof and not be operable with a conventional screwdriver.

10. All furniture and furnishings to which children have access shall be durable and without ledges for hiding contraband. Bedroom furnishings shall be securely fastened to both floor and/or wall. Stainless steel or chrome finished mirrors, securely fastened to sleeping room walls, should be used. Individual rooms shall not contain closets or lockers.

11. All fixtures and furnishings throughout the facility should be of institutional type with institutional hardware resistive to damage or destruction.

12. There shall be adequate outdoor lighting to expose all the grounds in the immediate vicinity of the building and the parking lots. This lighting shall be kept in working order at all times.

13. The outdoor area shall be enclosed by a secure fence without electronic or injurious devices, and of sufficient height to discourage ingress and/or egress.

E. Maintenance.

1. The detention facility shall be maintained in a clean and sanitary manner, in good repair, and kept free of hazards such as those created by any damaged or defective parts of the building.

2. The grounds shall be maintained in a clean and attractive manner, and shall be kept free of debris, rubbish, and hazards.

F. Equipment and Space Guide. Function and durability should be major considerations in all aspects of detention facility planning, including equipment and assignment of space.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

NOTICE OF INTENT

**Department of Revenue and Taxation
Sales Tax Section**

The Department of Revenue and Taxation, Sales Tax Section, intends to promulgate the following sales tax tables by virtue of its authority under Section 304 of Title 47 of the Louisiana Revised Statutes of 1950.

Interested persons may comment on the proposed tables, in writing, through September 3, 1979, at the following address: Mr. R. Charles Bradley, Jr., Manager, Department of Revenue and Taxation, Sales Tax Section, Box 201, Baton Rouge, Louisiana 70821.

Tax Collection Amount		Rate	Rate
Rate		2.7%	5.7%
.01- .18	.00	.01- .10	
.19- .55	.01	.11- .26	
.56- .92	.02	.27- .43	
.93-1.29	.03	.44- .61	
1.30-1.66	.04	.62- .78	
1.67-2.03	.05	.79- .96	
2.04-2.40	.06	.97-1.14	
2.41-2.77	.07	1.15-1.31	
2.78-3.14	.08	1.32-1.49	
3.15-3.51	.09	1.50-1.66	
3.52-3.88	.10	1.67-1.84	
3.89-4.25	.11	1.85-2.01	
4.26-4.62	.12	2.02-2.19	
4.63-4.99	.13	2.20-2.36	
5.00-5.37	.14	2.37-2.54	
5.38-5.74	.15	2.55-2.71	
5.75-6.11	.16	2.72-2.89	
6.12-6.48	.17	2.90-3.07	
6.49-6.85	.18	3.08-3.24	
6.86-7.22	.19	3.25-3.42	
7.23-7.59	.20	3.43-3.59	
7.60-7.96	.21	3.60-3.77	
7.97-8.33	.22	3.78-3.94	
8.34-8.70	.23	3.95-4.12	
8.71-9.07	.24	4.13-4.29	
9.08-9.44	.25	4.30-4.47	
9.45-9.81	.26	4.48-4.64	
9.82-10.18	.27	4.65-4.82	
For each additional \$10.00 add	.28	4.83-4.99	
27 cents	.29	5.00-5.17	
	.30	5.18-5.35	

Tax Collection Amount

	Rate
	5.7%
.31	5.36-5.52
.32	5.53-5.70
.33	5.71-5.87
.34	5.88-6.05
.35	6.06-6.22
.36	6.23-6.40
.37	6.41-6.57
.38	6.58-6.75
.39	6.76-6.92
.40	6.93-7.10
.41	7.11-7.28
.42	7.29-7.45
.43	7.46-7.63
.44	7.64-7.80
.45	7.81-7.98
.46	7.99-8.15
.47	8.16-8.33
.48	8.34-8.50
.49	8.51-8.68
.50	8.69-8.85
.51	8.86-9.03
.52	9.04-9.21
.53	9.22-9.38
.54	9.39-9.56
.55	9.57-9.73
.56	9.74-9.91
.57	9.92-10.08

For each additional \$10.00 add 57 cents

R. Charles Bradley, Manager
Sales Tax Section

NOTICE OF INTENT

**Department of Revenue and Taxation
Sales Tax Section**

The Department of Revenue and Taxation, Sales Tax Section, intends to promulgate the following rules by virtue of its authority under Section 305.22 of the Louisiana Revised Statutes of 1950.

Interested persons may comment on the proposed rules, in writing, through September 3, 1979, at the following address: Mr. R. Charles Bradley, Jr., Manager, Department of Revenue and Taxation, Sales Tax Section, Box 201, Baton Rouge, Louisiana 70821.

Proposed Regulation

Article 47:305.22. Exclusions and exemptions; certain self-propelled vehicles removed from inventory

In the determination of whether or not a sales or use tax is due upon items of equipment described in R.S. 47:305.22, the following criteria shall be used:

First Test: Any company which derives from rentals more than twenty-five percent of its gross income in any calendar (or fiscal) year would be deemed, for that calendar (or fiscal) year, to be in the true "leasing business," and not leasing for the purpose of promoting sales. The result would be that such a company would have to pay a use tax on all of the leased equipment owned by that company, regardless of the length (or the shortness) of the leases. Income produced from rentals of equipment where the lessee has

the option to purchase shall be included in the "sales" factor for the purpose of this computation. In the event the option is not exercised the income so produced shall revert to the "lease" factor.

