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This public document is published in accordance with R.S. 49:954.I. The publication date for this issue of the *Louisiana Register* is May 20, 2023. The Office of the State Register is the official state entity for all certified copies of the *Louisiana Register* and the content contained herein.

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Executive Orders

EXECUTIVE ORDER JBE 23-7

Flags at Half-Staff—Richard Phillip Ieyoub, Sr.

WHEREAS, Richard Phillip Ieyoub, Sr., a distinguished citizen and public servant, died on Monday, April 10, 2023, at the age of 78;

WHEREAS, he is survived by his loving wife Caprice Brown Ieyoub; and seven children, Amy, Nicole, Khoury, Anna, Brennan, Richard, Jr. (“Phillip”), and Christian;

WHEREAS, born to a Lebanese immigrant family on August 11, 1944, in Lake Charles, Louisiana, Richard Ieyoub graduated from McNeese State University in 1968 and earned his juris doctorate in 1972 from the Louisiana State University Law Center;

WHEREAS, upon becoming an attorney, he quickly entered public service, serving as a special prosecutor in the Louisiana Attorney General’s office;

WHEREAS, Ieyoub served the people of Calcasieu Parish as District Attorney from 1984-1992;

WHEREAS, in 1991, the people of Louisiana elected him to serve as the state’s 42nd Attorney General, and he served for three terms in that position, from 1992-2004;

WHEREAS, among his many accomplishments as Attorney General, Ieyoub brought accountability to the Tobacco industry, spearheading a campaign that resulted in a landmark settlement which secured \$4.6 billion in funds to the state for education and healthcare;

WHEREAS, he also created the cutting-edge High Technology Crime Unit within the Louisiana Department of Justice, establishing the first computer forensic center in the state, which today is responsible for thousands of arrests and successful prosecutions of child exploitation;

WHEREAS, in 2016, Governor John Bel Edwards appointed Ieyoub to serve as Louisiana’s Commissioner of

Conservation, in which position he served regulating the state’s oil and gas industry until his death;

WHEREAS, during his long and storied career in public service, Ieyoub worked tirelessly to protect the rights of Louisiana citizens, advance the cause of justice, and champion the rule of law; and he demonstrated unwavering commitment to his community and a deep love for the people of Louisiana, always striving to make our great state a better place to live and work; and

WHEREAS, Richard Phillip Ieyoub, Sr., lived a life of tremendous faith, integrity, and honor, and his tireless leadership as a public servant to the people of the state of Louisiana will long be remembered.

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

SECTION 1: As an expression of respect and to honor Richard P. Ieyoub, Sr., the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol and all state buildings from sunrise until sunset on Friday, April 14, 2023.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset on Friday, April 14, 2023.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana on this 12th day of April, 2023.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
R. Kyle Ardoin
Secretary of State
2305#062

Emergency Rules

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Foreign Language
(LAC 28: CXV.2345 and 2352; LXXIX.2317 and 2323)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education proposes to amend LAC 28: CXV. *Bulletin 741—Louisiana Handbook for School Administrators* and LAC 28: LXXIX. *Bulletin 741(Nonpublic)—Louisiana Handbook for Nonpublic School Administrators*. The revisions establish the effective date for courses for foreign language credit to align with TOPS eligibility requirements. The revisions clarify that AP Computer Science A, Computer Science, and Computer Coding as a Foreign Language may be used as a foreign language credit beginning with students graduating during or after the 2026-2027 school year. This Declaration of Emergency, effective April 20, 2023, is for a period of 180 days from adoption, or until finally adopted as Rule.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction Subchapter B. Academic Programs of Study §2345. Foreign Languages

A. The foreign language course offerings shall be as follows.

Course Title(s)	Units

Cambridge AICE—AS (Honors): Japanese	1
AP Computer Science A (effective for students graduating during or after 2026-2027)	1
Computer Science (effective for students graduating during or after 2026-2027)	1
Computer Coding as a Foreign Language I, II (effective for students graduating during or after 2026-2027)	1 each

B. - B.6. ...

C. AP Computer Science A may be used as either an elective or math credit for students graduating prior to the 2026-2027 school year.

1. For students graduating during or after the 2026-2027 school year:

a. AP Computer Science A may be used as either a foreign language, elective, or math credit.

b. Computer Science and Computer Coding as a Foreign Language courses may be used as either a foreign language or elective credit.

D. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 273, and R.S. 17:284.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1295 (June 2005),

amended LR 36:1996 (September 2010), LR 38:759 (March 2012), LR 38:2364 (September 2012), LR 39:2220 (August 2013), LR 40:998 (May 2014), LR 40:2527 (December 2014), LR 43:2133 (November 2017), LR 43:2484 (December 2017), LR 45:1455, (October 2019), LR 49:

§2353. Mathematics

A. The mathematics course offerings for the college diploma shall be as follows.

1. AP Computer Science A may be used as either a math or elective credit for students graduating prior to the 2026-2027 school year.

2. For students graduating during or after the 2026-2027 school year, AP Computer Science A may be used as either a foreign language, math, or elective credit.

B. ...

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7 and 17:24.4

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1296 (June 2005), amended LR 33:2605 (December 2007), LR 34:1609 (August 2008), LR 35:2322 (November 2009), LR 36:1493 (July 2010), LR 38:760 (March 2012), LR 40:999 (May 2014), LR 40:2527 (December 2014), LR 42:1063 (July 2016), LR 43:2134 (November 2017), LR 44:1868 (October 2018), LR 49:

Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators Chapter 23. High School Program of Studies §2317. Foreign Languages

A. The foreign language course offerings shall be as follows.

Course Title	Unit(s)

Cambridge AICE—AS (Honors): Japanese	1
AP Computer Science A (effective for students graduating during or after 2026-2027)	1
Computer Science (effective for students graduating during or after 2026-2027)	1
Computer Coding as a Foreign Language I, II (effective for students graduating during or after 2026-2027)	1 each

B. AP Computer Science A may be used as either a math or elective credit for students graduating prior to the 2026-2027 school year.

1. For students graduating during or after the 2026-2027 school year and beyond:

a. AP Computer Science A may be used as either a math, elective, or foreign language credit.

b. Computer Science and Computer Coding as a Foreign Language courses may be used as an elective or foreign language credit.

C. - C.1. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2354 (November 2003), amended LR 31:3086 (December 2005), LR 38:770 (March 2012), LR 40:1685 (September 2014), LR 40:2538 (December 2014), LR 45:1458 (October 2019), LR 49:

§2323. Mathematics

A. ...

* * *

B. ...

C. AP Computer Science A may be used as either a math or elective credit for students graduating prior to the 2026-2027 school year.

D. For students graduating during or after the 2026-2027 school year, AP Computer Science A may be used as either a math, elective, or foreign language credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.1, and R.S. 44:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2354 (November 2003), amended LR 30:2776 (December 2004), LR 31:3086 (December 2005), LR 34:2101 (October 2008), LR 36:2849 (December 2010), LR 38:771 (March 2012), LR 39:1449 (June 2013), LR 40:1685 (September 2014), LR 40:2538 (December 2014), LR 42:1064 (July 2016), LR 49:

Dr. Holly Boffy
President

2305#003

DECLARATION OF EMERGENCY

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

**Associations' Duties and Obligations
(LAC 35:III.Chapter 57)**

In accordance with the emergency provisions of the Administrative Procedures Act, R.S. 49:953.1, the Racing Commission has amended LAC 35:III.Chapter 57. This action has been deemed necessary by the Racing Commission to prevent imminent peril to the public health, safety, and welfare by establishing the administrative rules for minimum standards of facilities and infrastructure investments for racetracks in fulfillment of the Legislature's mandate to the Racing Commission "to encourage forceful and honest statewide control of horse racing for the public health, safety, and welfare by safeguarding the people of this state against corrupt, incompetent, dishonest and unprincipled horse racing practices" and "[t]o institute and maintain a program to encourage and permit development of the business of horse racing with pari-mutual wagering thereon on a higher plane." R.S. 4:141(A) and (A)(1).

All in fulfillment of the Legislature's mandate for the Racing Commission to "institute and maintain a regulatory program for the business of racing horses, which program assures the protection of public health, safety and welfare, vesting with the commission forceful statewide control of horse racing with full powers to prescribe rules and regulations and conditions under which all horse racing is conducted with wagering upon the result thereof with the state." R.S. 4:141(A)(3).

This emergency adoption establishes the initial administrative Rule for minimum standards of facilities and infrastructure investments for racetracks in accordance with the provisions established in Act 530 of the 2022 Regular Session of the Louisiana Legislature. This Emergency Rule rescinds and replaces the previous emergency adoption of LAC 35:III.Chapter 57. This Emergency Rule shall become effective April 30, 2023 and shall remain in effect for a period of 180 days from adoption, or until finally adopted as Rule.

**Title 35
HORSE RACING**

**Part III. Personnel, Registration and Licensing
Chapter 57. Associations' Duties and Obligations
§5705. Security of Racetrack Premises**

A. The stable area of the premises of every association shall be enclosed with a fence, the type and construction of the fence to be subject to the approval of the commission. The association shall maintain a 24-hour guard at any opening of the fence during the horse race meeting.

B. An association must maintain adequate staffing of security officers on backside to:

1. patrol the backside;
2. check every vehicle coming into the backside for commission-granted licenses; and
3. check every horse trailer for the names of horses entering and exiting the backside.

C. An association must provide security guards to be present in the jockeys' room during live racing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:434 (December 1976), amended LR 3:30 (January 1977), LR 4:277 (August 1978), amended by the Office of the Governor, Division of Administration, Racing Commission LR 48:

§5706. Barns on Backside of Racetrack

A. An association shall ensure that all barns are kept in good repair and are kept clean by the licensed occupants.

1. Barn buildings, fences, bathrooms, and outdoor and indoor lighting shall be kept in good working order.

2. Each barn, including the receiving barn, must have a hot and cold water supply available and have ventilation proper for the housing of horses.

B. Any new barns, additions, or expansions built by a licensed association after the amendment of this Rule shall ensure that the individual box stall shall have a minimum dimensions of 12 feet by 12 feet and if constructed of concrete walls, they must be woodlined on the interior up a minimum of 4 feet from the ground or otherwise be insulated for the protection of the stabled horse.

C. An association shall provide an adequate area for the placement of manure removed from the stalls. All manure storage and removal shall be conducted in compliance with the rules and regulations set forth by the Department of Environmental Quality. Nothing in the Rule is to supersede any requirements set forth by the Department of Environmental Quality.

D. An association must provide the minimum number of total stalls, as specified by the commission by majority vote, on its backside in good, working condition to house horses for their assigned racing dates.

E. The commission shall send a representative to each racetrack annually to assure that upkeep of all barns, both exterior and interior, is maintained. This shall include, but not be limited to, upkeep of:

1. stalls;
2. restroom facilities;
3. tack rooms;
4. feed rooms;
5. living quarters;
6. horse paths;
7. walking wheels; and
8. exterior barn paint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 44:913 (May 2018), amended LR 48:

§5740. Backside Internet Access

A. An association shall provide access to wireless internet on the backside free of charge to the horsemen and commission staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5742. Grandstand, Clubhouse, and Apron Areas

A. An association shall ensure that the grandstand is kept clean, in good repair, and properly ventilated for use by the public.

B. An association shall grant access for the general public to the grandstand and apron areas of its racetrack on live race days, with all doors and gates unlocked, no later than one hour before post time of the first race of the day.

C. An association shall provide live pari-mutuel tellers at its racetrack betting windows and an open concession stand that sells programs and forms no later than one hour before post time of the first race of the day.

1. All pari-mutuel wagering areas must have tellers, seating, and tables in an air-conditioned environment for guests to handicap and place wagers on the races.

D. An association shall provide security personnel who are visible to the public no later than one hour before post time of the first race of the day.

E. An association shall ensure that all elevators and escalators are kept clean and in good working condition during any hours of operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5745. Providing Concession and Restaurant Services

A. The operation shall be conducted so that all persons who patronize the respective tracks shall be satisfactorily served. Food, beverages (both alcoholic and nonalcoholic), tobacco and other generally related items may be available for sale to the patrons of the various tracks on each day that racing is conducted under the license, permit or privilege granted by the commission. Concessionaires vending any liquid refreshments shall not permit the surrender of glass containers to customers except in appropriate areas as designated by the association.

B. An association shall ensure that food and beverages are always available to guests at the racetrack during open hours of operation.

C. An association shall make a sit down dining experience available on weekend live race days and during stakes races.

D. An association shall provide tables and seats for guests to sit at and eat outside along the apron of the racetrack.

E. An association shall ensure that the racetrack kitchen and all cooking equipment are kept clean, in good repair, and fully operational during its race meets.

F. An association shall provide at least one quick service snack bar and a full service bar to be open during each live race day at least one hour before the first race and at least one hour after the last race.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:147 and R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission LR 2:92 (March 1976), amended by the Department of Commerce, Racing Commission, LR 2:435 (December 1976), amended LR 3:31 (January 1977), LR 4:278 (August 1978), LR 11:6 (January 1985), amended by the Office of the Governor, Division of Administration, Racing Commission LR 48:

§5756. Minimum Employment Requirements

A. An association shall maintain employees as follows:

1. Within 30 days after receiving the association's annual plan of operation per LAC 35:VII.5777, the commission shall determine in writing how many full-time and seasonal positions that the association will need to employ to operate the following during race meets:

- a. food service;
- b. marketing;
- c. pari-mutuel windows;
- d. kiosk repairs;
- e. racing officials; and
- f. racetrack maintenance.

2. Pari-mutuel tellers must be available at the ratio of 1 teller to every 50 guests on track with a minimum of 3 tellers in each betting area on the first floor and a minimum of 1 teller in each betting area on the clubhouse floors and private areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:147, and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5758. Animals and Livestock

A. Trainers must have all animals and livestock, other than equines, approved by the racing secretary before being allowed on the backside, and the association must report those animals and livestock to the commission and require paperwork for all service animals before allowing them access to the backside.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:148, and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5760. Paddock

A. An association shall ensure that the paddock, paddock stalls, and parade ring are kept clean, in good repair, and free of dangerous surfaces on which horses and people can walk.

B. An association must provide an employee to remove horse manure from the paddock area during live racing in a timely manner.

C. All paddock stalls must have a working fan.

D. An association shall maintain healthy, well-groomed landscaping in the paddock area throughout live race meets.

E. An association shall ensure that trash cans are available in the paddock area and that trash cans are emptied and all litter on paddock area grounds is removed daily when horses are stalled on the backside.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:148, and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5762. Grass and Drainage Maintenance

A. An association shall keep all grass areas maintained with adequate grass cutting and weed eating.

B. An association shall maintain all drainage throughout the backside.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:148, and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5764. Surface of Race Course

A. The surface of a racetrack, including the cushion, subsurface and base, must be designed, constructed, and maintained to provide for the safety of the jockeys and horses.

B. An association shall provide an adequate drainage system for the racetrack and turf course.

C. An association shall maintain the track surface in a safe training and racing condition.

D. An association that conducts races on a turf track shall provide a system capable of adequately watering the entire turf course evenly.

E. An association must get a soil sample tested for its dirt course twice a year.

1. The test must be conducted by a certified expert.

2. Each association must send a copy of the expert report to the commission in a timely manner to make any necessary adjustments.

F. An association must get its turf course inspected and evaluated twice a year.

1. The inspection and evaluation must be conducted by a certified expert.

2. Each association must send a copy of the expert report to the commission in a timely manner to make any necessary adjustments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 44:915 (May 2018), amended LR 48:

§5771. Minimum Infrastructure Investment Requirements

A. An association shall deposit 10 percent of its gross profits into a fund for infrastructure maintenance and improvements per R.S. 4:164.

1. These deposits shall occur at the same time as when the association's state taxes are paid each month.

2. The association shall continue depositing 10 percent of its gross profits until such time when the commission determines that the association has complied

with all infrastructure maintenance and improvements as required by the commission in this Chapter.

a. When the commission, by majority vote, determines full compliance with its required infrastructure maintenance and improvements by the association, the association shall maintain a minimum fund balance of \$3,000,000.

b. When the commission determines full compliance with its required infrastructure maintenance and improvements by the association, the commission can authorize any of the following by two-thirds vote:

i. exemption from maintaining fund balance,

ii. exemption from making deposits, or

iii. allow fund balance to be withdrawn

c. The commission, by majority vote, may reconsider prior determination of compliance and revoke any exemption or allowance granted to an association per this Subsection at any time.

d. There shall be an ongoing review, at least annually, by the commission to determine any additional required facility maintenance and improvements needed and to be required by the commission after obtaining input from associations and stakeholders.

3. The funds specified in this Subsection are subject to audit at any time by the commission and the legislative auditor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:148, and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5772. Minimum Marketing Investment Requirements

A. An association shall specify the total amount of funds that it will use for marketing and promotions for horse racing with its submitted annual plan of operation report per LAC 35:VII.5773.

1. The Commission shall make a determination, by majority vote, whether the amount of funds specified by the association for marketing and promotions is acceptable or if the association must submit a new marketing plan with appropriate funding to comply with the commission's determination of compliance per LAC 35:VII.5771.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:148, and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5773. Association Annual Plan of Operation Report

A. An association shall provide an annual report to the commission, due by date specified by the commission after each fiscal year ends starting with fiscal year 2022, regarding the association's plan of operation for the upcoming fiscal year to include details about:

1. customer service;

2. full-time and seasonal employment;

3. marketing and promotions for horse racing;

4. capital improvements;

5. facility maintenance;

6. facility improvements; and

7. a summary of the prior fiscal year's plan of operation implementation and status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:148, and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5775. Association Quarterly Reports

A. The quarterly reports required each year under this Section shall be due within 20 days of the end of each quarter as follows:

1. Reports from January to March are due no later than April 20.
2. Reports from April to June are due no later than July 20.
3. Reports from July to September are due no later than October 20.
4. Reports from October to December are due no later than January 20.

B. Each association shall provide quarterly reports to the commission of the names and addresses of each individual, corporation, firm, partnership, association, or other legal entity that furnishes professional services, as defined in R.S. 4:158.2, to the association.

1. The reports must also specify whether or not the listed entities are any of the following:

- a. a registered Louisiana business;
- b. a female-owned business; and
- c. a minority-owned business.

C. Each association shall provide quarterly reports to the commission of the demographic information of its workforce, to include:

1. race;
2. gender; and
3. Louisiana residency.

D. Each association shall provide quarterly reports to the commission on its marketing plan, which shall include, but not be limited to, dollars spent on promotions, marketing and advertising broken down by racetrack and casino spending on the following:

1. television advertisements;
2. radio advertisements;
3. magazine advertisements;
4. billboard advertisements;
5. giveaways;
6. rewards; and
7. any other dollars spent on promotions, marketing; and advertising.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:148, and R.S. 4:158.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5777. Broadcasting Live Races

A. An association shall ensure that televisions are broadcasting live races from its racetrack and are all in working operation adequately throughout the following areas operated by the association:

1. casino;
2. bars,
3. restaurants;
4. off-track betting areas;
5. track betting and viewing areas; and
6. in the backside track kitchen during live racing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5779. Association Website Requirements

A. An association shall stream its live racing in real time with capabilities of replays for races in its current meet on its website and/or application for a smart television or provide a link on its website that allows viewing of live races and replays at no charge from a third-party provider.

B. An association shall provide technology that allows reservations to be made by guests and horsemen or shall provide on its website a phone number that will be answered by a live person to allow reservations to be requested and confirmed for guests and horsemen as follows:

1. from 8:00 AM to 6:00 PM on non-race days; and
2. from 8:00 AM through the last race being made official on race days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5781. Tote Boards

A. All associations must have a tote board in the infield and a tote board above the stalls in the paddock providing current odds and results during live racing.

1. All new tote boards installed after adoption of this Rule must have digital video capabilities.

2. All tote boards located in the infield must have landscaping approved by the commission at the same time as the Association's race meet applications for licenses, dates, and wagering are considered for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5783. Winner's Circle

A. An association shall ensure that the winner's circle is kept clean, maintained, and upgraded as needed for safety and appearance.

B. An association must provide an employee to remove horse manure from the winner's circle in a timely manner during live racing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5785. Parking Areas

A. All parking areas on association property, regardless of their location, must have drainage that removes all puddles caused by rain.

B. An association shall maintain healthy landscaping for every day of the year at all entry roads and parking areas.

C. On a regular basis, security personnel shall check all handicap parking spaces on association property for any cars parked without displayed handicap eligibility and shall ensure that no vehicles are blocking wheelchair access to handicap vehicles.

D. All parking must be appropriately and visibly marked for parking spaces.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5787. Maintenance Equipment

A. Each racetrack shall have a functioning rock picker attachment for tractors for removal of rocks and stones on racing surfaces.

B. Each racetrack that has at least one escalator on its premises shall have a functioning duplex escalator cleaning machine or similar equipment specifically made to clean escalators.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5789. Off-Track Wagering Facilities

A. An association shall ensure that food and beverages are always available to guests at its off-track wagering facilities during open hours of operation.

B. All pari-mutuel wagering areas must have tellers or self-betting terminals to place bets, seating, and tables in an air-conditioned environment for guests to handicap and place wagers on the races.

1. There must be a teller in close proximity that can cash tickets and take bets.

C. All off-track wagering facilities must be open and taking wagers during the hours that any racetrack in the United States is conducting live racing, except by agreement with the commission or its designee.

D. This Section lists the minimum requirements for off-track wagering facilities, and an association reserves the right to exceed these minimum requirements as allowable under the laws of the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5791. Horse Move In and Move Out

A. An association shall be prepared and allow horses to move in to allotted stalls and train on its racetrack grounds no later than 30 days prior to the start of a race meet, unless ordered by the commission to be a longer period.