Note that a company which meets this "First Test" would have to pay a "use" tax on all leased equipment, regardless of the term of the leases (however short), and regardless of the number of successive leases of any particular item of equipment.

Of course, where such a company made an outright sale, where there was no preceding lease, there would be no "use" tax on the equipment thus sold.

Second Test: Even if a company does not meet the "First Test," it still must pay the use tax on any item of equipment that is held in inventory and leased out (and not actually sold) for a period of thirty months or more. And such an item would be subject to the use tax regardless of the "intent" of the lessor, and regardless of the number of lessees.

Third Test: An Exception. As an exception to all of the foregoing, in each case where a lease of an item of equipment exists, and where the lessee has (from the beginning of this contract) an option to purchase, and where the lessee (in fact) has exercised such option, the transaction would be regarded as a sale from the beginning, so that there would be only one three percent tax due on the entire purchase price, under R.S. 47:302. Any rental tax moneys paid during the lease would be credited against the single three percent tax on the transaction.

Riley F. Boudreaux, Jr., General Counsel
Department of Revenue and Taxation

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

The Louisiana Wildlife and Fisheries Commission will hold a public meeting on Tuesday, September 25, 1979, at 10:00 a.m., at the Wildlife and Fisheries Building, 400 Royal Street, New Orleans, to discuss the prohibition of salt water netting, trawls and seines of any types on the beach side of Grand Isle to a distance of 500 feet into the Gulf of Mexico.

Interested persons may submit their views to the Commission, in writing, to Colonel Vincent Purpera, Chief, Enforcement Division, Department of Wildlife and Fisheries, 400 Royal Street, New Orleans, Louisiana 70130.

Persons wishing to make oral comments will be given ample opportunity at the meeting.

At this meeting, the Wildlife and Fisheries Commission will also discuss and/or set menhaden season in inside waters.

Interested persons may submit their views to the Commission, in writing, to Mr. Harry Schafer, Chief, Seafood Division, Department of Wildlife and Fisheries, 400 Royal Street, New Orleans, Louisiana 70130.

Persons wishing to make oral comments will be permitted to do so at the meeting.

J. Burton Angelle, Secretary
Department of Wildlife and Fisheries

NOTICE OF INTENT

Department of Transportation and Development Board of Registration for Professional Engineers and Land Surveyors

The Louisiana State Board of Registration for Professional Engineers and Land Surveyors, at its meeting on September 25, 1979, proposes to amend its rules as follows:

Add LAC 19-3:2.13 the fee for a temporary permit is thirty-five dollars.

Remove from LAC 19-3:6.20 the amount specified for the fee for a temporary permit.

Revise LAC 19-3:5.18 such that weighted grades for the examinations in the principles and practice of engineering will be assigned only to applicants with more than twelve years of satisfactory experience, including all experience credit for education.

Revise LAC 19-3:1.1 to indicate that a person who gives testimony in a court of law as an engineering expert or a land surveying expert is practicing engineering or land surveying and must be registered.

The meeting will be held in the Board's offices, 1055 St. Charles Avenue, Suite 415, New Orleans, Louisiana and will begin at 10:00 a.m. Interested persons may submit written comments to Mr. Daniel H. Vliet, Executive Secretary, at the above address through September 15, 1979.

Daniel H. Vliet, Executive Secretary
Board of Registration for
Professional Engineers and Land Surveyors

Legislation

Administrative Procedures Act R.S. 49:951-968

(Editor's Note: This version of the Administrative Procedures Act incorporates the changes made by Act 578 of the 1979 Regular Session. The amended portions are Sections 951, 952, and 966 of Title 49 of the Revised Statutes of 1950. The significant changes are:

1. Political subdivisions of the state (e.g. cities, school boards, police juries, etc.) are explicitly exempted from the provisions of the Act.

2. The courts are instructed to take judicial cognizance of the Louisiana Register.

3. The concept that the Louisiana Register is the sole agent for publication of Notices of Intent was reinforced.

You are urged to read the 1979 Administrative Procedures Act yourself rather than rely solely upon the above enumeration of changes. The new version went into effect on July 17, 1979. If you have questions about the Act, call the Department of the State Register at (504) 342-5015. For agencies on the State's Centrex-Linc telephone system, the State Register's Linc number is 421-5015.

§ 951. Definitions

As used in this Chapter:

(1) "Adjudication" means agency process for the formulation of a decision or order.

(2) "Agency" means each state board, commission, department, agency, officer, or other entity which makes rules, regulations, or policy, or formulates, or issues decisions or orders pursuant to, or as directed by, or in implementation of the Constitution or laws of the United States or the Constitution and statutes of Louisiana, except the Legislature or any branch, committee, or officer thereof, any political subdivision, as defined in Article VI, Section 44 of the Louisiana Constitution, and any board, commission, department, agency, officer, or other entity thereof, and the courts.