B. An association shall allow horses to stay housed in the allotted stalls and train on the racetrack grounds for at least 15 days after the end of a race meet, unless otherwise negotiated and in agreement with the Louisiana Horsemen’s Benevolent and Protective Association.

C. The commission may grant an exception to the arrival and departure dates set in this Section due to force majeure or other prohibitive circumstances on a case-by-case basis as requested by an association.

D. The Louisiana Horsemen’s Benevolent and Protective Association may request an earlier arrival date or later departure date for horses with allotted stalls at a specified racetrack in writing to the association and the commission for consideration.

1. If the Louisiana Horsemen’s Benevolent and Protective Association and the association reach an agreement on earlier arrival or later departure dates for horses, the association may charge a stall rate of \$8 per stall per day for the agreed-upon additional days, subject to annual review by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§5793. Reporting Altercations

A. An association shall provide a written report of any physical altercation of which it has been made aware that occurs on its grounds to the commission within five days of incident.

1. The individuals involved in the reported physical altercation may be subject to immediate suspension by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

Charles A. Gardiner III
Executive Director

2305#006

DECLARATION OF EMERGENCY

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

Off-Track Wagering
(LAC 35:XV.Chapter 123)

In accordance with the emergency provisions of the Administrative Procedures Act, R.S. 49:953.1, the Racing Commission has amended LAC 35:III.Chapter 123. This action has been deemed necessary by the Racing Commission to prevent imminent peril to the public health, safety, and welfare by establishing the administrative rules for minimum standards of facilities and infrastructure investments for racetracks in fulfillment of the Legislature’s mandate to the Racing Commission “to encourage forceful and honest statewide control of horse racing for the public health, safety, and welfare by safeguarding the people of this state against corrupt, incompetent, dishonest and unprincipled horse racing practices” and “[t]o institute and maintain a program to encourage and permit development of the business of horse racing with pari-mutual wagering thereon on a higher plane.” R.S. 4:141(A)&(A)(1).

All in fulfillment of the Legislature’s mandate for the Racing Commission to “institute and maintain a regulatory program for the business of racing horses, which program assures the protection of public health, safety and welfare, vesting with the commission forceful statewide control of horse racing with full powers to prescribe rules and regulations and conditions under which all horse racing is conducted with wagering upon the result thereof with the state.” R.S. 4:141(A)(3).

This emergency adoption establishes the initial administrative Rule for minimum standards of facilities and infrastructure investments for racetracks in accordance with the provisions established in Act 530 of the 2022 Regular Session of the Louisiana Legislature. This Emergency Rule shall become effective April 30, 2023 and shall remain in effect for a period of 180 days from adoption, or until finally adopted as Rule.

**Title 35
HORSE RACING**

Part XV. Off-Track Wagering

Chapter 123. General Rules

§12342. Amenities for Guests

A. All off-track wagering facilities must follow the requirements set forth in LAC 35:III.5789.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

§12345. Concession Services

A. The concession and catering operations shall be conducted so that all persons attending off-track wagering facilities shall be satisfactorily served. Food, beverages (both alcoholic and nonalcoholic), tobacco and other generally related items may be available for sale to the patrons of the various facilities during open hours of operation. Concessionaires serving liquid refreshments shall not permit the surrender of glass containers to patrons except in designated areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-227.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 14:290 (May 1988), amended by the Office of the Governor, Division of Administration, Racing Commission LR 48:

Charles A. Gardiner III
Executive Director

2305#007

DECLARATION OF EMERGENCY

**Office of the Governor
Office of Homeland Security
and Emergency Preparedness**

Disbursement of Public Resources
(LAC 55:XXI.Chapter 7)

In accordance with the provisions of R.S. 29:726(E)(30) and the Administrative Procedure Act (APA), R.S. 49:953.1 et seq., the Office of Homeland Security and Emergency Preparedness enacts emergency rules to establish procedures and processes for political subdivisions to request and receive public resources during a state of emergency or disaster. It is mandated by R.S. 29:726(E)(30) that emergency rulemaking be used in order to expedite implementation of the provisions of Act 690 (Regular Session, 2022). This Emergency Rule effective April 18, 2023, will remain in effect for the maximum period allowed in the APA.

**Title 55
PUBLIC SAFETY**

**Part XXI. Homeland Security and Emergency
Preparedness**

Chapter 7. Disbursement of Public Resources

§701. Definitions

A. As used in this Chapter:

EOC—the Emergency Operations Center.

GOHSEP—the Governor’s Office of Homeland Security and Emergency Preparedness, the state agency responsible for coordinating resources in preparation of and

response to emergencies and disasters in the state of Louisiana.

Governing Authority—the body that exercises the legislative functions of the political subdivision. This includes a parish police jury, a parish council, or a municipal council.

Intergovernmental Agreement—a contractual agreement between a local jurisdiction and the federal government, a state government, or another local jurisdiction.

Local Jurisdiction—a political subdivision such as a parish, municipality, or special district.

Local Resources—the assets that a local jurisdiction possesses through ownership, lease, or intergovernmental agreement.

Parish OHSEP—a parish’s Office of Homeland Security and Emergency Preparedness, the parish agency responsible for coordinating resources in preparation of and response to emergencies and disasters in that parish.

Public Resources—assets belonging to the federal government, state government, or other local jurisdictions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:726(E)(30).

HISTORICAL NOTE: Promulgated by the Office of Homeland Security and Emergency Preparedness, LR 49:

§703. Eligibility and Process for Request of Public Resources

A. In the event of an emergency or disaster, a local jurisdiction must first utilize its own local resources in response to the event. Once a local jurisdiction exhausts all local resources for a particular need, the local jurisdiction may request public resources from GOHSEP.

B. Public resource requests must be submitted through a parish’s OHSEP, which is responsible for establishing its own procedures for receipt and disbursement of those resources throughout the parish. Any municipality or special district within a parish must coordinate with the parish OHSEP to request public resources.

C. A parish OHSEP must submit public resource requests through GOHSEP’s web-based emergency management software. A public resource request must include all of the following:

1. a copy of the local parish or municipal declaration of emergency;
2. a detailed description of the public resource that is being requested;
3. a point of contact with a valid telephone number and email address. This point of contact must be a person with knowledge of the individual resource request who can answer questions about the request. If GOHSEP is unable to communicate with the point of contact listed in the public resource request in order to obtain additional information, that request will be placed on hold until communication can be established;
4. a valid address to which the public resource may be delivered; and
5. if the parish OHSEP needs to change the address or point of contact information, that change must be made through a comment within the original public resource request. Once a change is made, the parish OHSEP must check the “significant comment” box to notify GOHSEP of the change.

D. If the public resource requested by the parish OHSEP is a consumable that does not need to be returned, the

request will be closed once the consumable is delivered. If the public resource is an asset that must be returned, the public resource request will remain open until the parish OHSEP notifies GOHSEP that the asset is no longer needed and it is returned. The parish OHSEP is responsible for updating GOHSEP on the continued need of the public resource.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:726(E)(30).

HISTORICAL NOTE: Promulgated by the Office of Homeland Security and Emergency Preparedness, LR 49:

§705. Emergency Alternative Process for Request of Public Resources

A. If the emergency or disaster disrupts internet connectivity within the parish OHSEP, the following methods of submitting public resource requests will be allowed during that period of disruption:

1. via telephone call to the state EOC;
2. via fax to the state EOC;
3. via radio call to the state EOC through the Louisiana Wireless Information Network on the GOHSEP hailing channel; or
4. via the Regional Coordinator or Area Manager serving that parish.

B. After receiving public resource requests through one of these methods, GOHSEP will enter the request into the web-based emergency management software on the parish OHSEP's behalf. Once internet connectivity at the parish OHSEP is restored, the parish OHSEP must notify GOHSEP. At that point, the parish OHSEP will be responsible for monitoring and updating its public resource requests.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:726(E)(30).

HISTORICAL NOTE: Promulgated by the Office of Homeland Security and Emergency Preparedness, LR 49:

Casey Tingle
Director

2305#002

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Healthcare Services Provider Fees Emergency Ground Ambulance Service Providers (LAC 48:I.4001)

The Department of Health, Bureau of Health Services Financing amends LAC 48:I.4001 as authorized by R.S. 36:254. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:962, and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) requires that reimbursement for emergency ambulance services transition from the Full Medicaid Pricing program to an approved federal supplemental payment program by July 1, 2023. The Department of Health, Bureau of Health Services

Financing amends the provisions governing provider fees for emergency ground ambulance services in order to ensure that the language in the administrative Rule reflects current CMS requirements.

This action is being taken to avoid sanctions or penalties by CMS. It is anticipated that implementation of this Emergency Rule will have no fiscal impact for state fiscal year 2022-2023.

Effective July 1, 2023, the Department of Health, Bureau of Health Services Financing amends the provisions governing provider fees for emergency ground ambulance services in order to ensure that the CMS-required transition from the Full Medicaid Pricing program to an approved federal supplemental payment program is reflected in the administrative Rule.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 1. General

Chapter 40. Provider Fees

§4001. Specific Fees

A. Definitions

Emergency Ground Ambulance Service Provider—a non-public, non-federal provider of emergency ground ambulance services.

* * *

B. - D. ...

E. **Emergency Ground Ambulance Services.** A fee shall be imposed on emergency ground ambulance services in accordance with R.S. 46:2626.

1. The assessment shall be a percentage fee, determined at the discretion of the secretary with the express and written mutual agreement of the emergency ground ambulance service providers subject to the assessment and which make up a minimum of 65 percent of all emergency ground ambulance services in the state of Louisiana.

a. the maximum fee allowable in any year shall not exceed the percentage of net patient service revenues permitted by federal regulation pursuant to 42 CFR 433.68 as determined by the department, as reported by the provider and subject to audit for the previous fiscal year of the provider. The department will arrive at net patient services revenue by using net operating revenue as defined in R.S. 46:2626.

1.b. - 3.a. Repealed.

F. - F.3. ...

AUTHORITY NOTE: Promulgated in accordance with Chapter 45 of Title 46 as enacted in 1992, 46:2601-2605, redesignated as Chapter 47 of Title 46, containing R.S. 46:2621 to 46:2625 and P.L. 102-234, R.S. 36:254, and Article VII, Section 10.13 of the Constitution of Louisiana.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, LR 19:347 (March 1993), amended LR 20:51 (January 1994), LR 26:1478 (July 2000), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:100 (January 2007), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1887, 1888 (November 2016), LR 43:73 (January 2017), repromulgated LR 43:323 (February 2017), amended LR 44:1015 (June 2018), LR 44:1894 (October 2018), LR 45:1597 (November 2019), LR 49:263 (February 2023), LR 49:

Tara A. LeBlanc, Bureau of Health Services Financing, is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Dr. Courtney N. Phillips
Secretary

2305#010

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Medical Transportation Program
Emergency Medical Transportation
(LAC 50:XXVII.Chapter 3)

The Department of Health, Bureau of Health Services Financing amends LAC 50: XXVII.Chapter 3 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:962, and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) requires reimbursement for emergency ambulance services to transition from the Full Medicaid Pricing program to an approved federal supplemental payment program by July 1, 2023. In compliance with CMS requirements, the Department of Health, Bureau of Health Services Financing amends the provisions governing reimbursement in the Medical Transportation Program in order to align the reimbursement rates established for emergency ambulance services and providers with current practice for Medicaid managed care and fee-for-service.

This action is being taken to avoid sanctions or penalties by CMS. It is estimated that implementation of this Emergency Rule will have no fiscal impact for state fiscal year 2022-2023.

Effective July 1, 2023, the Department of Health, Bureau of Health Services Financing amends the provisions governing reimbursement in the Medical Transportation Program in order to align the reimbursement rates established for emergency ambulance services and providers with current practice for Medicaid managed care and fee-for-service.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXVII. Medical Transportation Program

Chapter 3. Emergency Medical Transportation

Subchapter A. Reserved.

Subchapter B. Ground Transportation

§325. Reimbursement

A. The Medicaid reimbursement for ground ambulance services is the rate established in the state fee schedule for emergency ambulance transport, basic life support, advanced life support and mileage, oxygen, intravenous fluids, and disposable supplies administered during the emergency

ambulance transport minus the amount paid by any liable third party coverage.

B. - J. ...

K. Effective for dates of service on or after July 1, 2023, the reimbursement rates for emergency ground ambulance transportation services shall be reimbursed based on the Louisiana Medicaid fee schedule.

EXCEPTION: Except as otherwise noted in the plan, state-developed fee schedule rates are established separately for governmental, New Orleans-based governmental, and private providers of ambulance transportation services to account for cost variability across these provider types and to maintain access to care through alignment with historic payment levels.

1. The agency's fee schedule rate, set as of July 1, 2023, is effective for services provided on or after that date. All rates are published on the agency's website at: <https://www.lamedicaid.com>.

2. The fee schedule was established as a function of historical rates in effect as of January 1, 2023 plus an enhancement which was calculated to achieve total fee schedule reimbursement as a percentage of average commercial rates (ACR), with the clarifications listed within Subparagraph a through c below:

a. governmental ambulance providers include those ambulance providers who are owned or operated by a public organization such as state, federal, parish, or city entities;

b. New Orleans-based governmental ambulance providers include ambulance providers located within the city of New Orleans; and

c. private ambulance transportation providers include corporations, limited liability companies, partnerships, or sole proprietors. Private providers must comply with all state laws and the regulations of any governing state agency, commission, or local entity to which they are subject as a condition of enrollment and continued participation in the Medicaid program.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:878 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1248 (June 2010), LR 36:2564 (November 2010), LR 37:3029 (October 2011), LR 39:1285 (May 2013), LR 40:1379 (July 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

§327. Supplemental Payments for Ambulance Providers

A. Effective for dates of service on or after September 20, 2011, quarterly supplemental payments may be issued to qualifying ambulance providers for emergency medical transportation services rendered during the quarter.

B. - E.7. ...

8. The department may reimburse providers based on the following criteria.

a. ...

b. For all other ambulance service providers identified in Paragraph E.1, reimbursement may be up to 80 percent of the provider's average commercial rate calculated in Paragraph E.7.

F. - F.2. ...

G. The supplemental payment may be made effective for emergency medical transportation provided on or after September 20, 2011. This payment is based on the average

amount that would have been paid at the equivalent community rate. After the initial calculation for fiscal year 2011-2012, the department will rebase the equivalent community rate using adjudicated claims data for services from the most recently completed fiscal year. This calculation may be made annually, but shall be made no less than every three years.

H. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:1530 (August 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

§331. Enhanced Reimbursements for Qualifying Emergency Ground Ambulance Service Providers

A. Emergency Medical Transportation

1. Qualifying emergency ambulance service providers assessed a fee as outlined in LAC 48:I.4001.E.1.a-b may receive enhanced reimbursement for emergency ground ambulance transportation services rendered during the quarter through the Supplemental Payment Program described in the Medicaid State Plan.

2. Effective for dates of service on or after July 1, 2019, qualifying emergency ambulance service providers assessed a fee as outlined in LAC 48:I.4001.E.1.a-d may receive enhanced reimbursement for non-emergency ground ambulance transportation services rendered during the quarter through the Supplemental Payment Program described in the Medicaid State Plan.

B. - B.4. ...

C. Payment Methodology

1. Payment may include non-emergency ground ambulance services after July 1, 2019. The enhanced reimbursement to each qualifying emergency ground ambulance service provider shall not exceed the sum of the difference between the Medicaid payments otherwise made to these providers for the provision of emergency and non-emergency ground ambulance transportation services and the average amount that would have been paid at the equivalent community rate.

2. - 3.h....

D. Effective Date of Payment

1. The enhanced reimbursement payment may be made effective for emergency ground ambulance transportation services provided on or after August 1, 2016, and for non-emergency ground transportation services provided after July 1, 2019. This payment is based on the average amount that would have been paid at the equivalent community rate.

D.2. - E.1. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1890 (November 2016), amended LR 45:1598 (November 2019), LR 49:

Subchapter C. Aircraft Transportation

§351. Standards for Participation

A. Rotor winged (helicopters) and fixed winged emergency aircraft must be certified by the Department of Health, Bureau of Health Services Financing in order to receive Medicaid reimbursement. All air ambulance services

must be provided in accordance with state laws and regulations governing the administration of these services.

B. ...

C. Prior Approval. Prior approval shall not be required for emergency air ambulance transportation services, including mileage. Approval shall be done during post payment review and shall not be completed prior to service delivery. Claims for payment of emergency air ambulance transportation services are received and reviewed retrospectively. The clinical documentation for each emergency air ambulance transportation service shall not be required for submission concurrent with the claim. If required, clinical documentation shall be required post claim submission.

1. Air ambulance claims will be reviewed and a determination will be made based on the following requirements. Air ambulance services are covered only if:

a. speedy admission of the beneficiary is essential and the point of pick-up of the beneficiary is inaccessible by a land vehicle; or

b. great distance or other obstacles are involved in getting the beneficiary to the nearest hospital with appropriate services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:70 (January 2009), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

§353. Reimbursement

A. - B. ...

C. If a ground ambulance must be used for part of the transport, the ground ambulance provider will be reimbursed separately according to the provisions governing emergency ground transportation.

D. - I.2. ...

J. The reimbursement rates for emergency and non-emergency, rotor winged and fixed winged air ambulance transportation services shall be reimbursed based on the Louisiana Medicaid fee schedule. These rates include both in state and out-of-state air ambulance transportation. The agency's fee schedule rate was set as of January 1, 2022 and is effective for services provided on or after that date. All rates are published on the agency's website at: <https://www.lamedicaid.com>.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:70 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2564 (November 2010), amended LR 37:3029 (October 2011), LR 39:1285 (May 2013), LR 40:1379 (July 2014), LR 42:277 (February 2016), amended by the Department of Health, Bureau of Health Service Financing, LR 49:

§355. Supplemental Payments for Ambulance Providers

A. Effective for dates of service on or after September 20, 2011, quarterly supplemental payments may be issued to qualifying ambulance providers for emergency medical air transportation services rendered during the quarter.

B. - E. 7. ...

8. The department may reimburse providers based on the following criteria.

a. ...

b. For all other ambulance service providers identified in E.1, reimbursement may be up to 80 percent of the provider’s average commercial rate calculated in Paragraph E.7.

F. - F.2. ...

G. The supplemental payment may be made effective for air ambulance services provided on or after September 20, 2011. This payment is based on the average amount that would have been paid at the equivalent community rate. After the initial calculation for fiscal year 2011-2012, the department will rebase the equivalent community rate using adjudicated claims data for services from the most recently completed fiscal year. This calculation may be made annually, but shall not be made less often than every three years.

H. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:1531 (August 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

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

Tara A. LeBlanc, Bureau of Health Services Financing, is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Dr. Courtney N. Phillips
Secretary

2305#010

DECLARATION OF EMERGENCY

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

Personal Care Services—Long Term and Home and
Community-Based Services Waivers
(LAC 50:XV.Subpart 9 and XXI.Subparts 3 and 7)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services amend LAC 50:XV.Subpart 9 and XXI.Subparts 3 and 7 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act.

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services promulgated Emergency Rules which relaxed the provisions governing long term-personal care services (LT-PCS) and certain home and community-based services (HCBS) waivers throughout the duration of the Coronavirus Disease 2019 (COVID-19) public health emergency (PHE)

(Louisiana Register, Volume 46, Numbers 4 and 9). The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) permits states to temporarily extend these services beyond the May 11, 2023 COVID-19 PHE end date. As such, the department hereby amends the provisions of LAC 50:XV.Subpart 9 and LAC 50:XXI.Subparts 3 and 7 governing these services in order to align with the CMS extension dates.

This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:962, and shall be in effect for the maximum period allowed under the Act or until end of the temporary service extension granted by CMS, whichever occurs first.

This action is being taken to promote the health and welfare of Medicaid beneficiaries by ensuring that these LT-PCS and HCBS waiver flexibilities continue beyond the May 11, 2023 COVID-19 PHE end date. It is anticipated that implementation of this Emergency Rule will have no fiscal impact for state fiscal year 2022-2023.

Effective May 12, 2023, the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services amend LAC 50:XV.Subpart 9 and XXI.Subparts 3 and 7 in order to align the provisions governing LT-PCS services and certain HCBS waivers with the CMS extension dates for these services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 9. Personal Care Services

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions governing long term-personal care services (LT-PCS) are relaxed until September 30, 2023:

Recipients of long term-personal care services (LT-PCS) may receive more weekly service hours than what is assigned for his/her level of support category;

Recipients may receive LT-PCS in another state without prior approval of OAAS or its designee;

Recipients may receive LT-PCS while living in a home or property owned, operated or controlled by a provider of services who is not related by blood or marriage to the recipient;

The following individuals may provide services to the recipient of LT-PCS: the recipient’s curator; the recipient’s tutor; the recipient’s legal guardian; the recipient’s responsible representative; or the person to whom the recipient has given representative and mandate authority (also known as power of attorney);

The state may allow exceptions to the requirements that services must be provided in accordance with the approved plan of care and/or supporting documentation; and

The state may allow exceptions to LT-PCS prior authorization requirements.

The following option may be available through LT-PCS through November 11, 2023:

The state may modify the minimum age requirement for direct care workers.

**Part XXI. Home and Community-Based
Services Waivers**

Subpart 3. Adult Day Health Care Waiver

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following

provisions of the Adult Day Health Care (ADHC) Waiver are relaxed until September 30, 2023:

Adult Day Health Care Waiver participants are allowed to receive ADHC services in his/her home by licensed and/or certified ADHC staff (i.e. RN, LPN, PCA and/or CNA);

The current assessments/re-assessments remain in effect past the annual (12 month) requirement;

Participants are not discharged if services are interrupted for a period of 30 consecutive days as a result of not receiving or refusing ADHC services until;

Participants are not discharged for failure to attend the ADHC center for a minimum of 36 days per calendar quarter;

The state may allow exceptions to prior authorization requirements; and

The state may allow exceptions to the requirements that services must be provided in accordance with the approved plan of care and/or supporting documentation.

The following options may be available through the ADHC Waiver until November 11, 2023:

The state may allow ADHC providers to provide services telephonically to waiver participants that cannot attend the ADHC center to ensure continuity of services.

The state is adding the following services in the ADHC Waiver:

Home Delivered Meals. The purpose of home delivered meals is to assist in meeting the nutritional needs of an individual in support of the maintenance of self-sufficiency and enhancing the quality of life. Up to two nutritionally balanced meals per day may be delivered to the home of the participant. This service may be provided by the ADHC provider.

Assistive Devices and Medical Supplies. Assistive devices and medical supplies are specialized medical equipment and supplies that include:

Devices, controls, appliances or nutritional supplements specified in the Plan of Care that enable participants to increase their ability to perform activities of daily living (ADLs);

Devices, controls, appliances or nutritional supplements that enable participants to perceive, control or communicate with the environment in which they live or provide emergency response;

Items, supplies and services necessary for life support, ancillary supplies, and equipment necessary to the proper functioning of such items;

Supplies and services to assure participants' health and welfare;

Other durable and non-durable medical equipment and necessary medical supplies that are necessary but not available under the Medicaid State Plan;

Personal Emergency Response Systems (PERS);

Other in-home monitoring and medication management devices and technology;

Routine maintenance or repair of specialized equipment; and

Batteries, extended warranties and service contracts that are cost effective and assure health and welfare.

This includes medical equipment not available under the Medicaid State Plan that is necessary to address participant functional limitations and necessary medical supplies not available under the Medicaid State Plan.

Part XXI. Home and Community-Based Services Waivers

Subpart 7. Community Choices Waiver

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the Community Choices Waiver (CCW) are relaxed until September 30, 2023:

Community Choices Waiver (CCW) participants are allowed to receive personal assistance services (PAS) in another state without prior approval of OAAS or its designee;

Participants may receive PAS while living in a home or property owned, operated or controlled by a provider of services who is not related by blood or marriage to the participant without prior approval of OAAS or its designee;

The current assessment/re-assessment remains in effect past the annual (12 month) requirement;

CCW participants are not discharged if services are interrupted for a period of 30 consecutive days as a result of not receiving and/or refusing services;

Participants are not discharged from CCW self-directed services for failure to receive those services for 90 days or more;

Participants may receive an increase in his/her annual services budget;

Participants may receive Adult Day Health Care (ADHC) services in his/her home by licensed and/or certified ADHC staff (i.e. RN, LPN, PCA and/or CNA);

The state may allow exceptions to the requirements that services must be provided in accordance with the approved plan of care and/or supporting documentation;

The state may allow exceptions to prior authorization requirements; and

The state may allow monitored in-home caregiving (MIHC) providers to monitor participants via frequent telephone contacts and/or telehealth.

The following options may be available through CCW through November 11, 2023:

The following individuals may provide services to the participant: the participant's spouse; the participant's curator; the participant's tutor; the participant's legal guardian; the participant's responsible representative; or the person to whom the participant has given representative and mandate authority (also known as power of attorney).

The state may modify the minimum age requirement for direct care workers.

The state may allow ADHC providers to provide services telephonically to waiver participants that cannot attend the ADHC center to ensure continuity of services.

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

Tara A. LeBlanc, Bureau of Health Services Financing, is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Dr. Courtney N. Phillips
Secretary

2305#049

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Professional Services Program Physician-Directed Treatment-in-Place Ambulance Services (LAC 50:IX.Chapter 13)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:IX.Chapter 13 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:962, and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health, Bureau of Health Services Financing promulgated Emergency Rules which allowed reimbursement throughout the duration of the Coronavirus Disease 2019 (COVID-19) public health emergency for ambulance services provided on site without transport, within established treatment protocols, and under the direct supervision of a licensed physician (*Louisiana Register*, Volume 46, Number 7 and Volume 47, Number 11). The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) waived requirements in order to expand the types of health care professionals eligible to bill for telehealth services provided from a distant site. As a result of the CMS waiver, the department now adopts provisions in the Professional Services Program to continue to provide reimbursement for physician directed treatment-in-place ambulance services after the COVID-19 public health emergency ends on May 11, 2023.

This action is being taken to promote the health and welfare of Medicaid beneficiaries by ensuring that these services continue to be provided. It is anticipated that implementation of this Emergency Rule will have no fiscal impact for state fiscal year 2022-2023.

Effective May 12, 2023, the Department of Health, Bureau of Health Services Financing adopts provisions in the Professional Services Program to provide reimbursement for physician directed treatment-in-place ambulance services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 1. General Provisions

Chapter 13. Physician Directed Treatment-In-Place Ambulance Services

§1301. General Provisions

A. Effective for dates of service on or after May 12, 2023, the Louisiana Medicaid Program provides coverage for initiation and facilitation of telehealth services by qualified Louisiana Medicaid enrolled ambulance providers.

B. Ambulance providers interested in offering physician directed treatment-in-place telehealth services must complete the following:

1. enroll as a CMS ET3 model participant;

2. enter into a partnership with a qualified, Louisiana Medicaid enrolled healthcare provider to furnish treatment-in-place telehealth services to Louisiana Medicaid beneficiaries; and

3. notify the Department of Health of its partnerships with each telehealth provider.

C. Reimbursement for initiation and facilitation of telehealth services shall be made according to the established physician directed treatment-in-place telehealth service fee schedule or billed charges, whichever is the lesser amount.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:

§1303. Scope of Services

A. Initiation and facilitation of physician directed treatment-in-place telehealth services are performed by Louisiana Medicaid enrolled ambulance providers on site, with no transport, using audio and video telecommunications systems that permit real-time communication between a qualified, Medicaid enrolled, licensed medical practitioner and the beneficiary.

B. All services provided by ambulance providers during the initiation and facilitation of the physician directed treatment-in-place intervention are covered by the associated BLS-E, emergency base rate, or the ALS1-E, Level 1 emergency base rate.

C. Ambulance providers are not eligible to submit a claim for reimbursement or receive payment for other services (except for supplies) at the scene.

D. If a beneficiary must be transported to an emergency department (ED) due to poor internet connection, which resulted in a failed physician directed treatment-in-place encounter, or the beneficiary's condition deteriorates, the ambulance provider may submit a claim for reimbursement and receive compensation for the transport to the ED, but not for initiation and facilitation of the telehealth service.

E. The entity seeking reimbursement for the corresponding physician directed treatment-in-place telehealth service must be an enrolled Louisiana Medicaid provider.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:

§1305. Reimbursement

A. Reimbursement to the ambulance providers for initiation and facilitation of the physician directed treatment-in-place telehealth service requires a corresponding treatment-in-place telehealth service. The corresponding treatment-in-place telehealth service is demonstrated via a Louisiana Medicaid paid treatment-in-place telehealth service claim.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:

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

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

Tara A. LeBlanc, Bureau of Health Services Financing, is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Dr. Courtney N. Phillips
Secretary

2305#048

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing and Office for Citizens with Developmental Disabilities

Targeted Case Management and Home and Community-
Based Services Waivers
(LAC 50:XV.Subpart 7 and XXI.Subparts 5, 9, 11, and 13)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend LAC 50:XV.Subpart 7 and XXI.Subparts 5, 9, 11, and 13 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act.

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities promulgated Emergency Rules which made allowances for early and periodic screening, diagnosis and treatment (EPSDT) targeted case management (TCM) services and relaxed provisions governing certain home and community-based services (HCBS) waivers throughout the duration of the Coronavirus Disease 2019 (COVID-19) public health emergency (PHE) (*Louisiana Register*, Volume 46, Numbers 4, 11, and 12). The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) permits states to temporarily extend these services beyond the May 11, 2023 COVID-19 PHE end date. As such, the department hereby amends the provisions of LAC 50:XV.Subpart 7 and LAC 50:XXI.Subparts 5, 9, 11 and 13 governing these services in order to align with the CMS extension dates.

This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:962, and shall be in effect for the maximum period allowed under the Act or until end of the temporary service extension granted by CMS, whichever occurs first.

This action is being taken to promote the health and welfare of Medicaid beneficiaries by ensuring that these EPSDT TCM allowances and HCBS waiver flexibilities continue beyond the May 11, 2023 COVID-19 PHE end date. It is anticipated that implementation of this Emergency Rule will have no fiscal impact for state fiscal year 2022-2023.

Effective May 12, 2023, the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend LAC 50:XV.Subpart 7 and XXI.Subparts 5, 9, 11, and 13 in order to align the provisions governing EPSDT TCM services and certain HCBS waivers with the CMS extension dates for these services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 7. Targeted Case Management

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the state makes the following allowances for early and periodic screening, diagnostic and treatment targeted case management services until November 11, 2023:

Case managers may utilize telephone contacts (i.e., video or voice calls) in place of any required face-to-face contacts; and

Case managers may complete initial assessments, quarterly reassessments, and annual reassessments without signatures from recipients.

Part XXI. Home and Community-Based Services Waivers

Subpart 5. Supports Waiver

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the Supports Waiver are relaxed until November 11, 2023:

Allow up to a total of 20 hours a week of respite services and or habilitation services in lieu of day habilitation or vocational services for these programs that have been closed;

Allow participants and direct support workers (DSWs) to live in the same setting so that the recipient may receive necessary respite and habilitation services;

Allow legally responsible relatives to be temporary respite or habilitation direct support, if necessary, in the absence of DSW care;

Documentation of services rendered is required and will be verified by the support coordination agency; Allow quarterly visits to be conducted via phone contact, FaceTime, or skype;

Monthly phone contacts will still occur;

Allow support coordinators to substitute phone contact, FaceTime on computers, or Skype, in lieu of home visits for individuals at risk of exposure who are medically fragile, elderly, both or who have medically fragile caregivers;

Allow assessments to be conducted via FaceTime, Skype, or phone call to avoid delay in services;

Allow the comprehensive plan of care by the support coordinator to be conducted via FaceTime, Skype, or by phone to avoid a delay in services; and

Allow the home certification visit by the Office for Citizens with Developmental Disabilities (OCDD) or its designee to be conducted via FaceTime, Skype, or phone call to avoid a delay in services.

LDH retains the right to recoup all or a portion of retainer payments from providers who furlough or lay off staff or fail to reopen.

LDH may review cost reports and other documentation of expenses in making this determination.

Subpart 9. Children's Choice Waiver

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the Children's Choice Waiver are relaxed until November 11, 2023:

Allow expansion of the current Children's Choice Waiver cap to allow for an additional 20 hours per week of family support services as needed for health and safety due to school closures;

Allow participants and family support (FS) direct support workers (DSWs) to live in the same setting so that the participant may continue to receive services;

Allow legally responsible relatives to be temporary FS DSWs during the declared emergency, if necessary, in the absence of DSW care;

Documentation of services rendered is required and will be verified by the support coordination agency;

Reduce the minimum age of DSWs to 16 years of age, if necessary, in an emergency. Emergency being defined as no other staff or supports available;

Remove the requirement for DSWs to have a high school diploma or equivalent;

Allow quarterly visits to be conducted via phone contact versus face-to-face contact;

Monthly phone contacts will still occur;

Allow support coordinators to substitute phone contact, FaceTime on computers, or Skype in lieu of home visits for individuals at risk of exposure who are medically fragile, elderly, both, or who have medically fragile caregivers;

Allow assessments to be conducted via FaceTime, Skype, or phone call to avoid delay in services;

Allow the comprehensive plan of care by the support coordinator to be conducted via FaceTime, Skype, or phone to avoid a delay in services; and

Allow the home certification visit by the Office for Citizens with Developmental Disabilities (OCDD) or its designee to be conducted via FaceTime, Skype, or phone to avoid a delay in services.

Subpart 11. New Opportunities Waiver

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the New Opportunities Waiver are relaxed until November 11, 2023:

Allow conversion of day habilitation and vocational service program hours to individual and family support (IFS) for participants whose day habilitation and/or vocational programs have closed;

Allow participants and individual and family support (IFS) direct support workers (DSWs) to live in the same setting so that the participant may continue to receive services;

Allow legally responsible relatives to be temporary IFS DSWs during the declared emergency, if necessary, in the absence of DSW care;

Documentation of services rendered is required and will be verified by the support coordination agency;

Reduce the minimum age of DSWs to 16 years of age, if necessary, in an emergency. Emergency being defined as no other staff or supports available;

Remove the requirement for DSWs to have a high school diploma or equivalent;

Allow quarterly visits to be conducted via phone contact versus face-to-face contact;

Monthly phone contacts will still occur.

Allow the home certification visit by the Office for Citizens with Developmental Disabilities (OCDD) or its

designee to be conducted via FaceTime, Skype, or phone to avoid a delay in services.

LDH retains the right to recoup all or a portion of retainer payments from providers who furlough or lay off staff or fail to reopen. LDH may review cost reports and other documentation of expenses in making this determination.

Subpart 13. Residential Options Waiver

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the Residential Options Waiver are relaxed until November 11, 2023:

Allow sharing of direct support staff when necessary;

Allow conversion of day habilitation and vocational services to community living supports (CLS) for participants whose day habilitation and or vocational program have been closed;

Allow participants and community living support (CLS) direct support workers (DSWs) to live in the same setting so that the participant may continue to receive services;

Documentation of services rendered is required and will be verified by the support coordination agency;

Allow legally responsible relatives to be temporary community living support (CLS) DSWs during the declared emergency if necessary in the absence of DSW care;

Reduce the minimum age of DSWs to 16 years of age, if necessary, in an emergency. Emergency being defined as no other staff or supports available;

Remove the requirement for DSWs to have a high school diploma or equivalent;

Allow quarterly visits to be conducted via phone contact versus face-to-face contact;

Monthly phone contacts will still occur;

Allow support coordinators to substitute phone contact, FaceTime on computers, or Skype in lieu of home visits for individuals at risk of exposure who are medically fragile, elderly, or both or who have medically fragile caregivers;

Allow assessments to be conducted via FaceTime, Skype, or phone call to avoid a delay in services;

Allow the comprehensive plan of care by the support coordinator to be conducted via FaceTime, Skype, or by phone to avoid a delay in services;

Allow the home certification visit by the Office for Citizens with Developmental Disabilities (OCDD) or its designee to be conducted via FaceTime, Skype, or phone to avoid delay in services; and

If a provider had not already received revenues in excess of the pre-public health emergency level but receipt of the retainer payment in addition to those prior sources of funding results in the provider exceeding the pre-public health emergency level, any retainer payment amounts in excess may be recouped.

LDH retains the right to recoup all or a portion of retainer payments from providers who furlough or lay off staff or fail to reopen. LDH may review cost reports and other documentation of expenses in making this determination.

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

Tara A. LeBlanc, Bureau of Health Services Financing, is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Dr. Courtney N. Phillips
Secretary

2305#049

DECLARATION OF EMERGENCY

Department of Health Office of Public Health

Health Professional Development Program
(LAC 48:V.Chapter 133)

The Louisiana Department of Health, Office of Public Health, pursuant to the authority granted in R.S. 40:1205.7, hereby adopts the following Emergency Rule. This Rule is being promulgated in accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) generally, and R.S. 49:962 specifically. This Emergency Rule expressly rescinds and replaces the Emergency rule adopted by LDH/OPH on January 23, 2023.

LDH finds it necessary to make additions to the Louisiana Administrative Code as a consequence of funding allocated thru Act No. 167 of the 2022 Regular Session of the Louisiana Legislature, which provided funding related to R.S. 40:1205.1 et seq., Health Professional Development Program. The following changes will provide the LDH the authority and ability to effectively administer the Health Professional Development Program, which is vital to the health of Louisiana's citizens and visitors.

Accordingly, the following Emergency Rule, effective May 1, 2023 shall remain in effect for a maximum of 180 days, or until the final Rule is promulgated, whichever occurs first.

Title 48

PUBLIC HEALTH—GENERAL

Part V. Preventive Health Services

Subpart 49. Community Based and Rural Health Services

Chapter 133. Funding Eligibility

§13305. Health Professional Development Program

A. The Louisiana Department of Health ("LDH") has developed and shall administer a plan for recruitment and retention of primary health care practitioners to practice in health professional shortage areas or facilities. The plan will provide for identification of shortage areas, prioritize long-term and short-term goals and strategies, provide a special minority component, and provide for public input.

B. The Louisiana Department of Health shall implement the recruitment and retention plan, directly or through contract. Implementation may include advertising and promotion, professional recruitment services, travel, and all other necessary expenses.

C. Contingent upon available funding, the Louisiana Department of Health will establish a Physician Loan Repayment Program, pursuant to R.S. 40:1205.3. The LDH may establish one or more application cycles during any

state fiscal year. At the beginning of any application cycle, notice of application will be publicized through electronic methods (email, newsletter, or the LDH website: <https://wellaheadla.com>).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1205.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 49:

§13307. Louisiana Physician Loan Repayment Program; Criteria

A. Criteria for Applicants. To be eligible for the loan repayment program, an applicant shall:

1. be licensed and qualified as a doctor of allopathic/osteopathic medicine (MD/DO—to include those in the final year of their residency) to practice in Louisiana;

2. provide primary care services in a federally designated health professional shortage area (family practice, general practice, internal medicine, pediatrics, obstetrics/gynecology, psychiatry, emergency medicine);

3. be a United States citizen/national;

4. agree to serve a minimum of five years in a federally designated health professional shortage area (HPSA) appropriate for their discipline;

5. work full-time (40 hours/week), with a minimum of 32 hours per week providing clinical services in an outpatient/ambulatory care setting or providing comprehensive patient care;

6. not have an outstanding contractual obligation to provide a health professional service to the federal government (e.g. an active military obligation, National Health Services Corp (NHSC) Loan Repayment Program, NHSC Scholarship Program), or any other entity unless that service obligation will be completely satisfied before the contract has been signed;

7. not have breached a health professional service contract with the federal, state, or local government, or other entities;

8. not have defaulted on their educational loans at any time, unless corrective actions have been made and loans are now in good standing;

9. not have a lien levied against their property for a debt to the United States government;

10. not be arrears on child support payment.

B. Criteria for Practice Sites. To be an eligible practice site, the site must:

1. be located in Louisiana in a federally designated HPSA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1205.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 49:

§13309. Award Amounts

A. Award amounts are contingent upon available funding and the amount of qualifying student loan debt.

B. LDH will contract directly with the award recipient.

C. Award amount may be up to \$150,000 for a five-year contract (or the amount of the principal balance of the educational loan if less than the total eligible to receive).

D. Participants who complete their original five-year commitment in compliance, remain in an eligible site in a

HPSA, and still have educational loans to repay, may be able to extend their commitment with a two-year renewal to receive up to \$15,000 annually.

E. Disbursement of funds will occur quarterly upon receipt of loan verification payment (LPV) for the funds paid the prior quarter.

F. If the contractor breaches their obligation, the contractor will be subject to pay an amount equal to the sum of the following:

1. the total amount paid by the LDH to, or on behalf of, the participant for loan repayment for any period of obligated service not served;
2. an amount equal to the number of months of obligated service not completed multiplied by \$7,500; and
3. interest on the above amounts at the judicial interest rate pursuant to R.S. 13:4202, from the date of breach.

NOTE: The minimum amount that LDH is entitled to recover will not be less than \$31,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1205.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 49:

§13311. Application

A. Program guidance and required forms will be updated as necessary on an annual basis and posted on the LDH website. Applications and other required documents shall be submitted directly to the Louisiana Department of Health at the address or using the electronic upload method noted in the program guidance. All applications (hard copy or on-line application) must include the following:

1. copy of executed employment contract for the length of years participating in this program or a letter verifying employment, if an employment contract is not available;
2. resume;
3. copy of current professional license;
4. documentation of the current principal balance of the applicant's certified educational debt, including name and account number for each loan;
5. signed release from liability form;
6. signed consent for release of information waiver of confidentiality form;
7. completed IRS Form W-9 Request for Taxpayer ID Number that matches applicant address;
8. completed Electronic Funds Transfer Form with voided blank check or direct deposit form from a financial institution. The bottom of this form should be completed by your financial institution. Please make sure the box on the middle left page is checked;
9. for public employee(s), a letter of agreement with the governmental agency and verification of employment will be accepted in lieu of an employment contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1205.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 49:

§13313. Selection Criteria

A. Upon receipt of applications, program leadership will have five business days to make final selection. All who applied will be notified of acceptance or denial within five business days of final selection. Submitting an application does not guarantee selection. Support may be provided for up to two physicians per site per year. AT the end of the

application period, if there are remaining funds then additional physicians may be supported per site. In the event multiple candidates meet the qualification criteria, additional points will be provided if applicant:

1. completed the Rural Health Scholars Program (RHSP)=2 points;
2. is a Louisiana resident=2 points;
3. graduated from a Louisiana medical school=1 point;
4. graduated from a medical school affiliated with an HBCU=1 point;
5. practicing in a rural location=2 points

AUTHORITY Promulgated in accordance with R.S. 40:1205.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 49:

§13315. Rural Health Scholars Program

A. Contingent upon available funding, the Louisiana Department of Health may establish a Rural Health Scholars Program pursuant to R.S. 40:1205.3. The Rural Health Scholars Program encourages health professions students to practice in Louisiana's Health Professional Shortage Areas (HPSAs) by building partnerships between rural and underserved healthcare facilities and colleges and universities. The program will pay stipends to eligible and selected students and their eligible schools as set forth in this Section. LDH may establish one or more application cycles at any state fiscal year. At the beginning of any application cycle, notice of application cycle will be publicized through electronic methods (email, newsletter, or on the LDH website: <https://wellaheadla.com>).

B. Eligibility Criteria for Students. Students are eligible for the program if they are currently enrolled in one of the following healthcare profession programs:

1. MD/DO physicians (family or general practice, internal medicine, obstetrics/gynecology and pediatrics);
2. DDS/DMD (general and pediatric dentistry);
3. NP (nurse practitioner);
4. PA (physician assistant); or
5. RDH (registered dental hygienist).