(3) "Decision" or "order" means the whole or any part of the final disposition (whether affirmative, negative, injunctive, or declaratory in form) of any agency, in any matter other than rulemaking, required by constitution or statute to be determined on the record after notice and opportunity for an agency hearing, and including nonrevenue licensing, when the grant, denial, or renewal of a license is required by constitution or statute to be preceded by notice and opportunity for hearing.

(4) "Party" means each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party.

(5) "Person" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than an agency.

(6) "Rule" means each agency statement, guide, or requirement for conduct or action, exclusive of those regulating only the internal management of the agency, which has general applicability and the effect of implementing or interpreting substantive law or policy, or which prescribes the procedure or practice requirements of the agency. "Rule" includes, but is not limited to, any provision for fees, fines, prices or penalties, the attainment or loss of preferential status, and the criteria or qualifications for licensure or certification by an agency. A rule may be of general applicability even though it may not apply to the entire state, provided its form is general and it is capable of being applied to every member of an identifiable class. The term includes the amendment or repeal of an existing rule but does not include declaratory rulings or orders.

(7) "Rulemaking" means the process employed by an agency for the formulation of a rule. The fact that a statement of policy or an interpretation of a statute is made in the decision of a case or in an agency decision upon or disposition of a particular matter as applied to a specific set of facts involved does not render the same a rule within this definition or constitute specific adoption thereof by the agency so as to be required to be issued and filed as provided in this Subsection.

§ 952. Public information; adoption of rules; availability of rules and orders

Each agency which engages in rulemaking shall:

(1) File with the Department of the State Register a description of its organization, stating the general course and method of its operations and the methods whereby the public may obtain information or make submissions or requests.

(2) Adopt rules of practice setting forth the nature and requirements of all formal and informal procedures available.

(3) Make available for public inspection all rules and all other written statements of policy or interpretations formulated, adopted, or used by the agency in the discharge of its functions.

(4) Make available for public inspection all final orders, decisions, and opinions.

§ 953. Procedure for adoption of rules

A. Prior to the adoption, amendment, or repeal of any rule, the agency shall:

(1) Give at least fifteen days notice of its intended action. The notice shall include a statement of either the terms or substance of the intended action or a description of the subjects and issues

involved, the name of the person within the agency who has the responsibility for responding to inquiries about the intended action, and the time when, the place where, and the manner in which interested persons may present their views thereon. The notice shall be published at least once in the Louisiana Register. Notice of the intent of an agency to adopt, amend or repeal any rule shall be mailed to all persons who have made timely request of the agency for such notice, which notice shall be mailed at the earliest possible date, and in no case later than the date when the proposed rule change is submitted to the Louisiana Register. For the purpose of timely notice as required by this paragraph, the date of notice shall be deemed to be the date of publication of the issue of the Louisiana Register in which the notice appears, such publication date to be the publication date as stated on the outside cover or the first page of said issue.

(2) Afford all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing. In case of substantive rules, opportunity for oral presentation or argument must be granted if requested by twenty-five persons, by a governmental subdivision or agency, by an association having not less than twenty-five members, or by a committee of either house of the Legislature to which the proposed rule change has been referred under the provisions of Section 968 of this Title. The agency shall consider fully all written and oral submissions respecting the proposed rule. Upon adoption of a rule, the agency, if requested to do so by an interested person either prior to adoption or within thirty days thereafter, shall issue a concise statement of the principal reasons for and against its adoption.

B. If an agency finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule upon fewer than fifteen days notice and within five days of adoption states in writing, to the Governor of the State of Louisiana, the Attorney General of Louisiana, and the Department of the State Register, its reasons for that finding, it may proceed without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable, to adopt an emergency rule. Notice of the emergency rule shall be mailed to all persons who have made timely request of the agency for notice of rule changes, which notice shall be mailed within five days of adoption of the emergency rule. Any emergency rule shall be published in full in the Louisiana Register with the reasons for the finding of the emergency submitted by the agency.

C. An interested person may petition an agency requesting the adoption, amendment, or repeal of a rule. Each agency shall prescribe by rule the form for petitions and the procedure for their submission, consideration, and disposition. Within ninety days after submission of a petition, the agency shall either deny the petition in writing, stating reasons for the denial, or shall initiate rulemaking proceedings in accordance with this Chapter.

D. When a rule is adopted, amended, or repealed in compliance with federal regulations, the adopting agency's notice of intent and the actual text of the rule as published in the Louisiana Register, must be accompanied by a citation of the Federal Register issue in which the determining federal regulation is published, such citation to be by volume, number, date, and page number.