C. Student service requirements are as follows:

1. must complete, during the term of the written agreement required by this Section, a 180-hour rotation in a rural healthcare facility that meets the eligible practice site criteria set forth in this Section;
2. must participate in an on-line seminar (assigned by LDH) that details health disparities, discusses health equity, and provide information on chronic disease prevention efforts in rural Louisiana;
3. must submit an experience essay detailing their experience in the healthcare facility; and
4. must participate in a pre and post survey following the completion of the program.

D. Criteria for Eligible Practice Sites. Eligible practice sites must:

1. be located in a federally designated HPSA;
2. accept reimbursement from Medicare, Medicaid, and the Children's Health Insurance Program (CHIP), utilize a sliding fee scale, and see all patients regardless of their ability to pay; and
3. must provide discounts for individuals with limited incomes (i.e. use a sliding fee scale).

E. Criteria for eligible universities/schools of higher education:

1. accredited medical program at an in-state university or school of higher education;
2. ability to provide healthcare facilities with preceptor roles, responsibilities, and mandatory qualifications;
3. ability to mentor/work directly with students;
4. ensure that students meet standards for immunization, CPR, liability insurance, background, drug testing, etc. prior to beginning their rotations;
5. facilitate open communication between the college/university and each healthcare facility; and
6. ensure the student's clinical rotation aligns with college/university goals.

F. Award Amounts. LDH shall enter into mandatory written agreements with the chosen healthcare facility, university/school of higher education, and student. Students who fulfill all requirements of this Section will receive a stipend not to exceed \$6,000 and an additional \$2,000 toward living expenses for a total of \$8,000 for the entirety of the agreement. The hosting healthcare facility will receive a maximum of \$5,000 per each student participant hosted. Each university/school of higher education will receive \$5,000 for program participation. Number of students selected and stipend amounts may vary depending on funding.

G. Student Application/Selection. All applications and scores will be compiled and presented to program leadership. Program leadership will have five business days to make a final selection. Applicants who apply will be notified of acceptance or denial within five business days of final selection. In the event of a tie, equal distribution of students from universities will be made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1205.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 49:

Dr. Courtney N. Phillips
Secretary

2305#016

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Opening of 2023 Spring Inshore Shrimp Season in Zone 2

The Wildlife and Fisheries Commission received information regarding biological sampling for brown shrimp in state inshore waters. The Department of Wildlife and Fisheries provided the commission with biological data indicating brown shrimp could reach marketable sizes before the scheduled May 4, 2023 Wildlife and Fisheries commission meeting, and a special commission meeting was called by the commission to review the data. After considering biological information and public input, the commission took action to set the spring inshore shrimp season in the inshore waters of Zone 2. Notice of any opening, delaying or closing of a season by the Wildlife and

Fisheries Commission will be made by public notice at least 72 hours prior to such action.

In accordance with the emergency provisions of R.S. 49:962 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and shall have the authority to open or close outside waters and to increase the minimum mesh size provided in R.S. 56:499 for any trawl, skimmer net, or butterfly net for the duration of any special shrimp season or regular shrimp season extension, the Wildlife and Fisheries Commission does hereby set the 2023 Spring Inshore Shrimp Season in Louisiana state waters to open as follows:

That portion of state inside waters from the eastern shore of South Pass of the Mississippi River westward to the western shore of Freshwater Bayou Canal shall open at 6 a.m. on Monday, May 1, 2023.

The commission hereby grants authority to the secretary of the Department of Wildlife and Fisheries to delay or advance these opening dates if biological and technical data indicate the need to do so, and, to close any portion of Louisiana inside waters to protect small juvenile white shrimp if biological and technical data indicate the need to do so, or enforcement problems develop. Notice of any opening, delaying or closing of a season by the secretary of the Department of Wildlife and Fisheries will be made by public notice at least 72 hours prior to such action.

Andrew J. Blanchard
Chairman

2305#001

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Opening of 2023 Spring Inshore Shrimp Season in Remaining Waters

The Wildlife and Fisheries Commission received information regarding biological sampling for brown shrimp in state inshore waters. The Department of Wildlife and Fisheries provided the Commission with data that projected the date when brown shrimp will reach marketable size. After considering biological information and public input, the Commission took action to set the spring inshore shrimp season in remaining state inshore waters. Notice of any opening, delaying or closing of a season by the Wildlife and Fisheries Commission will be made by public notice at least 72 hours prior to such action.

In accordance with the emergency provisions of R.S. 49:962 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and shall have the authority to open or close outside waters and to increase the minimum mesh size

provided in R.S. 56:499 for any trawl, skimmer net, or butterfly net for the duration of any special shrimp season or regular shrimp season extension, the Wildlife and Fisheries Commission does hereby set the 2023 Spring Inshore Shrimp Season in Louisiana state waters to open as follows:

That portion of state inside waters from the Mississippi/Louisiana state line westward to the eastern shore of South Pass of the Mississippi River to open at 6 a.m. on Thursday, May 18, 2023.

That portion of state inside waters from the western shore of the Freshwater Bayou Canal westward to the Louisiana/Texas state line to open at 6 a.m. on Thursday, May 18, 2023.

The Commission hereby grants authority to the secretary of the Department of Wildlife and Fisheries to delay or advance these opening dates if biological and technical data indicate the need to do so, and, to close any portion of Louisiana inside waters to protect small juvenile white shrimp if biological and technical data indicate the need to do so, or enforcement problems develop. Notice of any opening, delaying or closing of a season by the secretary of the Department of Wildlife and Fisheries will be made by public notice at least 72 hours prior to such action.

Andrew J. Blanchard
Chairman

2305#014

Rules

RULE

Department of Children and Family Services Division of Family Support

TANF Star Academy Program
(LAC 67:III.5532)

The Department of Children and Family Services (DCFS), Family Support, under the provision of the Administrative Procedure Act, R.S. 49:953(A)(1)(a) has adopted LAC 67:III, Subpart 15 Temporary Assistance for Needy Families (TANF) Initiatives, Chapter 55 TANF Initiatives, Section 5532 Star Academy Program.

Pursuant to Louisiana's Temporary Assistance for Needy Families (TANF) Block Grant, adoption of Section 5532 is required to fund the TANF Star Academy Program which provides core curriculum through project based learning grounded in a positive classroom culture, social-emotional learning strategies, and safe spaces to build relationships with fellow students and educators. The program promotes student-led decision making, accountability, and leadership skills. The program has a strong potential for fostering a new generation of self-sufficient individuals who choose to experience a new and better economic future.

This action was made effective by an Emergency Rule dated and effective January 1, 2023. This Rule is hereby adopted on the day of promulgation.

Title 67

SOCIAL SERVICES

Part III. Economic Stability

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

Chapter 55. TANF Initiatives

§5532. Star Academy Program

A. The department shall enter into agreement(s) to fund the Star Academy Program which provides core curriculum through project based learning grounded in a positive classroom culture, social-emotional learning strategies, and safe spaces to build relationships with fellow students and educators. The program promotes student-led decision making, accountability, and leadership skills.

B. These services meet TANF Goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies by helping teachers better understand the gaps in executive functioning and the effect of poverty on students, establishing community service-based learning for students so that they can accept the perspectives of others, and workforce development alignment to assist students in gaining employability skills to begin their career pathway.

C. Eligibility includes any student selected by the school to participate in the program regardless of income.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq. and R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Family Support, LR 49:847 (May 2023).

Terri Porche Ricks
Secretary

2305#042

RULE

Department of Children and Family Services Licensing Section

12-Month License—Child Residential Care Class B,
Residential Homes (Type IV), Child Placing Agencies
General Provisions, and Juvenile Detention
(LAC 67:V.6955, 7107, 7311, 7507, and 7511)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953 (A)(1)(a), the Department of Children and Family Services (DCFS) has amended LAC 67:V, Subpart 8, Chapter 69, Child Residential Care, Class B, §6955; Chapter 71, Residential Homes-Type IV, Section 7107; Chapter 73, Child Placing Agencies—General Provisions, §7311; and Chapter 75, Juvenile Detention Facilities, §§7507 and 7511.

The department has amended the current process that causes providers to submit unnecessary documentation and fees to the department. This presents an unnecessary economic burden to small businesses in dealing with a government entity. The Rule removes any ambiguity in the current rule when the provider's license expires outside of their renewal timeframe. In addition, the issuing of actual paper licenses every 60-90 days poses an undue burden on the workforce for the department. The change does not give the department any additional authority or remove any authority currently held by the department and inefficiency in the licensing process. The Rule also requires juvenile detention providers to maintain documentation of current general liability insurance and insurance for all vehicles used to transport youth. This Rule is hereby adopted on the day of promulgation, and is effective June 1, 2023.

Title 67

SOCIAL SERVICES

Part V. Child Welfare

Subpart 8. Residential Licensing

Chapter 69. Child Residential Care, Class B §6955. Procedures

* * *

A. - C. ...

1. A license shall be renewed on an annual basis prior to the last day of the anniversary month of the license.

2. The provider shall submit, prior to its license expiration date, a completed renewal application form, applicable fee, and required documents. The following

documentation shall be submitted with the renewal application form:

- a. Office of Fire Marshal approval for occupancy;
- b. Office of Public Health, Sanitarian Services approval;
- c. city fire department approval, if applicable;
- d. copy of proof of current general liability and property insurance for facility;
- e. copy of proof of current insurance for vehicle(s) used to transport residents;
- f. copy of a satisfactory fingerprint-based criminal record check through the FBI as noted in §6966.A and/or §6966.B, as applicable and required by R.S. 46:51.2 and 15:587.1 for all owners and §6966.C and/or §6966.D, as applicable for program directors as required by R.S.46:51.2 and 15:587.1; and
- g. copy of current state central registry clearance forms for all owners and program directors/administrators.

3. Prior to renewing the residential home license, an on-site inspection shall be conducted to ensure compliance with all licensing laws, standards, and any other required statutes, ordinances, or regulations. A license may be issued for a period of up to one year as determined by the department. If the provider is not found to be in compliance during the timeframe for which the license is issued, the department may proceed with adverse action.

4. Upon rule promulgation, providers with licenses that expire prior to the last day of their anniversary month may be issued a license with an expiration date which coincides with the last day of their anniversary month unless the license is pending adverse action.

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

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1565 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2740 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1617 (August 2009), amended LR 36:331 (February 2010), LR 36:836, 842 (April 2010), repromulgated LR 36:1032 (May 2010), repromulgated LR 36:1277 (June 2010), amended by the Department of Children and Family Services, Child Welfare Section, LR 36:1463 (July 2010), amended by the Department of Children and Family Services, Child Welfare Section and Economic Stability and Self-Sufficiency Section, LR 36:2522 (November 2010), repromulgated LR 36:2838 (December 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:971 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 45:508 (April 2019), effective May 1, 2019, LR 46:687 (May 2020), effective June 1, 2020, LR 49:847 (May 2023), effective June 1, 2023.

Chapter 71. Residential Homes—Type IV

§7107. Licensing Requirements

A. - E.2.g. ...

3. Prior to renewing the facility license, an on-site inspection shall be conducted to ensure compliance with all licensing laws, standards, and any other required statutes, ordinances, or regulations. A license may be issued for a period of up to one year as determined by the department. If the provider is not found to be in compliance during the

timeframe for which the license is issued, the department may proceed with adverse action.

4. Upon rule promulgation, providers with licenses that expire prior to the last day of their anniversary month may be issued a license with an expiration date which coincides with the last day of their anniversary month unless the license is pending adverse action.

F. - L.6. ...

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 36:807 (April 2010), amended LR 36:843 (April 2010), amended by the Department of Children and Family Services, Child Welfare Section, LR 36:1463 (July 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:977, 984 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 43:249 (February 2017), LR 43:1725 (September 2017), amended by the Department of Children and Family Services, Licensing Section, LR 45:519 (April 2019), effective May 1, 2019, LR 46:673 (May 2020), effective June 1, 2020, LR 49:848 (May 2023), effective June 1, 2023.

Chapter 73. Child Placing Agencies—General Provisions

§7311. Licensing Requirements—Foster Care, Adoption, Transitional Placing

A. - C.2.i. ...

3. Prior to renewing the child placing agency's license, an on-site inspection shall be conducted to ensure compliance with all licensing laws, standards, and any other required statutes, ordinances, or regulations. A license may be issued for a period of up to one year as determined by the department. If the provider is not found to be in compliance during the timeframe for which the license is issued, the department may proceed with adverse action.

4. Upon rule promulgation, providers with licenses that expire prior to the last day of their anniversary month may be issued a license with an expiration date which coincides with the last day of their anniversary month unless the license is pending adverse action.

D. - N.4....

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

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:359 (March 2019), effective April 1, 2019, LR 46:681 (May 2020), effective June 1, 2020, amended LR 47:350 (March 2021), effective April 1, 2021, repromulgated LR 47:441 (April 2021), amended LR 47:1847 (December 2021), LR 49:848 (May 2023), effective June 1, 2023.

Chapter 75. Juvenile Detention Facilities

§7507. Licensing Requirements

A. - E.2.e. ...

3. Prior to renewing the JDF license, an on-site inspection shall be conducted to ensure compliance with all licensing laws, standards, and any other required statutes, ordinances, or regulations. A license may be issued for a period of up to one year as determined by the department. If the provider is not found to be in compliance during the timeframe for which the license is issued, the department may proceed with adverse action.

4. Upon rule promulgation, providers with licenses that expire prior to the last day of their anniversary month

may be issued a license with an expiration date which coincides with the last day of their anniversary month unless the license is pending adverse action. A provider's anniversary is determined by the month in which the initial license was issued to the juvenile detention facility and in which the license is eligible for renewal each year.

F. - I.7. ...

J. Corrective Action Plan (CAP)

1. A corrective action plan (CAP) shall be submitted for all deficiencies noted by Licensing Section staff regarding any licensing law or standard, or any other required statute, ordinance, or standard. The request for submission of the CAP does not restrict the actions which may be taken by DCFS. If the department does not specify an earlier timeframe for submitting the CAP, the CAP shall be submitted within 10 calendar days from receipt of the deficiencies. Receipt of the deficiencies by any staff person constitutes notice to the juvenile detention facility. The CAP shall include a description of how the deficiency will be corrected, the date by which correction(s) will be completed, and outline the steps the juvenile detention facility provider plans to take in order to prevent further deficiencies from being cited in these areas and the plan to maintain compliance with the licensing standards. If the CAP is not sufficient and/or additional information is required, the provider shall be notified and informed to submit additional information within five calendar days.

2. Provider may contest a specific deficiency or any information within a cited deficiency which the provider contends is factually inaccurate. The provider shall have one opportunity to request a review of a licensing deficiency within the timeframe specified for the submission of the CAP. A statement of why the deficiency is being disputed and supporting documents (if applicable) shall be submitted with the corrective action plan within the timeframe specified for the submission of the CAP.

3. The statement of deficiencies for which a review has been requested will not be placed on the internet for viewing by the public until a decision has been reached. As a result of the licensing deficiency review request, a deficiency may be upheld with no changes, the deficiency may be removed, or the deficiency may be upheld and revised to include pertinent information that was inadvertently omitted. Once a decision has been reached, provider will be informed in writing of the decision and the reason for the decision. If information within the deficiency was cited in error or the cited deficiency is revised by the DCFS Licensing Section staff, provider will receive a revised "statement of deficiencies" with the decision letter. If any enforcement action was imposed solely because of a deficiency or finding that has been deleted through the licensing deficiency review process, the action will be rescinded.

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

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1561 (July 2012), amended LR 38:3104 (December 2012), LR 39:1006 (April 2013), effective July 1, 2013, amended LR 42:395 (March 2016), amended by the Department of Children and Family Services, Licensing Section, LR 45:652 (May 2019), effective June 1, 2019, LR 49:848 (May 2023), effective June 1, 2023.

§7511. Facility Responsibilities

A. - H.2.b.ii. ...

3. Administrative File

a. Insurance Policies. Provider shall have an administrative file that contains the following information:

i. documentation of a current comprehensive general liability insurance policy; and

ii. documentation of current insurance for all vehicles used to transport youth. This policy shall extend coverage to any staff member who provides transportation for youth in the course and scope of his/her employment.

I. - L.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1561 (July 2012), amended LR 38:3104 (December 2012), LR 39:1006 (April 2013), effective July 1, 2013, amended LR 42:395 (March 2016), amended by the Department of Children and Family Services, Licensing Section, LR 45:652 (May 2019), effective June 1, 2019, LR 49:849 (May 2023), effective June 1, 2023.

Terri Porche Ricks
Secretary

2305#043

RULE

Department of Economic Development Office of the Secretary

Small Business Innovation Retention Fund Program (LAC 13:I.Chapter 49)

Under the authority of R.S. 51:2401 and R.S. 36:104, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Economic Development has adopted rules for the Small Business Innovation Retention Fund Program. This Rule is hereby adopted on the day of promulgation.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentive Programs

Chapter 49. Small Business Innovation Retention Fund Program

§4901. Purpose

A. The purpose of this Chapter is to implement the Small Business Innovation Retention Fund Program as established by R.S. 51:2401.

B. This Chapter shall be administered to achieve the following purposes:

1. to support and retain Louisiana jobs in STEM and other high-tech industries; and

2. to retain Louisiana small innovative businesses by providing financial assistance to certain businesses that have received certain small business innovation research (SBIR) or small business technology transfer (STTR) grant funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 51:2401.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 49:849

§4903. Definitions

A. Terms not otherwise defined in this Chapter shall have the same meaning given to them in R.S. 51:2401, unless the context clearly requires otherwise.

B. In this Chapter, the following terms shall have the meanings provided herein, unless the context clearly indicates otherwise.

Applicant—a person requesting a grant award from LED under this program.

Department—Louisiana Department of Economic Development.

Federal Notice of Award—a document issued by a federal agency evidencing approval of an SBIR or STTR application, including but not limited to amount of funding awarded, agreement number and topic number.

LED—Louisiana Department of Economic Development.

LED Grant Letter—a letter issued by LED to a person for a particular calendar year, setting forth the amount, terms and conditions of the grant.

Louisiana Small Business—a for profit, Louisiana domiciled business with fewer than 500 employees.

Person—any natural person or legal entity including an individual, corporation, partnership, or limited liability company.

Retention Fund—Small Business Innovation Retention Fund.

Secretary—Secretary of the Louisiana Department of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 51:2401

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 49:850 (May 2023).

§4905. General Principles

A. The following general principles will direct the administration of the program.

1. Awards are not be considered as an entitlement for companies, and the secretary has the final authority to determine whether or not each particular applicant is eligible and meets the criteria of the award, and in all such circumstances, the exercise of that discretion shall be deemed to be a final determination of the applicant's award status.

2. Applications shall be accepted on a year round basis, subject to availability of funding in any given year, or as otherwise determined by LED.

3. Applicants may apply for more than one program administered by LED, provided that separate applications are submitted per program.

B. Program Issuance Cap. LED may issue no more than \$1,000,000 per fiscal year from the Retention Fund as follows:

1. up to \$500,000 shall be allocated for Phase I SBIR or STTR federal grant recipients;

2. up to \$500,000 shall be allocated for Phase II SBIR or STTR federal recipients.

C. Applicant Issuance Cap

1. Each selected applicant shall receive an amount equal to 25 percent of the Phase I SBIR or STTR federal grant the applicant has received, not to exceed \$50,000 per applicant;

2. Each selected applicant shall receive an amount equal to 20 percent of the Phase II SBIR or STTR federal grant the applicant has received, not to exceed \$100,000 per applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 51:2401.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 49:850 (May 2023).

§4907. Eligibility

A. Eligible applicants for the benefits of this program shall be Louisiana small businesses that receive a Federal Notice of Award on or after June 15, 2022.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 51:2401.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 49:850 (May 2023).

§4909. Application Procedure

A. LED will provide a standard application form which applicants will be required to use to apply for assistance under this program. The application form will contain, but not be limited to, the following:

1. business name;
2. contact person and their title;
3. business physical address;
4. business phone number and email address;
5. brief description of the nature of the business;
6. number of employees;
7. secretary of state registration;
8. information evidencing SBIR or STTR award, including name of issuing federal agency;
9. any additional information requested by LED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 51:2401.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 49:850 (May 2023).

§4911. Selection Criteria

A. LED will consider various factors when determining which applications will be funded. Among the factors which may be taken into consideration are the following:

1. disbursing of funding statewide;
2. availability of funding; and
3. best interests of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 51:2401.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 49:850 (May 2023).

§4913. LED Action—Grant Approval or Denial Provisions

A. In the event LED determines that an applicant is eligible, funding is available and a grant would be appropriate, a grant letter will be issued, specifying the amount, the terms and conditions of the grant.

B. Grant funds will be disbursed to the approved applicants as follows:

1. Phase I SBIR or STTR applicants shall receive 25 percent of the federal grant received, not to exceed \$50,000 per applicant;

2. Phase II SBIR or STTR applicants shall receive 20 percent of the federal grant received, not to exceed \$100,000 per applicant;

3. Each grant awarded shall be divided into two equal amounts and disbursed over a period of two consecutive years as follows:

a. Year 1 funding may be awarded based upon the amount stated in the federal notice of award;

b. Year 2 funding shall be awarded contingent upon the actual federal grant funding received, as supported by reporting documentation of recipient and any other compliance information requested by LED. In the event of any deviation from the anticipated total federal grant funding, LED reserves the right to increase or decrease the Year 2 award to ensure compliance with the maximum award provisions.

C. In the event LED determines that an applicant is not selected for an award, a denial letter will be issued by the secretary, specifying the basis for denial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 51:2401.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 49:850 (May 2023).

Brenda Guess
Assistant Secretary

2305#038

RULE

Board of Elementary and Secondary Education

Administration of Educational Programs
(LAC 28:XXXV.103; XXXIX.700; XLV.743
and 745; LXXIX.1311 and 2120; CXV.325, 337,
517, 901, 915, 1303, 2305, 2307, 2319, 3305,
and 3503; CXXXIX.4305; and LAC 28:CXLVII.305)

Editor's Note: This Rule is being repromulgated to correct citation errors. The original Rule can be viewed on pages 245-255 of the February 20, 2023 *Louisiana Register*.

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education has amended LAC 28:XXXV, Bulletin 1903—*Louisiana Handbook for Students with Dyslexia*, LAC 28:XXXIX, Bulletin 1566—*Pupil Progression Policies and Procedures*, LAC 28:XLV, Bulletin 996—*Standards for Approval of Teacher and/or Educational Leader Preparation Programs*, LAC 28:LXXIX, Bulletin 741(Nonpublic) —*Louisiana Handbook for Nonpublic School Administrators*, LAC 28:CXV, Bulletin 741—*Louisiana Handbook for School Administrators*, LAC 28:CXXXIX, Bulletin 126—*Charter Schools*, and LAC 28:CXLVII, Bulletin 130—*Regulations for the Evaluation and Assessment of School Personnel*. The revisions are in response to Acts of the 2022 Regular Session of the Louisiana Legislature. These Acts relate to the administration of educational programs and require revisions to policy regarding such programs. Local policy and procedures will need to be amended in accordance with statutory requirements. This Rule is hereby adopted on the day of promulgation.

Title 28

EDUCATION

Part XXXV. Bulletin 1903—Louisiana Handbook for Students with Dyslexia

Chapter 1. General Provisions

§103. Local Education Agency (LEA) Responsibilities

A. - B. ...

C. No later than December 15 annually, LEAs shall report to the LDOE the numbers of students of all grade levels identified as dyslexic or exhibiting characteristics of dyslexia.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 47:723 (June 2021), repromulgated LR 47:1287 (September 2021), LR 49:245 (February 2023), repromulgated LR 49:851 (May 2023).

Part XXXIX. Bulletin 1566—Pupil Progression Policies and Procedures

Chapter 7. Promotion and Support Policy

§700. Support Standard for Grades Kindergarten-3

A. Beginning with the 2022-2023 school year and every school year thereafter, each local education agency shall identify all students in kindergarten, first, second, and third grade who score below grade-level on the literacy screener.

B. - B.4. ...

C. Beginning with the 2023-2024 school year, a student in grades kindergarten through three, within thirty days of being identified as having literacy skills that are below grade level based on the results of the literacy screener, shall receive an individual reading improvement plan. The plan shall be created by the teacher, principal, other pertinent school personnel, and the parent or legal guardian; describe the evidence-based reading intervention services the student will receive; and give suggestions for strategies parents can use at home.

1. The department may audit a random sampling of individual reading improvement plans in each local education agency.

D. The school shall provide mid-year and end-of-the-year updates to the parent or legal custodian of students identified in §700.A of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:7; R.S. 17:24.4; and R.S. 14:24.10.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:1760 (July 2022), LR 49:000 (February 2023), repromulgated LR 49:851 (May 2023).

Part XLV. Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs

Chapter 7. Louisiana State Standards for Educator Preparation Programs

Subchapter C. Teacher Preparation Programs

§743. Minimum Requirements for Traditional Teacher Preparation Programs

A. A traditional teacher preparation program is a baccalaureate degree program that includes a minimum of 120 credit hours of coursework and required practice experiences. Beginning with the 2024-2025 school year, an approved teacher education program shall be no more than

120 credit hours unless designated by the Board of Regents as dual degrees or dual certifications. A portion of the total hours must include the minimum number of credit hours in the teaching of reading and literacy as follows:

1. - 4. ...

5. Beginning with the 2024-2025 school year, for all certification areas, candidates must spend three credit hours within the existing credit hour requirements engaged in coursework regarding teaching students with dyslexia, taught by a faculty member who has been provided specialized training in instructing teacher candidates on pedagogical methods for teaching students with dyslexia. The coursework shall include but need not be limited to the following:

a. an overview of the body of scientific work regarding dyslexia, including the history, epidemiology, and clinical presentation, including early clinical indicators of dyslexia and common, persistent classroom presentation;

b. an overview of evidence-based instruction for individuals with dyslexia including remediation of weaknesses, fortification of strengths, and common accommodations to help mediate between the two; and

c. an introduction to the process of becoming a dyslexia practitioner or dyslexia therapist, pursuant to R.S. 17:392.2.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411, and 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:1330 (July 2017), amended LR 43:2492 (December 2017), LR 45:229 (February 2019), LR 48:1274 (May 2022), LR 48:1758 (July 2022), LR 49:246 (February 2023), repromulgated LR 49:851 (May 2023).

§745. Minimum Requirements for Alternate Teacher Preparation Programs

A. - B.4. ...

5. Beginning with the 2024-2025 school year, for all certification areas, candidates must spend three credit hours within the existing credit hour requirements, or 45 contact hours, engaged in coursework regarding teaching students with dyslexia, taught by a faculty member who has been provided specialized training in instructing teacher candidates on pedagogical methods for teaching students with dyslexia. The coursework shall include but need not be limited to the following:

a. an overview of the body of scientific work regarding dyslexia, including the history, epidemiology, and clinical presentation, including early clinical indicators of dyslexia and common, persistent classroom presentation;

b. an overview of evidence-based instruction for individuals with dyslexia including remediation of weaknesses, fortification of strengths, and common accommodations to help mediate between the two; and

c. an introduction to the process of becoming a dyslexia practitioner or dyslexia therapist, pursuant to R.S. 17:392.2.

C. - G.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411; and 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:1331 (July 2017), amended LR 43:2492 (December 2017), LR 45:1751 (December 2019), LR 46:324 (March 2020), LR: 48:1274 (May 2022), LR 48:1759 (July 2022), LR 49:41 (January 2023), LR 49:246 (February 2023), LR 49:256 (February 2023), repromulgated LR 49:852 (May 2023).

Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators Subchapter B. Reopening School Facilities for the 2020-2021 School Year

Chapter 13. Preventive Programs

§1311. Bullying

A. Policy. Each LEA shall develop and adopt a policy that prohibits the bullying of a student by another student.

1. The bullying policy shall be implemented in a manner that is ongoing throughout the year and integrated with a school's curriculum, a school's discipline policies, and other violence prevention efforts.

2. The policy shall contain the definition of bullying found in this Section and shall address the following:

a. behavior constituting bullying;

b. the effect the behavior has on others, including bystanders; and

c. the disciplinary and criminal consequences of bullying another student.

B. Training for School Personnel. Each LEA shall create a program to provide a minimum of four hours of training each year for new school employees who have contact with students, including bus drivers, with respect to bullying. The training shall be two hours each following year for all school employees who have contact with students and have received the four-hour training. The training shall specifically include the following:

1. how to recognize the behaviors defined as bullying;

2. how to identify students at each grade level who are most likely to become victims of bullying, while not excluding any student from protection from bullying;

3. how to use appropriate intervention and remediation techniques and procedures;

4. the procedures by which incidents of bullying are to be reported to school officials; and

5. information on suicide prevention, including the relationship between suicide risk factors and bullying.

C. Definition of Bullying

1. *Bullying* is defined as a pattern of one or more of the following behaviors:

a. gestures, including but not limited to obscene gestures and making faces;

b. written, electronic, or verbal communications, including but not limited to calling names, threatening harm, taunting, malicious teasing, or spreading untrue rumors;

c. physical acts, including but not limited to hitting, kicking, pushing, tripping, choking, damaging personal property, or unauthorized use of personal property; and

d. repeatedly and purposefully shunning or excluding from activities.

2. Behavior defined as bullying is exhibited toward a student, more than once, by another student or group of students and occurs, or is received by, a student while on

school property, at a school-sponsored or school-related function or activity, in any school bus or van, at any designated school bus stop, in any other school or private vehicle used to transport students to and from schools, or any school-sponsored activity or event.

3. Bullying must have the effect of physically harming a student, placing the student in reasonable fear of physical harm, damaging a student's property, placing the student in reasonable fear of damage to the student's property, or must be sufficiently severe, persistent, and pervasive enough to either create an intimidating or threatening educational environment, have the effect of substantially interfering with a student's performance in school, or have the effect of substantially disrupting the orderly operation of the school.

D. Notice of Bullying Policy to Students and Parents. The LEA shall inform each student orally and in writing of the prohibition against the bullying of a student by another student, the nature and consequences of such actions, including the potential criminal consequences and loss of driver's license, and the proper process and procedure for reporting any incidents of bullying. A copy of the written notice shall also be delivered to each student's parent or legal guardian.

E. Reporting Incidents of Bullying. The LEA shall develop a procedure for the reporting of incidents of bullying using the bullying report form approved by BESE and available on the DOE website and the school website. The procedure shall include the following.

1. Students and Parents

a. Any student who believes that he or she is or has been the victim of bullying, or any student or parent or legal guardian, who witnesses bullying or has good reason to believe bullying is taking place, may report the bullying to a school official.

b. A student, or parent or guardian, may also report concerns regarding bullying to a teacher, counselor, other school employee, or to any parent chaperoning or supervising a school function or activity.

c. Any report of bullying shall remain confidential.

2. School Personnel and Chaperones. Any teacher, counselor, bus driver, or other school employee, whether full or part time, and any parent chaperoning or supervising a school function or activity, who witnesses or who learns of bullying of a student, shall report the incident to a school official. A verbal report shall be submitted by the school employee or parent on the same day as the school employee or parent witnessed or otherwise learned of the bullying incident, and a written report must be filed no later than two days thereafter.

3. Retaliation. Retaliation against any person who reports bullying in good faith, who is thought to have reported bullying, who files a complaint, or who otherwise participates in an investigation or inquiry concerning allegations of bullying is prohibited conduct and subject to disciplinary action.

4. False Reports. Making false reports about bullying to school officials is prohibited conduct and will result in disciplinary action.

F. Investigation Procedure. When a report of the bullying of a student by another student is received, the school shall conduct an investigation using the following procedure.

1. Timing. The investigation shall begin the next school day following the day on which the written report was received and shall be completed no later than 10 school days after receipt of the report. If additional information is received after the end of the 10-day period, the school official shall amend all documents and reports to reflect such information.

2. Parental Notification of Allegation of Bullying

a. Upon receiving a report of bullying, the school shall notify the parents or legal guardians of the alleged offender and the alleged victim no later than the following school day.

b. Under no circumstances shall the delivery of this notice to the parent or legal guardian, be the responsibility of an involved student. Delivery of notice by an involved student shall not constitute notice as is required by this Section.

c. Before any student under the age of 18 is interviewed, his parents or legal guardians shall be notified of the allegations made and shall have the opportunity to attend any interviews conducted with their child as part of the investigation. If, after three attempts in a 48-hour period, the parents or legal guardians of a student cannot be reached or do not respond, the student may be interviewed.

d. All meetings with the parents or legal guardians of an alleged victim or an alleged offender shall be in compliance with the following:

i. separate meetings with the parents or legal guardians of the alleged victim and the alleged offender;

ii. parents or legal guardians of the alleged victim and alleged offender must be notified of the potential consequences, penalties and counseling options.

e. In any case where a school official is authorized to require a parent or legal guardian of a student under the age of 18 to attend a conference or meeting regarding the student's behavior, and after notice willfully refuses to attend, the principal or designee shall file a complaint with a court of competent juvenile jurisdiction, pursuant to *Children's Code* article 730(8) and 731.

f. A principal or designee may file a complaint pursuant to *Children's Code* article 730(1) or any other applicable ground when, in his judgment, doing so is in the best interests of the student.

3. Scope

a. The investigation shall include documented interviews by the designated school official of the reporter, the alleged victim, the alleged offender, and any witnesses.

b. The school official shall collect and evaluate all facts using the bullying investigation form approved by BESE and available on the DOE website.

c. The school official shall obtain copies or photographs of any audio-visual evidence.

4. Documentation. At the conclusion of a bullying investigation, and after meeting with the parents or legal guardians, the school official or school board shall:

a. prepare a written report containing the findings of the investigation, including input from students' parents or legal guardians, and the decision by the school official or school system official. The document shall be placed in the school records of both students. If completed entirely, the bullying investigation form may serve as the report;

b. promptly notify the reporter/complainant of the findings of the investigation and whether remedial action has been taken, if such release of information does not violate the law;

c. keep reports/complaints and investigative reports confidential, except where disclosure is required by law;

d. maintain reports/complaints and investigative reports for three years;

e. provide a copy of any reports and investigative documents to the LEA, as necessary; and

f. provide a copy of any reports and investigative documents to the appropriate law enforcement officials, as applicable.

5. **Disciplinary Action.** If the school official has determined bullying has occurred, and after meeting with the parents or legal guardians of the students involved, the school official shall take prompt and appropriate disciplinary action against the offender and report criminal conduct to law enforcement, if appropriate.

6. **LEA Reporting**

a. The LEA shall electronically report all such documented incidences of bullying to the DOE using the DOE behavior report and incidence checklist to document the details of each reported incident of bullying.

7. **Appeal**

a. If the school official does not take timely and effective action, the student, parent, or school employee may report the bullying incident to the school board. The school board shall begin an investigation of any properly reported complaint of bullying no later than the next school day after the board receives the report.

b. If the school board does not take timely and effective action, the student, parent, or other school employee may report the bullying incident to the DOE. The DOE shall track the number of reports, shall notify the superintendent and the president of the LEA, and shall publish the number of reports by school district on its website.

8. **Parental Relief.** If four or more reports of separate incidents of bullying have been made, and no investigation has occurred, the parent or legal guardian of the alleged victim shall have the option to request that the student be transferred to another school operated by the LEA.

a. In order to exercise this option, the parent or legal guardian shall file a request with the superintendent of the LEA for the transfer of the student to another school under the LEA's jurisdiction.

b. The LEA shall make a seat available at another of its schools within 10 school days of receipt of the request for a transfer. If the LEA has no other school serving the grade level of the student, then within 15 school days of receipt of the request, the superintendent of the LEA shall:

i. inform the student and the student's parents or legal guardians and facilitate the student's enrollment in a statewide virtual school;

ii. offer the student placement in a full-time virtual program or virtual school under the jurisdiction of the LEA;

iii. enter into a memorandum of understanding with the superintendent of another LEA to secure a placement and provide for the transfer of the student to a

school serving the grade level of the student, pursuant to R.S. 17:105 and 105.1.

c. If no seat or other placement is made available within 30 calendar days of the receipt of the request by the superintendent, the parent or legal guardian may request a hearing with the school board, which shall be public or private at the option of the parent or legal guardian. The school board shall grant the hearing at its next scheduled meeting or within 60 calendar days, whichever is sooner.

d. At the end of any school year, the parent or legal guardian may request that the LEA transfer the student back to the original school. The LEA shall make a seat available at the school.

G. **Failure to Act.**

1. Any teacher, counselor, bus operator, administrator, or other school employee, whether full-or part-time, who witnesses bullying or who receives a report of bullying from an alleged victim, and who fails to report the incident to a school official, shall be investigated by the school governing authority.

2. Any school administrator or official who fails do any of the following shall be investigated by the school governing authority:

a. notify a parent or legal guardian of a report of bullying;

b. investigate a report of bullying in a timely manner;

c. take prompt and appropriate disciplinary action against a student that was determined to have engaged in bullying; or

d. report criminal conduct to the appropriate law enforcement official.

3. Upon finding a reasonable expectation that the individual failed to act, the school governing authority shall suspend the individual without pay.

a. The length of the suspension shall be determined by the school governing authority based on the severity of the bullying inflicted on the victim.

b. The school governing authority shall report each finding of a failure to report bullying or to act on such a report to the LDE no later than August first annually, beginning with August 1, 2023.

c. The report shall include the length of suspension issued to each employee who failed to report or to act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:416.13.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 49:246 (February 2023), repromulgated LR 49:852 (May 2023).

Chapter 21. Curriculum and Instruction

Subchapter C. Secondary Schools

§2120. Credit Recovery

A. Credit recovery refers to instructional programs for students who have failed courses taken previously.

B. Schools may implement credit recovery programs.

1. Students may earn a maximum of seven credit recovery units applied towards diploma graduation requirements and no more than two Carnegie units annually. The school system must annually report to LDE the rationale for any student:

a. receiving more than two credit recovery credits annually; and/or

b. applying more than seven total credit recovery Carnegie units towards graduation requirements.

2. Students earning Carnegie credit in a credit recovery course must have previously taken and failed the course. Previously-attempted coursework is considered an academic record and must be recorded on the official transcript.

3. Completed credit recovery courses must be recorded and clearly labeled on the official transcript.

4. Students enrolled in credit recovery courses are not required to meet the instructional minute requirements found in §117.A of this Part.

5. Credit recovery courses taught in a classroom setting using online courses designed for credit recovery must be facilitated by a qualified teacher of record or a qualified teacher of record recognized through reciprocity agreement with the entity facilitating the instruction.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:2348 (November 2009), amended LR 39:1447 (June 2013), LR 49:249 (February 2023), repromulgated LR 49:854 (May 2023).

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 3. Operation and Administration

§325. Kindergarten and Prekindergarten

A. - D.2. ...

E. Beginning with the 2023-2024 school year, each LEA shall work to develop a mixed-provider delivery model for full-day, year-round, high-quality prekindergarten instruction to each child residing within the boundaries of the school district and obtaining four years of age by September 30 of the year in which the child enrolls for prekindergarten, in accordance with the guidelines set forth in R.S. 17:24.8.

1. As used in this Section, the following words shall have the following meanings.

a. *Full-Day* means at least eight hours.

b. *Mixed Provider Delivery Model* means a program between the school board and one or both of the following:

i. Child care providers rated proficient and above on the most recent performance rating in accordance with LAC 28:CLXVII.509, operating and overseeing programs on school property, pursuant to an agreement with a city, parish, or other local public school board.

ii. Child care providers rated proficient and above on the most recent performance rating in accordance with LAC 28:CLXVII.509, operating and overseeing private child care within the boundaries of the school district with at least one infant and one toddler classroom and offering prekindergarten seats in the private program, pursuant to an agreement with a city, parish, or other local public school board.

c. *Year-Round* means for a full calendar year, excluding weekends and holidays, or 260 days a year.

2. Each LEA shall submit student data in the same manner as described in LAC 28:I.1107 for all students served through prekindergarten and early childhood programs offered by the school board, including the seats provided through the mixed provider delivery model.

3. No later than March 1, 2024, and annually thereafter by March 1, each LEA shall report to the LDOE the following information.

a. The distribution of seats among each school and quality rated child care provider.

b. Input from at least the majority of providers in the community network, including how the distribution of seats has impacted the stability of infant and toddler care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.8, R.S. 17:151.3, and R.S. 17:391.11.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1260 (June 2005), amended LR 39:2196 (August 2013), LR 49:249 (February 2023), repromulgated LR 49:855 (May 2023).

§337. Written Policies and Procedures

A. - B.31. ...

32. at least one hour of annual in-service training on recognizing adverse childhood experiences and the utilization of adverse childhood experience educational practices, provided on a day that other types of in-service training will be provided and including research-based information regarding the following:

a. the impact of adverse childhood experiences on student educational experiences and on the school and classroom culture;

b. how to identify the signs and symptoms of adverse childhood experiences;

c. best practices for schools and classrooms regarding adverse childhood experience considerations in education; and

d. recognition of the impact of secondary trauma on school employees.

33. - 33.e. ...

34. check-in and check-out procedures for student attendance which shall be reviewed at least every three years;

35. annual completion by any school nurse, coach, athletic trainer, and athletic director, whether employed or serving as a volunteer, of sudden cardiac arrest education program;

36. provision for each high school senior who is at least seventeen years old to register to vote via electronic voter registration or mail-in form;

37. attendance policy for pregnant and parenting students regarding excused absences of a minimum of 10 days after the birth of a child, reasonable amount of time for completing missed assignments, accommodations for breastfeeding, and access to child care providers;

38. submission of a seizure management and treatment plan, duly documented and signed, for use when a student is at school or while participating in a school activity;

39. release of a minor into protective custody requiring the official to whom the minor is being released provides information about the minor to include first and last name, address, and date of birth, unless custody is an arrest for which there is probable cause;

40. maintaining a supply of auto-injectable epinephrine in a secure location in each classroom assigned to a student deemed by a physician to be at high risk for anaphylactic reaction and incapable of self-administration of auto-injectable epinephrine, in accordance with R.S. 17:436.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:7(29), R.S. 17:81, R.S. 17:240, R.S. 17:100.8, 17:184, and R.S.17:437.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1261 (June 2005), amended LR 33:429 (March 2007), LR 35:1101 (June 2009), LR 36:1224 (June 2010), LR 37:1141 (April 2011), LR 37:1380, 1380 (May 2011), LR 37:2134 (July 2011), LR 38:40, 41 (January 2012), LR 39:2197 (August 2013), LR 40:2530 (December 2014), LR 48:1273 (May 2022), LR 49:33 (January 2023), LR 49:250 (February 2023), repromulgated LR 49:855 (May 2023).

Chapter 5. Personnel

§517. Acceptable Work Experience for Teacher Pay

A. - A.4.a. ...

5. Military

a. Credit for military service shall be in accordance with R.S. 17:423, and salary schedule placement shall be in accordance with R.S. 17:423.1.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:423; R.S. 17:424; R.S. 17:424.1; R.S. 17:424.2; R.S. 17:424.3, R.S. 17:423.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1267 (June 2005), LR 49:250 (February 2023), repromulgated LR 49:856 (May 2023).

Chapter 9. Scheduling

§901. Scheduling

A. - B.7. ...

8. The school counselor shall inform and assist students and their parents in the selection and scheduling of advanced courses and early college opportunities, such as dual enrollment, advanced placement, Cambridge, or international baccalaureate courses, as educational options.