§ 954. Filing; taking effect of rules

A. No rule adopted on or after January 1, 1975, is valid unless adopted in substantial compliance with this Chapter. Each rulemaking agency shall file a certified copy of its rules with the Department of the State Register. No rule, whether adopted before, on, or after January 1, 1975, shall be effective, nor may it be enforced, unless it has been properly filed with the Department of the State Register. No rule, adopted on or after November 1, 1978, shall be effective, nor may it be enforced, unless prior to its adoption a report relative to the proposed rule change is submitted to the appropriate standing committees of the Legislature or to the

presiding officers of the respective houses as provided in R.S. 49:968. The inadvertent failure to mail notice to persons making request for mail notice, as provided in R.S. 49:953, shall not invalidate any rule adopted hereunder. A proceeding under R.S. 49:963 to contest any rule on the grounds of noncompliance with the procedures for adoption, as given in this Chapter, must be commenced within two years from the date upon which the rule becomes effective.

B. Each rule hereafter adopted shall be effective upon its publication in the Louisiana Register, said publication to be subsequent to the act of adoption, except that:

(1) If a later date is required by statute or specified in the rule, the later day is the effective date.

(2) Subject to applicable constitutional or statutory provisions, an emergency rule shall become effective on the date of its adoption, or on a date specified by the agency to be not more than sixty days future from the date of its adoption, provided written notice is given within five days of the date of adoption to the Governor of Louisiana, the Attorney General of Louisiana and the Department of the State Register as provided in R.S. 49:953B. Such emergency rule shall not remain in effect beyond the publication date of the Louisiana Register published in the month following the month in which the emergency rule is adopted, unless such rule and the reasons for adoption thereof are published in said issue; provided, however, that any emergency rule so published shall not be effective for a period longer than one hundred twenty days, but the adoption of an identical rule under paragraphs (1) and (2) of Subsection A of R.S. 49:953 is not precluded. The agency shall take appropriate measures to make emergency rules known to the persons who may be affected by them.

§ 954.1. Louisiana Administrative Code and Louisiana Register; publication; distribution; copies; index; interagency rules

A. The Department of the State Register shall compile, index, and publish a publication to be known as the Louisiana Administrative Code, containing all effective rules adopted by each agency subject to the provisions of this Chapter, and all boards, commissions, agencies and departments of the Executive Branch, notwithstanding any other provision of law to the contrary. The Louisiana Administrative Code shall also contain all executive orders issued by the Governor on or after May 9, 1972, which are in effect at the time the Louisiana Administrative Code is published. The Louisiana Administrative Code shall be supplemented or revised as often as necessary and at least once every two years.

B. The Department of the State Register shall publish at least once each month a bulletin to be known as the Louisiana Register which shall set forth the text of all rules filed during the preceding month, such notices as shall have been submitted pursuant to this Chapter and all executive orders of the Governor issued during the preceding month. In addition, the Department of the State Register may include in the Louisiana Register digests or summaries of new or proposed rules; however, if any conflict should arise between the written digest of a rule and the rule, the rule shall take precedence over the written digest.

C. The Department of the State Register may omit from the Louisiana Register or Louisiana Administrative Code any rule the publication of which would be unduly cumbersome, expensive, or otherwise inexpedient, if the rule in printed or processed form is made available on application to the adopting agency, and if the Louisiana Register or Louisiana Administrative Code, as the case may be, contains a notice stating the general subject matter of the omitted rule and stating how a copy thereof may be obtained.

D. One copy, or multiple copies if practical, of the Louisiana Register and Louisiana Administrative Code shall be made available upon request to each agency of the state free of charge and to other persons at prices fixed by the Department of the State

Register to recover all or a portion of the mailing and publication costs.

E. The Department of the State Register shall prescribe a uniform system of indexing, numbering, arrangement of text and citation of authority and history notes for the Louisiana Administrative Code.

F. The Department of the State Register may publish advertisements for bids and other legal notices in the Louisiana Register in addition to other publications thereof required by law.

G. The Department of the State Register is hereby authorized and empowered to promulgate and enforce interagency rules for the implementation and administration of this Section.

H. The Governor shall be the publisher of the Louisiana Administrative Code and Louisiana Register provided for through the Department of the State Register.

§ 955. Adjudication; notice; hearing; records

A. In adjudication, all parties who do not waive their rights shall be afforded an opportunity for hearing after reasonable notice.

B. The notice shall include:

(1) A statement of the time, place, and nature of the hearing.

(2) A statement of the legal authority and jurisdiction under which the hearing is to be held.

(3) A reference to the particular sections of the statutes and rules involved.

(4) A short and plain statement of the matters asserted.

If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished.

C. Opportunity shall be afforded all parties to respond and present evidence on all issues of fact involved and argument on all issues of law and policy involved and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

D. Unless precluded by law, informal disposition may be made of any case of adjudication by stipulation, agreed settlement, consent order, or default.

E. The record in a case of adjudication shall include:

(1) All pleadings, motions, intermediate rulings.

(2) Evidence received or considered or a resume thereof if not transcribed.

(3) A statement of matters officially noticed except matters so obvious that statement of them would serve no useful purpose.

(4) Offers of proof, objections, and rulings thereon.

(5) Proposed findings and exceptions.

(6) Any decision, opinion, or report by the officer presiding at the hearing.

F. The agency shall make a full transcript of all proceedings before it when the statute governing it requires it, and, in the absence of such requirement, shall, at the request of any party or person, have prepared and furnish him with a copy of the transcript or any part thereof upon payment of the cost thereof unless the governing statute or constitution provides that it shall be furnished without cost.

G. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

§ 956. Rules of evidence; official notice; oaths and affirmations; subpoenas; depositions and discovery

In adjudication proceedings:

(1) Agencies may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. They shall give effect to the rules of privilege recognized by law. Agencies may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and

shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

(2) All evidence, including records and documents in the possession of the agency of which it desires to avail itself, shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. In case of incorporation by reference, the materials so incorporated shall be available for examination by the parties before being received in evidence.

(3) Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material notice, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

(4) Any agency or its subordinate presiding officer conducting a proceeding subject to this Chapter shall have the power to administer oaths and affirmations, regulate the course of the hearings, set the time and place for continued hearings, fix the time for filing of briefs and other documents, and direct the parties to appear and confer to consider the simplification of the issues.

(5) Any agency or its subordinate presiding officer shall have power to sign and issue subpoenas in the name of the agency requiring attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence. No subpoena shall be issued until the party who wishes to subpoena the witness first deposits with the agency a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Witnesses subpoenaed to testify before an agency only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examinations, and to state the results thereof, shall receive such additional compensation from the party who wishes to subpoena such witness as may be fixed by the agency with reference to the value of the time employed and the degree of learning or skill required. Whenever any person summoned under this Section neglects or refuses to obey such summons, or to produce books, papers, records, or other data, or to give testimony, as required, the agency may apply to the judge of the district court for the district within which the person so summoned resides or is found, for an attachment against him as for a contempt. It shall be the duty of the judge to hear the application, and, if satisfactory proof is made, to issue an attachment, directed to some proper officer, for the arrest of such person, and upon his being brought before him, to proceed to a hearing of the case; and upon such hearing, the judge shall have power to make such order as he shall deem proper, not inconsistent with the law for the punishment of contempts, to enforce obedience to the requirements of the summons and to punish such person for his default or disobedience.

(6) The agency or a subordinate presiding officer or any party to a proceeding before it may take the depositions of witnesses, within or without the state, in the same manner as provided by law for the taking of depositions in civil actions in courts of record. Depositions so taken shall be admissible in any proceeding affected by this Chapter. The admission of such depositions may be objected to at the time of hearing and may be received in evidence or excluded from the evidence by the agency or presiding officer in accordance with the rules of evidence provided in this Chapter.

(7) An agency having power to conduct adjudication proceedings in accordance with this Chapter may adopt rules providing for

discovery to the extent and in the manner appropriate to its proceedings.

(8) Records and documents, in the possession of any agency or of any officer or employee thereof including any written conclusions drawn therefrom, which are deemed confidential and privileged shall not be made available for adjudication proceedings of that agency and shall not be subject to subpoena by any person or other state or federal agency.

Such records or documents shall only include any private contracts, geological and geophysical information and data, trade secrets and commercial or financial data, which are obtained by an agency through a voluntary agreement between the agency and any person, which said records and documents are designated as confidential and privileged by the parties when obtained, or records and documents which are specifically exempt from disclosure by statute.

Any violation of this prohibition shall be a waiver of governmental immunity from suit or damage resulting from any such disclosure.

§ 957. Examination of evidence by agency

When in an adjudication proceeding a majority of the officials of the agency who are to render the final decision have not heard the case or read the record, or the proposed order is not prepared by a member of the agency, the decision, if adverse to a party to the proceeding other than the agency itself, shall not be made final until a proposed order is served upon the parties, and an opportunity is afforded to each party adversely affected to file exceptions and present briefs and oral argument to the officials who are to render the decision. The proposed order shall be accompanied by a statement of the reasons therefor and of the disposition of each issue of fact or law necessary to the proposed order, prepared by the person who conducted the hearing or by one who has read the record. No sanction shall be imposed or order be issued except upon consideration of the whole record and as supported by and in accordance with the reliable, probative, and substantial evidence. The parties by written stipulation may waive, and the agency in the event there is no contest may eliminate, compliance with this Section.

§ 958. Decisions and orders

A final decision or order adverse to a party in an adjudication proceeding shall be in writing or stated in the record. A final decision shall include findings of fact and conclusions of law. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If, in accordance with agency rules, a party submitted proposed findings of fact, the decision shall include a ruling upon each proposed finding. Parties shall be notified either personally or by mail of any decision or order. Upon request, a copy of the decision or order shall be delivered or mailed forthwith to each party and to his attorney of record. The parties by written stipulation may waive, and the agency in the event there is no contest may eliminate, compliance with this Section.

§ 959. Rehearings

A. A decision or order in a case of adjudication shall be subject to rehearing, reopening, or reconsideration by the agency, within ten days from the date of its entry. The grounds for such action shall be either that:

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

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

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

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

B. The petition of a party for rehearing, reconsideration, or review, and the order of the agency granting it, shall set forth the grounds which justify such action. Nothing in this Section shall prevent rehearing, reopening or reconsideration of a matter by any agency in accordance with other statutory provisions applicable to such agency, or, at any time, on the ground of fraud practiced by the prevailing party or of procurement of the order by perjured testimony or fictitious evidence. On reconsideration, reopening, or rehearing, the matter may be heard by the agency, or it may be referred to a subordinate deciding officer. The hearing shall be confined to those grounds upon which the reconsideration, reopening, or rehearing was ordered. If an application for rehearing shall be timely filed, the period within which judicial review, under the applicable statute, must be sought, shall run from the final disposition of such application.