C. - F.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:175; R.S. 17:183.2; and R.S. 17:2926.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1271 (June 2005), amended LR 36:1498 (July 2010), LR 39:2204 (August 2013), LR 40:2522 (December 2014), LR 42:557 (April 2016), LR 43:2483 (December 2017), LR 46:1083 (August 2020), amended LR 48:31 (January 2022), LR 49:250 (February 2023), repromulgated LR 49:856 (May 2023).

§915. Student Activities

A. - F.3. ...

G. A patriotic organization listed as a patriotic society in Title 36 of the United States Code may use any public school building or property for student participation in its activities at times other than instructional time during the school day.

1. The organization shall provide verbal or written notice to the school principal of its intent to speak to the students and shall submit proof of liability insurance for the organization.

2. The school principal shall provide verbal or written approval of the specific day and time for the organization to address the students.

3. The organization may speak with and recruit students during school hours for the purpose of informing students about the scholastic and civic benefits of participation in the organization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:176 and R.S. 17:2119.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1272 (June 2005), amended LR 39:2205 (August 2013), LR 49:250 (February 2023), repromulgated LR 49:856 (May 2023).

Chapter 13. Discipline

§1303. Bullying

A. Policy. Each LEA shall develop and adopt a policy that prohibits the bullying of a student by another student.

1. The bullying policy shall be implemented in a manner that is ongoing throughout the year and integrated with a school's curriculum, a school's discipline policies, and other violence prevention efforts.

A.2. - D. ...

E. Reporting Incidents of Bullying. The LEA shall develop a procedure for the reporting of incidents of bullying using the bullying report form approved by BESE and available on the DOE website and the website of each elementary and secondary school. The procedure shall include the following.

E.1. - F.4.d. ...

e. provide a copy of any reports and investigative documents to the LEA, as necessary; and

f. provide a copy of any reports and investigative documents to the appropriate law enforcement officials, as applicable.

E.5. - 8.d. ...

G. Failure to Act.

1. Any teacher, counselor, bus operator, administrator, or other school employee, whether full-or part-time, who witnesses bullying or who receives a report of bullying from an alleged victim, and who fails to report the incident to a school official, shall be investigated by the school governing authority.

2. Any school administrator or official who fails do any of the following shall be investigated by the school governing authority:

a. notify a parent or legal guardian of a report of bullying;

b. investigate a report of bullying in a timely manner;

c. take prompt and appropriate disciplinary action against a student that was determined to have engaged in bullying; or

d. report criminal conduct to the appropriate law enforcement official.

3. Upon finding a reasonable expectation that the individual failed to act, the school governing authority shall suspend the individual without pay.

a. The length of the suspension shall be determined by the school governing authority based on the severity of the bullying inflicted on the victim.

b. The school governing authority shall report each finding of a failure to report bullying or to act on such a report to the LDE no later than August first annually, beginning with August 1, 2023.

c. The report shall include the length of suspension issued to each employee who failed to report or to act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:415, R.S. 17:416, R.S. 17:416.13, and R.S. 17:416.14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:477 (March 2013),

amended LR 39:3259 (December 2013), LR 49:250 (February 2023), repromulgated LR 49:856 (May 2023).

Chapter 23. Curriculum and Instruction

Subchapter A. Standards and Curricula

§2305. Ancillary Areas of Instruction

A. - F.4.a. ...

G. Historical Programs. Each school shall hold an educational program pertaining to the United States Constitution on Constitution Day, September 17, of each year. The purpose of the program is to commemorate the September 17, 1787 signing of the Constitution. When September 17 falls on a Saturday, Sunday, or holiday, the Constitution Day program shall be held during the preceding or following week.

1. In conjunction with Constitution Day and Constitution Week, each public school governing authority shall observe Celebrate Freedom Week.

2. Students shall receive age and grade appropriate instruction on topics related to freedom, the nation's founding, and the intent, meaning, and importance of the Declaration of Independence, the U.S. Constitution, and the Bill of Rights.

H. - I. ...

J. Adoption Awareness. Each LEA shall provide instruction on adoption awareness to all high school students that shall include:

1. the benefits to society;
2. types of adoption;
3. differences between foster care and infant adoption;
4. resources and agencies available for pregnant mothers, for parents, and to assist in the adoption process; and
5. statistical data on abortion, adoption, and childbirth.

K. Child Abuse and Assault Awareness and Prevention. Each LEA shall provide age- and grade-appropriate classroom instruction to all students relative to child assault awareness and prevention. Such instruction shall be limited to:

1. education on what constitutes abuse or an assault;
2. how students may safely and confidentially report to a school official the circumstances surrounding any such abuse or assault; and
3. how students may report abuse or assault to the child protection toll-free hotline operated by DCFS and where the number is found on the school website.

4. Each LEA shall annually report to the LDE a grade-level listing of each course that includes instruction on child abuse and assault awareness and prevention, and shall include verification of DCFS child protection toll-free hotline notification on LEA and school websites.

L. - M. ...

N. Eating Disorder Awareness. Each public school LEA shall provide age and grade appropriate instruction regarding eating disorder awareness and prevention integrated into the curriculum of an existing required course.

O. Suicide, Safety, and Violence Education. An LEA offering a youth suicide prevention program shall include student safety, violence prevention, and social isolation prevention training via in-person, video, or a hybrid of both methods. Instruction shall include how to identify signs and signals of depression, suicide, and self-injury in themselves

and peers, as well as the importance of seeking help and the process for reporting harmful or potentially harmful activity.

1. Each public school LEA shall provide a minimum of one hour or one class period of age and grade appropriate instruction to students in grades 6 through 12.

2. Instruction shall be evidence-based through high-quality research findings that show a statistically significant effect on relevant outcomes.

3. Strategies for social inclusion in the classroom and community shall be utilized and may include instruction in self-esteem and peer mediation.

4. A student shall be excused from any of the training upon written request of the parent or legal guardian.

5. For each school enrolling students in grades 6 through 12, the LEA shall allow the creation of a student-led and employee-advised club open to any member of the student population to develop and maintain awareness activities of this Subsection.

P. Water Safety. Each public school LEA shall provide age and grade appropriate instruction regarding water safety integrated into the curriculum of an existing required course, and shall include:

1. proper use of flotation devices;
2. awareness of water conditions and safe behaviors in and around water;
3. supervision and barriers/fencing in pool areas;
4. importance of formal swim lessons;
5. avoidance of alcohol and substance use during water activities; and
6. administering CPR to a drowning victim.

Q. Mental Health. Each public school LEA shall provide age and grade appropriate instruction to students in kindergarten through twelfth grade regarding preventative mental health measures including but not limited to:

1. proper diet, exercise, risk avoidance, and stress reduction;
2. the relationship between mental health and physical health as well as brain health and emotional health;
3. identifying trauma and stress and the impact on mental and physical health; and
4. resources and services available to assist people with mental health issues.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:81, 17:154, 17:261 et seq., 17:263, 17:270, 17:280, 17:281 et seq., 17:404, and 17:405 et seq., and 36 USC 106.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1288 (June 2005), amended LR 33:2353 (November 2007), LR 39:2214 (August 2013), LR 39:3259 (December 2013), LR 40:2531 (December 2014), LR 44:1443 (August 2018), LR 44:1868 (October 2018), LR 45:36 (January 2019), LR 45:1746 (December 2019), amended LR 48:33 (January 2022), LR 49:251 (February 2023), repromulgated LR 49:857 (May 2023).

§2307. Literacy Assessment and Screener

A. Each LEA shall require that every child enrolled in kindergarten-third grade be given the BESE-approved literacy screener three times per school year: within the first 30 days of the school year, in December, and in April. The results of this screener shall be used to plan instruction and provide appropriate and timely intervention. The results of the screener will also provide information required by R.S. 17:24.9, student reading skills; requirements; reports.

1. Each student administered a literacy screener will be identified as reading below, at, or above grade level. Students scoring above grade level may be considered for evaluation into a gifted program.

2. For students with significant hearing or visual impairment, nonverbal students, or students with significant cognitive impairment, the LEA will provide an alternate assessment recommended by the LDE.

3. Each LEA will report to the LDE screener results by child within the timeframes and according to the guidance established by the LDE.

4. For grades 1-3, the school should use the prior year's latest screener level to begin appropriate intervention until the new screener level is determined.

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

B. Each LEA shall administer the literacy screener provided by the LDE for each grade level to meet kindergarten-third grade literacy assessment requirements.

C. Beginning June 1, 2023, and triennially thereafter, each school shall use data from the literacy screener in order to develop and submit to LDE the school foundational literacy plan for students in kindergarten through third grade pursuant to R.S. 17:24.9.

C.1. - C.1.d. ...

D. Each LEA shall provide for literacy coaches for reading teachers in kindergarten through third grade for the purposes of providing on-site teacher training on evidence-based reading instruction, demonstrating lessons, co-teaching or observation, and providing feedback for improving instruction subject to the appropriation of funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S.17:24.4; R.S. 17:24.9; and R.S.17:24.10.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1289 (June 2005), amended LR 38:1224 (May 2012), LR 39:2214 (August 2013), LR 42:1878 (November 2016), LR 45:36 (January 2019), LR 48:1747 (July 2022), LR 49:252 (February 2023), repromulgated LR 49:857 (May 2023).

§2319. The Career Diploma

A. - B.7.d. ...

* * *

C. Minimum Course Requirements

1. The minimum course requirements for a career diploma for incoming freshmen in 2014-2015 through 2022-2023 shall be the following:

a. English—4 units:

i. one of the following:

- (a). English I;
- (b). English language part 1: Cambridge IGCSE;
- (c). English literature part 1: Cambridge IGCSE.

ii. one of the following:

- (a). English II;
- (b). English language part 2: Cambridge IGCSE;

or

(c). English literature part 2: Cambridge IGCSE.

iii. the remaining units shall come from the following:

- (a). technical writing;
- (b). business English;
- (c). English III;
- (d). English language part 1: Cambridge

AICE—AS (honors);

(e). literature in English part 1: Cambridge AICE—AS (honors);

(f). English IV;

(g). any AP or IB English course;

(h). English language part 2: Cambridge AICE—AS (honors);

(i). literature in English part 2: Cambridge AICE—AS (honors); or

(j). comparable Louisiana technical college courses offered by Jump Start regional teams as approved by BESE;

b. Mathematics—4 units:

i. Algebra I (1 unit), Applied Algebra I (1 unit), or Algebra I-Pt. 2 (the elective course Algebra I-Pt. 1 is a pre-requisite);

ii. The remaining units shall come from the following:

- (a). geometry;
- (b). financial literacy (formerly financial math);
- (c). math essentials;
- (d). Algebra II;
- (e). advanced math-functions and statistics;
- (f). advanced math - pre-calculus;
- (g). Algebra III;
- (h). pre-calculus;
- (i). business math;
- (j). probability and statistics; ~~or~~
- (k). statistical reasoning;
- (l). transition to college mathematics; or
- (m). comparable Louisiana technical college

courses offered by Jump Start regional teams as approved by BESE;

(n). Integrated Mathematics I, II, and III may be substituted for Algebra I, geometry, and Algebra II and shall count as three math credits;

(o). additional math—Cambridge IGCSE; or

(p). math 1 (pure math): Cambridge AICE—AS (honors);

c. Science 2 units:

i. 1 unit of biology;

ii. 1 unit from the following:

- (a). Chemistry I;
- (b). physical science
- (c). earth science;
- (d). Agriscience II;

NOTE: Agriscience I is a prerequisite for Agriscience II and is an elective course.

(e). environmental science;

(f). principles of engineering;

(g). any AP or IB science course PLTW principles of engineering;

(h). principles of engineering (LSU partnership);

(i). any AP or IB science course;

(j). physics I: Cambridge IGCSE;

(k). biology II: Cambridge AICE—AS (honors);

(l). chemistry II: AICE—AS (honors); or

(m). physics II: Cambridge AICE—AS (honors);

d. social studies 2 units:

i. 1 of the following:

- (a). U.S. history;
- (b). AP U.S. history;
- (c). IB history of the Americas I;

- ii. 1 unit of the following:
 - (a). civics;
 - (b). government;
 - (c). AP U.S. government and politics: comparative; or
 - (d). AP U.S. government and politics: United States;
- e. Health Education—1/2 unit:
 - i. JROTC I and II may be used to meet the Health Education requirement. Refer to §2347.
 - f. Physical Education—1 1/2 units:
 - i. shall be Physical Education I and
 - ii. 1/2 unit from among the following:
 - (a). physical education II;
 - (b). marching band;
 - (c). extracurricular sports;
 - (d). cheering; or
 - (e). dance team;
 - iii. ROTC may be substituted;
 - iv. adaptive PE for eligible special education students may be substituted;
 - g. at least nine credits in the Jump Start course sequence, workplace experiences, and credentials;
 - i. Jump Start 1.0 course sequences will be available for incoming freshmen through 2020-2021; and
 - ii. Jump Start 2.0 course sequences will be available for incoming freshmen beginning in 2020-2021 and beyond;
 - h. Total—23 units.
- 2. The minimum course requirements for a career diploma for incoming freshmen in 2023-2024 and beyond shall be the following:
 - a - b.i. ...
 - ii. geometry or applied geometry;
 - iii. The remaining units shall come from the following:
 - (a). financial literacy (formerly financial math);
 - (b). math essentials;
 - (c). algebra II;
 - (d). advanced math-functions and statistics;
 - (e). advanced math pre-calculus;
 - (f). algebra III;
 - (g). pre-calculus;
 - (h). business math;
 - (i). probability and statistics;
 - (j). statistical reasoning;
 - (k). transition to college mathematics; or
 - (l) comparable Louisiana technical college courses offered by Jump Start regional teams as approved by BESE;
 - (m). integrated mathematics I, II, and III may be substituted for algebra I, geometry, and algebra II and shall count as three math credits;
 - (n). additional math—Cambridge IGCSE; or
 - (o). math 1 (pure math): Cambridge AICE—AS (honors);

C.2.c. - C.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:24.4, 17:183.2, 17:183.3, 17:274, 17:274.1, and 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 35:1230 (July 2009), LR 35:1876 (September 2009), LR 35:2321 (November 2009), LR 35:2750 (December 2009), LR 36:1490 (July 2010), LR 37:548 (February 2011), LR 37:1130 (April 2011), LR 37:2130 (July 2011), LR 37:3197 (November 2011), LR 38:761 (March 2012), LR 38:1005 (April 2012), LR 40:2522 (December 2014), LR 41:1482 (August 2015), LR 41:2594 (December 2015), LR 42:232 (February 2016), LR 43:1287 (July 2017), LR 43:2132 (November 2017), LR 43:2484 (December 2017), LR 44:1868 (October 2018), LR 45:1747 (December 2019), LR 46:557 (April 2020), LR 46:1086 (August 2020), LR 47:860 (July 2021), LR 48:39 (January 2022), repromulgated LR 48:1093 (April 2022), LR 48:2560 (October 2022), LR 49:252 (February 2023), LR 49:643 (April 2023), LR 49:252 (February 2023), repromulgated LR 49:858 (May 2023).

Chapter 33. Home Study Programs

§3305. Application Process

A. - C. ...

D. Within 30 days of initial approval of an application, denial of an application, or failure to receive an annual renewal application for a previously approved home study program, LDE shall provide notification of the child's legal name, date of birth, and physical residential address to the city, parish, or other local school system in which the child was most recently enrolled and, if different, the school system in which the child resides.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:236.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1312 (June 2005), amended LR 39:2229 (August 2013), LR 45:226 (February 2019), LR 49:254 (February 2023), repromulgated LR 49:859 (May 2023).

Chapter 35. Public School Enrollment Choice

§3503. Public High School Program of Choice

A. The governing authority of each public high school shall work to grow programs of choice as defined by R.S. 17:4035.2.

B. A student may enroll in a program of choice offered within the assigned school district, without regard to attendance zones, contingent upon the following:

1. the program of choice and the high school offering the program have available capacity at the appropriate grade level;
2. the program of choice is not offered at the public high school in which the student was most recently enrolled or would otherwise attend;
3. the enrollment of the student in the public school of choice does not violate an order of a court of competent jurisdiction; and
4. the student meets the published admission requirements, if any, of the program of choice.

C. The governing authority of each public high school shall include in the district policy regarding student transfers:

1. a definition of capacity for each program of choice;

2. admission requirements, if any, for each program of choice; and

3. the process for requesting BESE review of any denied request to transfer to a program of choice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:4035.1 and R.S. 17:4035.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 49:254 (February 2023), repromulgated LR 49:859 (May 2023).

Part CXXXIX. Bulletin 126—Charter Schools

Chapter 43. Discipline

§4305. Bullying

A. - D. ...

E. Reporting Incidents of Bullying. The charter school shall develop a procedure for the reporting of incidents of bullying using the bullying report form approved by charter school and available on the LDE website and the school website. The procedure shall include the following.

E.1. - F.4.d. ...

e. provide a copy of any reports and investigative documents to the charter school, as necessary; and

f. provide a copy of any reports and investigative documents to the appropriate law enforcement officials, as applicable.

F.5. - 8.d. ...

G. Failure to Act

1. Any teacher, counselor, bus operator, administrator, or other school employee, whether full-or part-time, who witnesses bullying or who receives a report of bullying from an alleged victim, and who fails to report the incident to a school official, shall be investigated by the school governing authority.

2. Any school administrator or official who fails to do any of the following shall be investigated by the school governing authority:

a. notify a parent or legal guardian of a report of bullying;

b. investigate a report of bullying in a timely manner;

c. take prompt and appropriate disciplinary action against a student that was determined to have engaged in bullying; or

d. report criminal conduct to the appropriate law enforcement official.

3. Upon finding a reasonable expectation that the individual failed to act, the school governing authority shall suspend the individual without pay.

a. The length of the suspension shall be determined by the school governing authority based on the severity of the bullying inflicted on the victim.

b. The school governing authority shall report each finding of a failure to report bullying or to act on such a report to the LDE no later than August 1 annually, beginning with August 1, 2023.

c. The report shall include the length of suspension issued to each employee who failed to report or to act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:415, R.S. 17:416, and R.S. 17:416.13.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:1000 (April 2022), LR 49:254 (February 2023), repromulgated LR 49:860 (May 2023).

Part CXLVII. Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel

Chapter 3. Personnel Evaluation

§305. Measures of Growth in Student Learning—Learning Targets

A. - B. ...

C. Evaluators shall meet with each evaluatee for the purpose of discussing the student learning targets of each student. Student learning targets not discussed in a meeting between a person and the evaluator shall not be used in the evaluation of the person.

D. Teachers. A minimum of two student-learning targets shall be identified for each teacher. The department shall provide an evaluative tool for evaluators to use in assessing the quality and attainment of student learning targets.

1. State-approved common assessments shall be used as part of the body of evidence measuring students' attainment of learning targets, where available.

2. Where no state-approved common assessments are available, evaluatees and evaluators shall decide upon the appropriate assessment or assessments to measure students' attainment of learning targets.

3. LEAs may define consistent student learning targets across schools and classrooms for teachers with similar assignments, provided that they allow for ample flexibility to address the specific needs of students in each classroom.

4. ...

E. Principals and Administrators. A minimum of two student learning targets shall be identified for each administrator.

1. For principals, the LDE shall provide recommended targets to use in assessing the quality and attainment of both student learning targets, which will be based upon a review of "similar" schools. The LDE will annually publish the methodology for defining "similar" schools.

2. For principals, at least one learning target shall be based on overall school performance improvement in the current school year, as measured by the school performance score.

a. for the 2020-2021 academic year only, overall school performance improvement may be measured by the school performance score or by formative assessment data.

3. For principals, at least one learning target shall be based on growth in a component (e.g., ELA or math improvement) of school performance score.

a. for the 2020-2021 academic year only, overall school performance improvement may be measured by the school performance score or by formative assessment data.

4. Principals at schools with special populations (e.g. alternative schools) or those that do not have grades with standardized testing and available value-added data (e.g., K-2 schools) may define learning targets based on LDE guidance.

F. The department shall provide annual updates to LEAs relating to:

1. the expansion of state-standardized testing and the availability of value-added data, as applicable;

2. the expansion of state-approved common assessments to be used to build to bodies of evidence for student learning where the value-added model is not available; and

3. the revision of state-approved tools to be used in evaluating student learning targets.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1216 (May 2012), amended LR 38:2359 (September 2012), LR 39:1273 (May 2013), LR 41:1267 (July 2015), LR 47:354 (March 2021), LR 49:254 (February 2023), repromulgated LR 49:860 (May 2023).

Shan N. Davis
Executive Director

2302#056

RULE

Board of Elementary and Secondary Education

Civics Assessment
(LAC 28:XI.6803; LAC 28:LXXIX.2111;
and LAC 28:CXV.2318)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education has amended LAC 28:XI in *Bulletin 118—Statewide Assessment Standards and Practices*; LAC 28:CXV in *Bulletin 741—Louisiana Handbook for School Administrators*, and LAC 28:LXXIX in *Bulletin 741(Nonpublic)—Louisiana Handbook for Nonpublic School Administrators*. The revisions provide that, beginning with incoming freshmen in 2024-2025, the LEAP 2025 Civics assessment will replace the LEAP 2025 U.S. History assessment required for graduation. However, the U.S. History assessment will be available through 2026-2027 for students requiring a retest to fulfill graduation requirements. This Rule is hereby adopted on the day of promulgation.

Title 28

EDUCATION

Part XI. Accountability Testing

Subpart 3. Bulletin 118—Statewide Assessment Standards and Practices

Chapter 68. LEAP 2025 Assessments for High School

Subchapter A. General Provisions

§6803. Introduction

[Formerly LAC 28:1803]

A. ...

B. Beginning in 2017-2018 through 2023-2024, LEAP 2025 assessments for high school will assess student learning in the high school courses:

1. algebra I;
2. geometry;
3. English I;
4. English II;
5. biology (beginning Fall 2018); and
6. U.S. history.

C. Beginning in 2024-2025 and beyond, LEAP 2025 assessments for high school will assess student learning in the high school courses:

1. algebra I;
2. geometry;
3. English I;

4. English II;
5. biology (beginning Fall 2018); and
6. civics.

D. Any student enrolled in and/or receiving credit for a LEAP 2025 course, regardless of grade inclusive of middle school students taking high school courses for high school credit, is required to take the LEAP 2025 high school assessment upon completion of that course.

E. LEAP 2025 high school assessments will be offered at the end of the fall and spring semesters and during the summer.

1. Students completing the course at the end of the fall semester shall participate in the fall test regardless of the grade earned during the fall semester.

2. Students completing the course at the end of the spring semester shall participate in the spring test regardless of the grade earned during the spring semester.

3. Students completing the course at the end of the summer semester shall participate in the summer test regardless of the grade earned during the summer semester.

F. Since these tests are being developed for use in Louisiana schools, any school selected for field tests shall participate in the field tests.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:214 (February 2009), LR 36:477 (March 2010), amended LR 38:35 (January 2012), LR 40:2514 (December 2014), LR 44:469 (March 2018), LR 44:2129 (December 2018), LR 47:567 (May 2021), LR 48:38 (January 2022), LR 49:861 (May 2023).

Part LXXIX. Bulletin 741(Nonpublic)—Louisiana Handbook for Nonpublic School Administrators Chapter 21. Curriculum and Instruction §2111. State Diploma

A. - B.1.a.iii. ...

b. For incoming freshmen in 2010-2011 through 2016-2017, students must pass three LEAP 2025 high school assessments in the following categories:

- i. English II or English III;
- ii. algebra I or geometry;
- iii. biology or U.S. history.

c. For incoming freshmen in 2017-2018 through 2023-2024, students must pass three LEAP 2025 assessments in the following categories:

- i. English I or English II;
- ii. algebra I or geometry;
- iii. biology or U.S. history.

d. Beginning with incoming freshmen in 2024-2025 and beyond, the LEAP 2025 civics assessment will replace the LEAP 2025 U.S. History assessment as the social studies assessment required for graduation. The LEAP 2025 U.S. history assessment will be available through 2026-2027 for those students requiring a retest to fulfill graduation requirements. Students must pass three LEAP 2025 assessments in the following categories:

- i. English I or English II;
- ii. algebra I or geometry;
- iii. biology or civics.

B.2. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 44:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2351 (November 2003), amended LR 31:636 (March 2005), LR 31:3082 (December 2005), LR 36:1498 (July 2010), LR 39:1446 (June 2013), LR 48:38 (January 2022), LR 48:2560 (October 2022), LR 49:642 (April 2023), LR 49:861 (May 2023).

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction

Subchapter A. Standards and Curricula

§2318. The TOPS University Diploma

- A. - A1.a.iii. ...
- b. Incoming freshmen in 2017-2018 through 2023-2024 must pass three LEAP 2025 assessments in the following categories:
- i. English I or English II;
 - ii. algebra I or geometry;
 - iii. biology or U.S. history.
- c. Beginning with incoming freshmen in 2024-2025 and beyond, the LEAP 2025 Civics assessment will replace the LEAP 2025 U.S. History assessment as the Social Studies assessment required for graduation. The LEAP 2025 U.S. History assessment will be available through 2026-2027 for those students requiring a retest to fulfill graduation requirements. Students must pass three LEAP 2025 assessments in the following categories:
- i. English I or English II;
 - ii. algebra I or geometry;
 - iii. biology or civics.
- A.2. - C.3. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:24.4, 17:183.2, and 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 36:1486 (July 2010), LR 37:547 (February 2011), LR 37:1128 (April 2011), LR 37:2129 (July 2011), LR 37:2132 (July 2011), LR 37:3193 (November 2011), LR 38:754, 761 (March 2012), LR 38:1001 (April 2012), LR 38:1584 (July 2012), LR 40:994 (May 2014), LR 40:1328 (July 2014), LR 40:1679 (September 2014), LR 40:2525 (December 2014), LR 41:915 (May 2015), LR 41:1482 (August 2015), LR 41:2126 (October 2015), LR 42:232 (February 2016), LR 42:1062 (July 2016), LR 42:1878 (November 2016), LR 42:2176 (December 2016), LR 43:1287 (July 2017), LR 43:2132 (November 2017), LR 43:2483 (December 2017), LR 44:263 (February 2018), LR 44:1868 (October 2018), repromulgated LR 44:1998 (November 2018), amended LR 45:1454 (October 2019), LR 46:556 (April 2020), LR 47:860 (July 2021), amended LR 48:33 (January 2022), LR 48:39 (January 2022), repromulgated LR 48:1092 (April 2022), LR 48:2098 (August 2022), LR 48:2560 (October 2022), LR 49:862 (May 2023).

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Executive Director

2305#035

RULE

Board of Elementary and Secondary Education

**Medication Administration Training
(LAC 28:CLXI.1515 and 1725)**

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education has amended LAC 28:CLXI in *Bulletin 137—Louisiana Early Learning Center Licensing Regulations*. The revision is in response to legislation enacted by the 2022 Regular Legislative Session and R.S. 17:407.50.2. The revision provides a requirement that centers develop a policy regarding the use of auto-injectable epinephrine, that they share that policy with families of all children at the site, and requires training for administration of auto-injectable epinephrine to a child in an early learning center who is believed to be having an anaphylactic reaction. This Rule is hereby adopted on the day of promulgation.

Title 28

EDUCATION

Part CLXI. Bulletin 137—Louisiana Early Learning Center Licensing Regulations

Chapter 15. Minimum General Requirements and Standards

§1515. Child Records and Cumulative Files

A. - D. ...

E. An early learning center shall provide a written copy of all health-related policies established by the center, including policies regarding accidents, allergic reactions, fever, illness, immunizations, infection, administration of auto-injectable epinephrine to a child believed to be having an anaphylactic reaction, and injuries, to the parent or guardian of each child attending or enrolled in the early learning center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:630 (April 2015), effective July 1, 2015, amended LR 41:2106 (October 2015), LR 44:250 (February 2018), effective March 1, 2018, LR 47:1276 (September 2021), LR 49:862 (May 2023).

Chapter 17. Minimum Staffing Requirements and Standards

§1725. Medication Management Training

A. All staff members who administer medication shall have medication administration training that includes auto-injectable epinephrine.

B. ...

C. Training for auto-injectable epinephrine shall be completed every two years with an approved child care health consultant, registered nurse, licensed medical physician, a child care health consultant, an anaphylaxis training organization, or any other entity approved by the Louisiana Department of Health. Training for medication

administration shall be completed every two years with an approved child care health consultant.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:636 (April 2015), effective July 1, 2015, amended LR 44:251 (February 2018), effective March 1, 2018, LR 44:1866 (October 2018), LR 47:1278 (September 2021), LR 49:862 (May 2023).

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2305#036

RULE

Board of Elementary and Secondary Education

School Nurses (LAC 28:CXXXI.715)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education has amended LAC 28:CXXXI in *Bulletin 746—Louisiana Standards for State Certification of School Personnel*. The revisions provide a mechanism by which a registered nurse who holds a current, valid license in good standing with the Louisiana State Board of Nursing is considered certified as a school nurse by BESE. The scope of practice for each type of nurse is governed by the nursing license held. This Rule is hereby adopted on the day of promulgation.

Title 28

EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

**Chapter 7. Ancillary School Service Certificate
Subchapter A. General Ancillary School Certificates
§715. School Nurse**

A. Beginning August 1, 2023, a registered nurse who holds a current, valid license in good standing with the Louisiana State Board of Nursing is considered certified by BESE.

B. Table 2—Additional Fees

Table 2		
Additional Fees		
Fee Number	Fee Description	Amount
* * *		
2300 *Note 14*	Criteria Pollutant Annual Fee per Ton Emitted on an Annual Basis (Non-Title V Facility): Nitrogen oxides (NOx) Sulfur dioxide (SO2) Non-toxic organic (VOC) Particulate (PM10)	\$20.00/ton
2310 *Note 14*	Criteria Pollutant Annual Fee per Ton Emitted on an Annual Basis (Title V Facility): Nitrogen oxides (NOx) Sulfur dioxide (SO2) Non-toxic organic (VOC) Particulate (PM10)	\$20.00/ton
* * *		

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:447 (March 2022), repromulgated LR 48:1053 (April 2022), amended LR 49:863 (May 2023).

Shan N. Davis
Executive Director

2305#037

RULE

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

RLS Criteria Pollutant Fee Increase
(LAC 33:III.223)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.223 (AQ393).

This Rule provides for the fee changes authorized in Act 405 of the 2021 Regular Legislative Session which authorizes a two-step increase to fees for Criteria Pollutants. The basis and rationale for this Rule are to implement the fee changes authorized in Act No. 405 of the 2021 Regular Legislative Session. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:963.B(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule is hereby adopted on the day of promulgation.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

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

§223. Fee Schedule Listing

A. Table 1—Fee Schedule Listing

* * *

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:613 (September 1988), LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), repromulgated LR 18:31 (January 1992), amended LR 18:706 (July 1992), LR 18:1256 (November 1992), LR 19:1373 (October 1993), LR 19:1420 (November 1993), LR 19:1564 (December 1993), LR 20:421 (April 1994), LR 20:1263 (November 1994), LR 21:22 (January 1995), LR 21:782 (August 1995), LR 21:942 (September 1995), repromulgated LR 21:1080 (October 1995), amended LR 21:1236 (November 1995), LR 23:1496, 1499 (November 1997), LR 23:1662 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:267 (February 2000), LR 26:485 (March 2000), LR 26:1606 (August 2000), repromulgated LR 27:192 (February 2001), amended LR 29:672 (May 2003), LR 29:2042 (October 2003), LR 30:1475 (July 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2620 (December 2007), LR 34:2560 (December 2008), LR 37:1145 (April 2011), amended by the Office of the Secretary, Legal Division, LR 43:936 (May 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1239 (July 2018), amended by the Office of the Secretary, Legal Affairs Division, LR 48:1499 (June 2022), LR 49:863 (May 2023).

Courtney J. Burdette
Executive Counsel

2305#023

RULE

**Office of the Governor
Board of Certified Public Accountants**

Certified Public Accountants
(LAC 46:XIX.503, 1707, and 1901)

Editor's Note: This Rule is being repromulgated to correct citation errors. The original Rule can be viewed in its entirety on pages 650-654 of the April 20, 2023 *Louisiana Register*.

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Board of Certified Public Accountants (Board) by the Louisiana Accountancy Act, R.S. 37:71 et seq., the board has amended its rules. This Rule is hereby adopted on the day of promulgation.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part XIX. Certified Public Accountants
Chapter 5. Qualifications; Education and
Examination**

§503. Educational Requirements

A. ...

	Undergraduate Semester Hours	Graduate Semester Hours
Accounting Courses		
Intermediate	6	3
Cost	3	3
Income tax	3	3

	Undergraduate Semester Hours	Graduate Semester Hours
Accounting Courses		
Auditing	3	3
Accounting Electives above the basic and beyond the elementary level	9	9
Total Accounting Courses	24	21
	Undergraduate Semester Hours	Graduate Semester Hours
Business Courses (other than Accounting Courses)	24	24
Including at least 3 semester hours in Business Law		
Total Business Courses	24	24

1. The board will accept for business course credit semester hours earned in courses offered through the institution's College of Business and reported on official transcripts in the following areas:

- a. business law;
- b. - d. ...
- e. business communications including technical writing;
- f. - g. ...
- h. information technology systems;
- i.
- j. data analytics (college of business or any other college);
- k. other business-related content areas included in the Uniform CPA Examination Blueprints or as may be approved by the board.

1.l. - 2. ...

3. Up to nine semester hours for internship and independent study may be applied to the education requirement. However, of the nine hours, a maximum of three semester hours may apply to the accounting courses, three semester hours toward the required business courses, and three semester hours toward the general education requirement.

A.4. - C. ...

D. With respect to courses required for the degree, other than those specified by §503.A, the board does recognize credit received for courses granted on the basis of advanced placement examinations (such as CLEP, ACT or similar examinations). Except for online courses at an accredited university or college approved by the board, the accounting and business course credits specifically listed in §503.A shall have been awarded pursuant to satisfactory completion of a course requiring personal attendance at classes in such course.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:6 (January 1980), amended LR 11:757 (August 1985), LR 13:13 (January 1987), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:616 (August 1989), LR 17:1072 (November 1991), LR 23:1120 (September 1997), LR 26:1969 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 43:1900 (October 2017), LR 49:650 (April 2023), repromulgated LR 49:864 (May 2023).

Chapter 17. Rules of Professional Conduct
§1707. Other Responsibilities and Practices

A. Acting through Others

1. A licensee or CPA firm shall not permit others to carry out on his behalf or on the firm's behalf, either with or without compensation, acts which, if carried out by the licensee or CPA firm, would place him or the CPA firm in violation of the rules of professional conduct, professional standards, or any provisions of the Act.

2. Acting through an affiliated entity.

a. Definition

i. **Affiliated Entity.** Affiliated entities for purpose of this rule refers to entities which share elements of ownership structure with a CPA firm and which offer to clients, or the public, professional services or products related to the skills associated with CPAs. Conversely, entities that offer services or products that do not relate to matters of accounting and financial reporting, tax, finance, investment advice or financial planning, management, or consultation are excluded.

ii. **Similar Name.** A similar name is one that contains one or more names, or initials of the names, or reference to that/those names that are included in a CPA firm applying for or currently holding a firm permit.

b. On and after January 1, 2008, a CPA firm shall not affiliate with an entity that has a similar name unless:

i. the affiliated entity is owned in accordance with §1707.A.2.d.i; or

ii. has been issued a firm permit by the board pursuant to §1707.A.2.d.ii; or

iii. the CPA firm has entered into a written agreement with the board pursuant to §1707.A.2.d.ii.

c. ...

d. Repealed.

e. depending on the ownership structure, an affiliated entity may be required to obtain a firm permit in order to use a similar name which indicates that the CPA or CPA firm is providing services through the affiliated entity.

i. - iii. ...

f. under R.S. 37:77(C), a majority of the ownership of a CPA firm (in terms of financial interests and voting rights of all partners, officers, shareholder, members, or managers) must belong to holders of valid licenses. Thus an unlicensed "holding company" cannot own a majority or 100 percent of a CPA firm. Therefore, such a "holding company" would have to apply for a CPA firm permit and qualify as such. The holding company and the CPA firm must both be registered as firms with the board even though the holding company will not directly offer services to clients. If the holding company does not otherwise meet the requirements to be licensed (e.g., the requirements that a majority ownership interest is held by licensees; the owners must be active in the firm or affiliates; and, the name must not be misleading) then such a firm structure would not be permissible.

B. Use of the "CPA Inactive" or "CPA Retired" Designation

1. Certificate only holders under prior law.

a. Prior to applying for and obtaining a certificate under R.S. 37:75.I, individuals who annually register in

inactive status may use the "CPA inactive" designation in connection with an employment position held in industry, government or academia, or in personal correspondence.

b. Any such individual who offers to perform or performs, for the public, professional services of any type involving the use of accounting, management advisory, financial advisory, tax, or consulting skills shall not use the designation CPA or "CPA inactive" in connection therewith or in any other manner or in connection with any employment.

2. Certificate Holders Subject to CPE Exemption

a. ...

b. Any individual referenced in R.S. 37:76(D)(2) who after being granted an exemption under that Section offers to perform or performs for the public professional services of any type involving the use of accounting, management advisory, financial advisory, tax, or consulting skills shall no longer qualify for the use of the designation and shall immediately cease all uses of the designation "CPA inactive" or "CPA-retired" in connection therewith or in any other manner or in connection with any employment or on any letterhead, business card, email signature, etc.

c. ...

C. Firm Name

1. - 2. ...

3. A CPA firm name is misleading within the meaning of R.S. 37:83(G) if, among other things:

a. ...

b. the CPA firm name includes the name of a person who is not a CPA and is not a past partner, shareholder, or member of the firm.

C.4. - E. ...

F. Cooperation with Board Inquiry or Investigation. A certificate holder, or CPA licensed in another state who has provided professional services to Louisiana clients, or CPA licensed in another state who may be granted rights under the substantial equivalency provisions of R.S. 37:94, shall fully cooperate with the board in connection with any inquiry or investigation made by the board. Full cooperation includes, but is not limited to, fully responding in a timely manner to all inquiries of the board or representatives of the board and claiming board correspondence from the U.S. Postal Service and from other delivery services used by the board.

G. Denial, Suspension, or Revocation by another state. Pursuant to R.S. 37:76 (F), each holder of or applicant for a certificate shall notify the board in writing within 30 days after the occurrence of any denial, revocation, or suspension of a certificate, license or permit by another state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 3:308 (July 1977), amended 4:358 (October 1978), LR 6:3 (January 1980), LR 9:207 (April 1983), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1068 (November 1991), LR 23:1115 (September 1997), LR 26:1985 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 32:2252 (December 2006), LR 43:1908 (October 2017), LR 49:653 (April 2023), repromulgated LR 49:865 (May 2023).

Chapter 19. Investigations; Hearings; Suspension, Revocations or Restrictions; Reinstatements

§1901. Charges in Writing; Investigative Files

A. Charges against holders of CPA certificates, practice privileges, and/or firm permits shall be made in writing, signed by the persons preferring the charges and addressed or delivered to the board.

B. ...

C. The board's staff may establish or open an investigative file:

1. upon receipt of written charges as described in §1901.A; or

2. at the written direction of any member of the board or other person who has been designated as investigating officer in accordance with §1903; or

3. upon receipt of other publicly available information which is suggestive of any potential violations of the rules, regulations, or statutes which the board is authorized to enforce. The source of such other information must be identified in the file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:9 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1126 (September 1997), LR 26:1987 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 33:2636 (December 2007), LR 49:654 (April 2023), repromulgated LR 49:866 (May 2023).

Lisa A. Benefield
Executive Director

2305#019

RULE

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

**Associations' Duties and Obligations
(LAC 35:III.Chapter 57)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 4:148, the Racing Commission has amended and adopted the Sections listed below under LAC 35:III.Chapter 57. This action has been deemed necessary by the Racing Commission to prevent imminent peril to the public health, safety, and welfare by establishing the administrative rules for minimum standards of facilities and infrastructure investments for racetracks in fulfillment of the Legislature's mandate to the Racing Commission "to encourage forceful and honest statewide control of horse racing for the public health, safety, and welfare by safeguarding the people of this state against corrupt, incompetent, dishonest and unprincipled horse racing practices" and "[t]o institute and maintain a program to encourage and permit development of the business of horse racing with pari-mutual wagering thereon on a higher plane." R.S. 4:141(A) and (A)(1).

All in fulfillment of the Legislature's mandate for the Racing Commission to "institute and maintain a regulatory program for the business of racing horses, which program assures the protection of public health, safety and welfare, vesting with the commission forceful statewide control of horse racing with full powers to prescribe rules and regulations and conditions under which all horse racing is conducted with wagering upon the result thereof with the state." R.S. 4:141(A)(3).

The amendments establish the initial administrative Rule for minimum standards of facilities and infrastructure investments for racetracks in accordance with the provisions established in Act 530 of the 2022 Regular Session of the Louisiana Legislature. This Rule is hereby adopted on the day of promulgation.

Title 35

HORSE RACING

Part III. Personnel, Registration and Licensing

Chapter 57. Associations' Duties and Obligations

§5705. Security of Racetrack Premises

A. The stable area of the premises of every association shall be enclosed with a fence, the type and construction of the fence to be subject to the approval of the commission. The association shall maintain a 24-hour guard at any opening of the fence during the horse race meeting.

B. An association must maintain adequate staffing of security officers on backside to:

1. patrol the backside;

2. check every vehicle coming into the backside for commission-granted licenses; and

3. check every horse trailer for the names of horses entering and exiting the backside.

C. An association must provide security guards to be present in the jockeys' room during live racing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:434 (December 1976), amended LR 3:30 (January 1977), LR 4:277 (August 1978), amended by the Office of the Governor, Division of Administration, Racing Commission LR 49:866 (May 2023).

§5706. Barns on Backside of Racetrack

A. An association shall ensure that all barns are kept in good repair and are kept clean by the licensed occupants.

1. Barn buildings, fences, bathrooms, and outdoor and indoor lighting shall be kept in good working order.

2. Each barn, including the receiving barn, must have a hot and cold water supply available and have ventilation proper for the housing of horses.

B. Any new barns, additions, or expansions built by a licensed association after the amendment of this Rule shall ensure that the individual box stall shall have a minimum dimensions of 12 feet by 12 feet and if constructed of concrete walls, they must be woodlined on the interior up a minimum of 4 feet from the ground or otherwise be insulated for the protection of the stabled horse.

C. An association shall provide an adequate area for the placement of manure removed from the stalls. All manure storage and removal shall be conducted in compliance with the rules and regulations set forth by the Department of Environmental Quality. Nothing in the Rule is to supersede

any requirements set forth by the Department of Environmental Quality.

D. An association must provide the minimum number of total stalls, as specified by the commission by majority vote, on its backside in good, working condition to house horses for their assigned racing dates.

E. The commission shall send a representative to each racetrack annually to assure that upkeep of all barns, both exterior and interior, is maintained. This shall include, but not be limited to, upkeep of:

1. stalls;
2. restroom facilities;
3. tack rooms;
4. feed rooms;
5. living quarters;
6. horse paths;
7. walking wheels; and
8. exterior barn paint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 44:913 (May 2018), amended LR 49:866 (May 2023).

§5740. Backside Internet Access

A. An association shall provide access to wireless internet on the backside free of charge to the horsemen and commission staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:867 (May 2023).