§ 960. Ex parte consultations and recusations

A. Unless required for the disposition of ex parte matters authorized by law, members or employees of an agency assigned to render a decision or to make findings of fact and conclusions of law in a case of adjudication noticed and docketed for hearing shall not communicate, directly or indirectly, in connection with any issue of fact or law, with any party or his representative, or with any officer, employee, or agent engaged in the performance of investigative, prosecuting, or advocating functions, except upon notice and opportunity for all parties to participate.

B. A subordinate deciding officer or agency member shall withdraw from any adjudicative proceeding in which he cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification of a subordinate deciding officer or agency member, on the ground of his inability to give a fair and impartial hearing, by filing an affidavit, promptly upon discovery of the alleged disqualification, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. The issue shall be determined promptly by the agency, or, if it affects a member or members of the agency, by the remaining members thereof, if a quorum. Upon the entry of an order of disqualification affecting a subordinate deciding officer, the agency shall assign another in his stead or shall conduct the hearing itself. Upon the disqualification of a member of an agency, the Governor immediately shall appoint a member pro tem to sit in place of the disqualified member in that proceeding. In further action, after the disqualification of a member of an agency, the provisions of R.S. 49:957 shall apply.

§ 961. Licenses

A. When the grant, denial or renewal of a license is required to be preceded by notice and opportunity for hearing, the provisions of this Chapter concerning adjudication shall apply.

B. When a licensee had made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license shall not expire until the application has been finally determined by the agency, and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

C. No revocation, suspension, annulment, or withdrawal of any license is lawful unless, prior to the institution of agency proceedings, the agency gives notice by mail to the licensee of facts or conduct which warrant the intended action, and the licensee is given an opportunity to show compliance with all lawful requirements for the retention of the license. If the agency finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for

revocation or other action. These proceedings shall be promptly instituted and determined.

§ 962. Judicial review of declaratory orders and rulings

Each agency shall provide by rule for the filing and prompt disposition of petitions for declaratory orders and rulings as to the applicability of any statutory provision or of any rule or order of the agency. Declaratory orders and rulings shall have the same status as agency decisions or orders in adjudicated cases.

§ 963. Judicial review of validity or applicability of rules

The validity or applicability of a rule may be determined in an action for declaratory judgment in the district court of the parish in which the agency is located. The court shall declare the rule invalid or inapplicable if it finds that it violates constitutional provisions or exceeds the statutory authority of the agency or was adopted without substantial compliance with required rulemaking procedures. The agency shall be made a party to the action. An action for a declaratory judgment under this Section may be brought only after the plaintiff has requested the agency to pass upon the validity or applicability of the rule in question and only upon a showing that review of the validity and applicability of the rule in conjunction with review of a final agency decision in a contested adjudicated case would not provide an adequate remedy and would inflict irreparable injury.

§ 964. Judicial review of adjudication

A. A person who is aggrieved by a final decision or order in an adjudication proceeding is entitled to judicial review under this Chapter whether or not he has applied to the agency for rehearing, without limiting, however, utilization of or the scope of judicial review available under other means of review, redress, relief, or trial de novo provided by law. A preliminary, procedural, or intermediate agency action or ruling is immediately reviewable if review of the final agency decision would not provide an adequate remedy and would inflict irreparable injury.

B. Proceedings for review may be instituted by filing a petition in the district court of the parish in which the agency is located within thirty days after mailing of notice of the final decision by the agency or, if a rehearing is requested, within thirty days after the decision thereon. Copies of the petition shall be served upon the agency and all parties of record.

C. The filing of the petition does not itself stay enforcement of the agency decision. The agency may grant, or the reviewing court may order, a stay upon appropriate terms.

D. Within thirty days after the service of the petition, or within further time allowed by the court, the agency shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review. By stipulation of all parties to the review proceedings, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent corrections or additions to the record.

E. If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the agency, the court may order that the additional evidence be taken before the agency upon conditions determined by the court. The agency may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.

F. The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before the agency, not shown in the record, proof thereon may be taken in the court. The court, upon request, shall hear oral argument and receive written briefs.

G. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (1) In violation of constitutional or statutory provisions;
- (2) In excess of the statutory authority of the agency;
- (3) Made upon unlawful procedure;
- (4) Affected by other error of law;
- (5) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or
- (6) Manifestly erroneous in view of the reliable, probative, and substantial evidence on the whole record. In the application of the rule, where the agency has the opportunity to judge of the credibility of witnesses by firsthand observation of demeanor on the witness stand and the reviewing court does not, due regard shall be given to the agency's determination of credibility issues.

§ 965. Appeals

An aggrieved party may obtain a review of any final judgment of the district court by appeal to the appropriate circuit court of appeal. The appeal shall be taken as in other civil cases.

§ 966. Construction and effect; judicial cognizance

A. Nothing in this Chapter shall be held to diminish the constitutional rights of any person or to limit or repeal additional requirements imposed by statute or otherwise recognized by law. Notwithstanding the foregoing, and except as provided in R.S. 49:967, any and all statutory requirements regarding the adoption or promulgation of rules other than those contained in Sections 953, 954, 954.1 of this Title are hereby superseded by the provisions of this Chapter and are repealed. Except as otherwise required by law, all requirements or privileges relating to evidence or procedure shall apply equally to agencies and persons. Every agency is granted all authority necessary to comply with the requirements of this Chapter through the issuance of rules or otherwise.

B. If any provision of this Chapter or the application thereof is held invalid, the remainder of this Chapter or other applications of such provision shall not be affected. No subsequent legislation shall be held to supersede or modify the provisions of this Chapter except to the extent that such legislation shall do so expressly.

C. The courts of this state shall take judicial cognizance of rules promulgated in the State Register under the provisions of this Chapter.

§ 967. Exemptions from provisions of [this] Chapter

Chapter 13 of Title 49 of the Louisiana Revised Statutes of 1950 shall not be applicable to the Board of Tax Appeals, the Department of Revenue and Taxation, and the Office of Employment Security, except that the provisions of R.S. 49:951(2), (4), (5), (6), and (7), 952, 953, 954, 954.1, and 968 shall be applicable to said department, office, and board. The provisions of R.S. 49:968F(4) shall not be applicable to any rule promulgated by the State Civil Service Commission or the Public Service Commission.

§ 968. Review of agency rules

A. It is the declared purpose of this Section to provide a procedure whereby the Legislature may review the exercise of rulemaking authority, an extension of the legislative lawmaking function, which it has delegated to state agencies.

B. Prior to the adoption, amendment, or repeal of any rule, the agency shall submit a report relative to such proposed rule change to the appropriate standing committees of the Legislature or the presiding officers of the respective houses as provided here. The

report shall be so submitted on the same day the notice of intended action is submitted to the Department of the State Register for publication in accordance with R.S. 49:953A(1).

(1) The Department of Commerce and all of the agencies made a part of it shall submit the report to the House Committee on Commerce and Senate Committee on Commerce.

(2) The Department of Urban and Community Affairs and all of the agencies made a part of it shall submit the report to the House Committee on Municipal and Parochial Affairs and the Senate Committee on Municipal and Parochial Affairs.

(3) The Department of Corrections and all of the agencies made a part of it shall submit the report to the House Committee on Administration of Criminal Justice and the Senate Committee on Judiciary, Section C.

(4) The Department of Culture, Recreation and Tourism and all of the agencies made a part of it shall submit the report to the House Committee on Commerce and the Senate Committee on Commerce.

(5) The Department of State and all of the agencies made a part of it shall submit the report to the House Committee on House and Governmental Affairs and the Senate Committee on Senate and Governmental Affairs.

(6) The Department of Labor and all of the agencies made a part of it shall submit the report to the House Committee on Labor and Industrial Relations and the Senate Committee on Labor and Industrial Relations.

(7) The Department of Transportation and Development and all of the agencies made a part of it shall submit the report to the House Committee on Transportation, Highways, and Public Works and the Senate Committee on Transportation, Highways, and Public Works.

(8) The Department of Elections and Registration and all of the agencies made a part of it shall submit the report to the House Committee on House and Governmental Affairs and the Senate Committee on Senate and Governmental Affairs.

(9) The Department of Justice and all of the agencies made a part of it shall submit the report to the House Committee on the Judiciary and the Senate Committee on the Judiciary, Section C.

(10) The Department of Civil Service and all of the agencies made a part of it shall submit the report to the House Committee on House and Governmental Affairs and the Senate Committee on Senate and Governmental Affairs.

(11) The Department of Revenue and Taxation and all of the agencies made a part of it shall submit the report to the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs.

(12) The Department of Natural Resources and all of the agencies made a part of it shall submit the report to the House Committee on Natural Resources and the Senate Committee on Natural Resources.

(13) The Department of Public Safety and all of the agencies made a part of it shall submit the report to the House Committee on the Judiciary and the Senate Committee on the Judiciary, Section A.

(14) The Department of Wildlife and Fisheries and all of the agencies made a part of it shall submit the report to the House Committee on Natural Resources and the Senate Committee on Natural Resources.

(15) The Department of Insurance and all of the agencies made a part of it shall submit the report to the House Committee on Commerce and the Senate Committee on Commerce.

(16) The Department of Treasury and all of the agencies made a part of it shall submit the report to the House Committee on Appropriations and the Senate Committee on Finance.

(17) The Department of Health and Human Resources and all of the agencies made a part of it shall submit the report to the

House Committee on Health and Welfare and the Senate Committee on Health and Welfare.

(18) The Department of Agriculture and all of the agencies made a part of it shall submit the report to the House Committee on Agriculture and the Senate Committee on Agriculture.

(19) The Department of Education and all of the agencies made a part of it shall submit the report to the House Committee on Education and the Senate Committee on Education.

(20) The Department of Public Service and all of the agencies made a part of it shall submit the report to the House Committee on Commerce and the Senate Committee on Commerce.

(21) The Office of the Governor and the Office of the Lieutenant Governor and all of the agencies within or part of either and any other agency for which provision is not otherwise made in this Subsection, shall submit the report to the Speaker of the House of Representatives and the President of the Senate, except that executive orders duly issued by the Governor and attested to by the Secretary of State are exempt from the provisions of this Chapter. The Speaker of the House of Representatives and the President of the Senate shall promptly forward the report to the appropriate standing committee of their respective houses.

C. The report, as provided for in Subsection B, shall contain:

(1) A copy of the rule as it is proposed for adoption, amendment, or repeal.

(2) A statement of the proposed action, that is, whether the rule is proposed for adoption, amendment, or repeal, a brief summary of the content of the rule if proposed for adoption or repeal, and a brief summary of the change in the rule if proposed for amendment.

(3) The specific citation of the enabling legislation purporting to authorize the adoption, amending, or repeal of the rule.

(4) A statement of the circumstances which require adoption, amending, or repeal of the rule.

D. The standing committees to which each report is submitted may meet to review the rule which is proposed for adoption, amendment, or repeal. The committees may meet jointly or separately or by appointing joint or separate subcommittees to conduct a hearing for such review. The purpose of the hearing shall be to review the rule which is proposed for adoption, amendment, or repeal to:

(1) Determine whether the rule change is in conformity with the intent and scope of the enabling legislation purporting to authorize the adoption thereof.

(2) Determine whether the rule change is in conformity with and not contrary to all applicable provisions of law and of the Constitution.

(3) Determine the advisability or relative merit of the proposed rule change and whether the rule is acceptable or unacceptable to the committee.

E. Each such determination shall be made by the respective committee of each house individually and shall require the favorable vote of a majority of the membership of the committee. The committee vote on any determination may be taken either during a meeting or by mail ballot.

F. Each standing committee to which a report is submitted may submit a report of its determination made as provided in Subsection C to the agency which proposed the rule. This report shall contain:

(1) A copy of the proposed rule.

(2) A summary of the determinations of the committee made in accordance with this Section.

(3) A statement of the reasons why the standing committee has found the rule acceptable or unacceptable.

(4) If a committee having jurisdiction as provided in this Section determines that a proposed rule change is unacceptable, the committee shall provide a written report which contains the

reasons therefor. Such report shall be delivered to the Governor. The Governor shall have five days in which to disapprove the action taken by the committee. If the action of the committee is not disapproved by the Governor within five calendar days, from the day the committee report is delivered to him, such proposed rule change shall not be adopted by the agency until such proposed rule has been changed or modified and has been found acceptable by the committee, or has been approved by the Legislature by concurrent resolution. If, however, the committee makes no determination with respect to a proposed rule change prior to the time when the agency may adopt such proposed rule change as provided in R.S. 49:953, or if the Governor disapproves the action by the committee as provided herein, the proposed rule change may be adopted.

G. The report by the standing committee, if submitted to the agency proposing the rule, shall be submitted to the agency in accordance with the provisions of R.S. 49:953 for the submission of oral presentation or argument and subsequently shall be published in the State Register. Publication of a report may be omitted from the Louisiana Register which would be unduly cumbersome, expensive, or otherwise inexpedient, if the Louisiana Register contains a notice stating the general subject matter of the omitted report and stating how a copy thereof may be obtained. The report may request a hearing in accordance with the provisions of R.S. 49:953A(2).

H. Each year, thirty days prior to the beginning of the Regular Session of the Legislature, each agency which has proposed the adoption, amendment, or repeal of any rule during the previous year, shall submit a report to the appropriate committees as provided for in Subsection B of this Section. This report shall contain:

(1) All of the information required by Subsection A with respect to all rules proposed for adoption, amendment, or repeal.

(2) A summary of all data, views, or arguments received by the agency concerning the rule change pursuant to R.S. 49:953 and this Section.

(3) A statement of the action taken by the agency with respect to adoption, amendment, or repeal of each such rule.

I. After submission of the report to the standing committee, a public hearing may be held by the committee for the purpose of reviewing the report with representatives of the proposing agency.

J. No later than the second legislative day of the Regular Session of the Legislature, any standing committee to which opinion rules have been submitted may submit a report to the Legislature. This report shall contain a summary of all committee action with respect to agency rules referred to the committee and of public hearings held by the committee pursuant to this Section. The report shall also contain any recommendations of the committee, for statutory changes in statutes concerning the agency, particularly in statutes authorizing the making and promulgation of rules by the agency.

Potpourri

Department of Labor

Pursuant to Act 664 of the Regular Session of the 1974 Louisiana Legislature and Act 583 of the Regular Session of the 1975 Louisiana Legislature, the state's average weekly wage upon which both the maximum unemployment compensation weekly

benefit amount and the maximum workmen's compensation weekly benefit amounts will be based effective September 1, 1979, has been determined by the Louisiana Department of Labor to be \$222.08.

Thomas M. Lockwood, Secretary
Department of Labor

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