§5742. Grandstand, Clubhouse, and Apron Areas

A. An association shall ensure that the grandstand is kept clean, in good repair, and properly ventilated for use by the public.

B. An association shall grant access for the general public to the grandstand and apron areas of its racetrack on live race days, with all doors and gates unlocked, no later than one hour before post time of the first race of the day.

C. An association shall provide live pari-mutuel tellers at its racetrack betting windows and an open concession stand that sells programs and forms no later than one hour before post time of the first race of the day.

1. All pari-mutuel wagering areas must have tellers, seating, and tables in an air-conditioned environment for guests to handicap and place wagers on the races.

D. An association shall provide security personnel who are visible to the public no later than one hour before post time of the first race of the day.

E. An association shall ensure that all elevators and escalators are kept clean and in good working condition during any hours of operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:867 (May 2023).

§5745. Providing Concession and Restaurant Services

A. The operation shall be conducted so that all persons who patronize the respective tracks shall be satisfactorily served. Food, beverages (both alcoholic and nonalcoholic), tobacco and other generally related items may be available for sale to the patrons of the various tracks on each day that

racing is conducted under the license, permit or privilege granted by the commission. Concessionaires vending any liquid refreshments shall not permit the surrender of glass containers to customers except in appropriate areas as designated by the association.

B. An association shall ensure that food and beverages are always available to guests at the racetrack during open hours of operation.

C. An association shall make a sit down dining experience available on weekend live race days and during stakes races.

D. An association shall provide tables and seats for guests to sit at and eat outside along the apron of the racetrack.

E. An association shall ensure that the racetrack kitchen and all cooking equipment are kept clean, in good repair, and fully operational during its race meets.

F. An association shall provide at least one quick service snack bar and a full service bar to be open during each live race day at least one hour before the first race and at least one hour after the last race.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:147 and R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission LR 2:92 (March 1976), amended by the Department of Commerce, Racing Commission, LR 2:435 (December 1976), amended LR 3:31 (January 1977), LR 4:278 (August 1978), LR 11:6 (January 1985), amended by the Office of the Governor, Division of Administration, Racing Commission LR 49:867 (May 2023).

§5756. Minimum Employment Requirements

A. An association shall maintain employees as follows:

1. Within 30 days after receiving the association's annual plan of operation per LAC 35:VII.5777, the commission shall determine in writing how many full-time and seasonal positions that the association will need to employ to operate the following during race meets:

- a. food service;
- b. marketing;
- c. pari-mutuel windows;
- d. kiosk repairs;
- e. racing officials; and
- f. racetrack maintenance.

2. Pari-mutuel tellers must be available at the ratio of 1 teller to every 50 guests on track with a minimum of 3 tellers in each betting area on the first floor and a minimum of 1 teller in each betting area on the clubhouse floors and private areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:147, and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:867 (May 2023).

§5758. Animals and Livestock

A. Trainers must have all animals and livestock, other than equines, approved by the racing secretary before being allowed on the backside, and the association must report those animals and livestock to the commission and require paperwork for all service animals before allowing them access to the backside.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:148, and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:867 (May 2023).

§5760. Paddock

A. An association shall ensure that the paddock, paddock stalls, and parade ring are kept clean, in good repair, and free of dangerous surfaces on which horses and people can walk.

B. An association must provide an employee to remove horse manure from the paddock area during live racing in a timely manner.

C. All paddock stalls must have a working fan.

D. An association shall maintain healthy, well-groomed landscaping in the paddock area throughout live race meets.

E. An association shall ensure that trash cans are available in the paddock area and that trash cans are emptied and all litter on paddock area grounds is removed daily when horses are stalled on the backside.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:148, and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:868 (May 2023).

§5762. Grass and Drainage Maintenance

A. An association shall keep all grass areas maintained with adequate grass cutting and weed eating.

B. An association shall maintain all drainage throughout the backside.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:148, and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:868 (May 2023).

§5764. Surface of Race Course

A. The surface of a racetrack, including the cushion, subsurface and base, must be designed, constructed, and maintained to provide for the safety of the jockeys and horses.

B. An association shall provide an adequate drainage system for the racetrack and turf course.

C. An association shall maintain the track surface in a safe training and racing condition.

D. An association that conducts races on a turf track shall provide a system capable of adequately watering the entire turf course evenly.

E. An association must get a soil sample tested for its dirt course twice a year.

1. The test must be conducted by a certified expert.

2. Each association must send a copy of the expert report to the commission in a timely manner to make any necessary adjustments.

F. An association must get its turf course inspected and evaluated twice a year.

1. The inspection and evaluation must be conducted by a certified expert.

2. Each association must send a copy of the expert report to the commission in a timely manner to make any necessary adjustments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 44:915 (May 2018), amended LR 49:868 (May 2023).

§5771. Minimum Infrastructure Investment Requirements

A. An association shall deposit 10 percent of its gross profits into a fund for infrastructure maintenance and improvements per R.S. 4:164.

1. These deposits shall occur at the same time as when the association's state taxes are paid each month.

2. The association shall continue depositing 10 percent of its gross profits until such time when the commission determines that the association has complied with all infrastructure maintenance and improvements as required by the commission in this Chapter.

a. When the commission, by majority vote, determines full compliance with its required infrastructure maintenance and improvements by the association, the association shall maintain a minimum fund balance of \$3,000,000.

b. When the commission determines full compliance with its required infrastructure maintenance and improvements by the association, the commission can authorize any of the following by two-thirds vote:

i. exemption from maintaining fund balance;

ii. exemption from making deposits; or

iii. allow fund balance to be withdrawn.

c. The commission, by majority vote, may reconsider prior determination of compliance and revoke any exemption or allowance granted to an association per this Subsection at any time.

d. There shall be an ongoing review, at least annually, by the commission to determine any additional required facility maintenance and improvements needed and to be required by the commission after obtaining input from associations and stakeholders.

3. The funds specified in this Subsection are subject to audit at any time by the commission and the legislative auditor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:148, and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:868 (May 2023).

§5772. Minimum Marketing Investment Requirements

A. An association shall specify the total amount of funds that it will use for marketing and promotions for horse racing with its submitted annual plan of operation report per LAC 35:VII.5773.

1. The Commission shall make a determination, by majority vote, whether the amount of funds specified by the association for marketing and promotions is acceptable or if the association must submit a new marketing plan with appropriate funding to comply with the commission's determination of compliance per LAC 35:VII.5771.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:148, and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:868 (May 2023).

§5773. Association Annual Plan of Operation Report

A. An association shall provide an annual report to the commission, due by January 30 after each fiscal year ends starting with fiscal year 2022 due on January 30, 2023, regarding the association's plan of operation for the upcoming fiscal year to include details about:

1. customer service;

2. full-time and seasonal employment;

3. marketing and promotions for horse racing;

4. capital improvements;

5. facility maintenance;

6. facility improvements; and
7. a summary of the prior fiscal year's plan of operation implementation and status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:148, and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:868 (May 2023).

§5775. Association Quarterly Reports

A. The quarterly reports required each year under this Section shall be due within 20 days of the end of each quarter as follows:

1. Reports from January to March are due no later than April 20.
2. Reports from April to June are due no later than July 20.
3. Reports from July to September are due no later than October 20.
4. Reports from October to December are due no later than January 20.

B. Each association shall provide quarterly reports to the commission of the names and addresses of each individual, corporation, firm, partnership, association, or other legal entity that furnishes professional services, as defined in R.S. 4:158.2, to the association.

1. The reports must also specify whether or not the listed entities are any of the following:
 - a. a registered Louisiana business;
 - b. a female-owned business; and
 - c. a minority-owned business.

C. Each association shall provide quarterly reports to the commission of the demographic information of its workforce, to include:

1. race;
2. gender; and
3. Louisiana residency.

D. Each association shall provide quarterly reports to the commission on its marketing plan, which shall include, but not be limited to, dollars spent on promotions, marketing and advertising broken down by racetrack and casino spending on the following:

1. television advertisements;
2. radio advertisements;
3. magazine advertisements;
4. billboard advertisements;
5. giveaways;
6. rewards; and
7. any other dollars spent on promotions, marketing; and advertising.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, R.S. 4:148, and R.S. 4:158.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:869 (May 2023).

§5777. Broadcasting Live Races

A. An association shall ensure that televisions are broadcasting live races from its racetrack and are all in working operation adequately throughout the following areas operated by the association:

1. casino;
2. bars;
3. restaurants;
4. off-track betting areas;

5. track betting and viewing areas; and
6. in the backside track kitchen during live racing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:869 (May 2023).

§5779. Association Website Requirements

A. An association shall stream its live racing in real time with capabilities of replays for races in its current meet on its website and/or application for a smart television or provide a link on its website that allows viewing of live races and replays at no charge from a third-party provider.

B. An association shall provide technology that allows reservations to be made by guests and horsemen or shall provide on its website a phone number that will be answered by a live person to allow reservations to be requested and confirmed for guests and horsemen as follows:

1. from 8 a.m. to 6 p.m. on non-race days; and
2. from 8 a.m. through the last race being made official on race days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:869 (May 2023).

§5781. Tote Boards

A. All associations must have a tote board in the infield and a tote board above the stalls in the paddock providing current odds and results during live racing.

1. All new tote boards installed after adoption of this Rule must have digital video capabilities.
2. All tote boards located in the infield must have landscaping approved by the commission at the same time as the Association's race meet applications for licenses, dates, and wagering are considered for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:869 (May 2023).

§5783. Winner's Circle

A. An association shall ensure that the winner's circle is kept clean, maintained, and upgraded as needed for safety and appearance.

B. An association must provide an employee to remove horse manure from the winner's circle in a timely manner during live racing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:869 (May 2023).

§5785. Parking Areas

A. All parking areas on association property, regardless of their location, must have drainage that removes all puddles caused by rain.

B. An association shall maintain healthy landscaping for every day of the year at all entry roads and parking areas.

C. On a regular basis, security personnel shall check all handicap parking spaces on association property for any cars parked without displayed handicap eligibility and shall ensure that no vehicles are blocking wheelchair access to handicap vehicles.

D. All parking must be appropriately and visibly marked for parking spaces.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:869 (May 2023).

§5787. Maintenance Equipment

A. Each racetrack shall have a functioning rock picker attachment for tractors for removal of rocks and stones on racing surfaces.

B. Each racetrack that has at least one escalator on its premises shall have a functioning duplex escalator cleaning machine or similar equipment specifically made to clean escalators.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:870 (May 2023).

§5789. Off-Track Wagering Facilities

A. An association shall ensure that food and beverages are always available to guests at its off-track wagering facilities during open hours of operation.

B. All pari-mutuel wagering areas must have tellers or self-betting terminals to place bets, seating, and tables in an air-conditioned environment for guests to handicap and place wagers on the races.

1. There must be a teller in close proximity that can cash tickets and take bets.

C. All off-track wagering facilities must be open and taking wagers during the hours that any racetrack in the United States is conducting live racing, except by agreement with the commission or its designee.

D. This Section lists the minimum requirements for off-track wagering facilities, and an association reserves the right to exceed these minimum requirements as allowable under the laws of the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:870 (May 2023).

§5791. Horse Move In and Move Out

A. An association shall be prepared and allow horses to move in to allotted stalls and train on its racetrack grounds no later than 30 days prior to the start of a race meet, unless ordered by the commission to be a longer period.

B. An association shall allow horses to stay housed in the allotted stalls and train on the racetrack grounds for at least 15 days after the end of a race meet, unless otherwise negotiated and in agreement with the Louisiana Horsemen's Benevolent and Protective Association.

C. The commission may grant an exception to the arrival and departure dates set in this Section due to force majeure or other prohibitive circumstances on a case-by-case basis as requested by an association.

D. The Louisiana Horsemen's Benevolent and Protective Association may request an earlier arrival date or later departure date for horses with allotted stalls at a specified racetrack in writing to the association and the commission for consideration.

1. If the Louisiana Horsemen's Benevolent and Protective Association and the association reach an agreement on earlier arrival or later departure dates for horses, the association may charge a stall rate of \$8 per stall per day for the agreed-upon additional days, subject to annual review by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:870 (May 2023).

§5793. Reporting Altercations

A. An association shall provide a written report of any physical altercation of which it has been made aware that occurs on its grounds to the commission within five days of incident.

1. The individuals involved in the reported physical altercation may be subject to immediate suspension by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:870 (May 2023).

Charles A. Gardiner III
Executive Director

2305#008

RULE

Office of the Governor Division of Administration Racing Commission

Off-Track Wagering General Rules (LAC 35:XV.Chapter 123)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 4:148, the Racing Commission has amended and has adopted the Sections listed below under LAC 35:III.Chapter 123. This action has been deemed necessary by the Racing Commission to prevent imminent peril to the public health, safety, and welfare by establishing the administrative rules for minimum standards of facilities and infrastructure investments for racetracks in fulfillment of the Legislature's mandate to the Racing Commission "to encourage forceful and honest statewide control of horse racing for the public health, safety, and welfare by safeguarding the people of this state against corrupt, incompetent, dishonest and unprincipled horse racing practices" and "[t]o institute and maintain a program to encourage and permit development of the business of horse racing with pari-mutual wagering thereon on a higher plane." R.S. 4:141(A) and (A)(1).

All in fulfillment of the Legislature's mandate for the Racing Commission to "institute and maintain a regulatory program for the business of racing horses, which program assures the protection of public health, safety and welfare, vesting with the commission forceful statewide control of horse racing with full powers to prescribe rules and

regulations and conditions under which all horse racing is conducted with wagering upon the result thereof with the state.” R.S. 4:141(A)(3).

The amendments establish the initial administrative Rule for minimum standards of facilities and infrastructure investments for racetracks in accordance with the provisions established in Act 530 of the 2022 Regular Session of the Louisiana Legislature. This Rule is hereby adopted on the day of promulgation.

**Title 35
HORSE RACING**

Part XV. Off-Track Wagering

Chapter 123. General Rules

§12342. Amenities for Guests

A. All off-track wagering facilities must follow the requirements set forth in LAC 35:III.5789.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:164.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 49:871 (May 2023).

§12345. Concession Services

A. The concession and catering operations shall be conducted so that all persons attending off-track wagering facilities shall be satisfactorily served. Food, beverages (both alcoholic and nonalcoholic), tobacco and other generally related items may be available for sale to the patrons of the various facilities during open hours of operation. Concessionaires serving liquid refreshments shall not permit the surrender of glass containers to patrons except in designated areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:211-227.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 14:290 (May 1988), amended by the Office of the Governor, Division of Administration, Racing Commission LR 49:871 (May 2023).

Charles A. Gardiner III
Executive Director

2305#009

RULE

**Department of Health
Board of Examiners of Psychologists**

**Continuing Education, Exemptions and Fees
(LAC 46:LXIII. 601, 603, 803, 805,
806, 811, 905, 3402, 3403, and 4001)**

Editor's Note: This Rule is being repromulgated to correct citation and grammatical errors. The original Rule can be viewed in its entirety on pages 665-668 of the April, 2023 Louisiana Register.

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Psychologists has adopted Sections 806 and 905 and amended Sections 601, 603, 803, 805, 811, 3402, 3403, and 4001 related to the continuing education, exemptions and fees in accordance with the Louisiana Licensing Law for Psychologist R.S. 37:2353.C(1) 37:2357.C(4), 37:2352(7), and the Administrative Procedures Act §968 and 971. This Rule is hereby adopted on the day of promulgation.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXIII. Psychologists

Subpart 1. General Provisions

Chapter 6. Fees

§601. Licensing Fees

A. Licensing Fees

Licensing Fees	Amount
Application for Licensure	\$200
Application for Provisional Licensure	\$200
Application for Temporary Registration	\$200
Application for Authorization to Provide Telesupervision (Valid 1 year, per supervisor, per application)	\$25 for first supervisee, \$10 for each thereafter
Jurisprudence Examination Fee	\$75
Oral Examination (Licensure, specialty change or additional specialty)	\$250
License Renewal	\$400
License Renewal Fee for Psychologists Qualifying under R.S. 37:2354(E) for a reduced rate	\$200
Provisional License Renewal	\$100
Initial Application and Renewal of Emeritus Status (Retired)	\$100
Reinstatement of Lapsed License	Current Application Fee plus Current Renewal Fee
Processing Fees for Paper Renewals	\$50
License Renewal Extension Request	\$25

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 33:647 (April 2007), amended LR 39:311 (February 2013), LR 41:2618 (December 2015), amended the Department of Health, Board of Examiners of Psychologists, LR 43:1173 (June 2017), LR 47:1111 (August 2021), amended LR 49:665 (April 2023), repromulgated LR 49:871 (May 2023).

§603. Administrative/Other Fees

A. Administrative/Other Fees

Administrative/Other Fees	Amount
Address List/Labels	\$100
License Verification	\$15
Disciplinary Action Report	\$25
Replacement Renewal Certificate	\$15
Replacement License Certificate	\$25
Miscellaneous Copy Fee (other records)	\$1 page one, \$0.25 each page thereafter
Convenience Fee for Online Payments	2.9 percent plus .30/transaction
Sponsor Application for Pre-approval of Continuing Professional Development Workshop/Conference	\$100
Sponsor Application for Renewal of Continuing Professional Development Workshop/Conference	\$25
Psychologist Application for Pre-approval of Continuing Professional Development Workshop/Conference	\$25
Continuing Professional Development Activities (OPTIONAL) Board Sponsored	TBD not to exceed \$200 per offering

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 33:648 (April 2007), amended LR 39:311 (February 2013), LR 41:2618 (December 2015), amended by the Department of Health, Board of Examiners of Psychologists, LR 43:1173 (June 2017), LR 49 (November 2022), amended LR 49:000 (April 2023), repromulgated LR 49:871 (May 2023).

§803. Requirements

A. Each psychologist is required to complete 40 hours or credits of continuing professional development within the biennial reporting period, which begins on July 1 and ends on June 30.

B. Within each reporting period, two of the required hours or credits of continuing professional development must be within the area of ethics or law in accordance with the limitations specified in §807.

C. Within each reporting period, two of the required hours or credits of continuing professional development must be within the area of multiculturalism or diversity in accordance with the limitations specified in §807.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 16:770 (September 1990), amended LR 19:46 (January 1993), LR 32:1228 (July 2006), LR 39:2754 (October 2013), amended by the Department of Health, Board of Examiners of Psychologists, LR 42:1662 (October 2016), amended LR 49:000 (April 2023), repromulgated LR 49:872 (May 2023).

§805. Acceptable Sponsorship, Offerings and Activities

A. Only those CPD offerings and activities approved by the Board shall satisfy the requirements for licensure set forth in §803.

B. Acceptable CPD activities offered for credit by approved sponsors defined in this section and that meet the content criteria described in §801 of this Chapter are automatically approved by the Board.

C. The board will recognize the following as acceptable sponsors of the continuing education requirements:

1. accredited institutions of higher education;
2. hospitals and medical centers which have approved regional medical continuing education centers;
3. hospitals which have APA approved doctoral internship training programs;
4. international, national, regional, or state professional associations, or divisions of such associations, which specifically offer or approve graduate or post-doctoral continuing education training;
5. American Psychological Association (APA) approved sponsors and activities offered by APA (including home study courses);
6. activities sponsored by the Board of Examiners of Psychologists; and
7. activities sponsored by the Louisiana Department of Health or its subordinate units.

D. The board will recognize the following activities offered by acceptable sponsors in Section 805.C. above.

1. Workshops—live workshops offered for credit. Live workshops may be presented in-person or by video conference/virtual format.

2. Conference Workshops/Training Activities—Conferences are trainings lasting longer than one day (eight hours). Conference training may be presented in-person or by video conference/virtual format.

E. Sponsors of CPD approved under Section 805.C. may not advertise a CPD as board-approved or endorsed or purport that the CPD satisfies the licensure requirements set forth in §803.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 16:770 (September 1990), amended LR 19:46 (January 1993), LR 22:1131 (November 1996), LR 25:1098 (June 1999), LR 32:1228 (July 2006), LR 36:1007 (May 2010), amended by the Department of Health, Board of Examiners of Psychologists, LR 42:1663 (October 2016), amended LR 49:000 (April 2023), repromulgated LR 49:872 (May 2023).

§806. Board Approval of Proposed CPD Offerings and Activities; CPD promotion and Advertisement

A. Any individual or entity may apply for board approval of a proposed CPD offering or activity as follows:

1. The individual or entity providing the proposed CPD offering or activity files a completed CPD Approval Application on the form provide by the board.

2. The individual or entity providing the proposed CPD offering or activity provides information sufficient to the board that the CPD meets requirements set forth under §801; and

3. Payment of the required application fee.

B. Board approval of a proposed CPD pursuant to Subsection E of this Section shall permit the individual or entity to offer the program one time. Subsequent offerings of the same activity shall require the individual or entity offering the CPD to submit an application for renewal of the approval on the form provided by the board with required renewal fee.

1. Upon receipt of written documentation of board CPD approval, the individual or entity providing the proposed CPD offering or activity may advertise as approved or endorsed by the Louisiana State Board of Examiners of Psychologists.

2. Course and activities approved by the board shall be posted on the board website and shall indicate the maximum number of credits which may be earned and the classification of the course.

C. CPD offerings and activities not approved by the board under Subsections B or E of this Section may generate acceptable CPD credits for licensees under the following circumstances:

1. The licensee submits a complete application for preapproval of the course or activity using the form provided by the board and payment of an application fee required under Chapter 6.

2. The course or activity submitted for approval shall only be considered for the licensee who submits the approval.

3. A licensee may not request approval of an activity after June 30 of their reporting year for the renewal of their license.

a. A provisionally licensed psychologist that fails to meet the CPD requirements by June 30 of their reporting year, including acceptable sponsorship, offerings and activities, shall be subject to the provisions of R.S. 37:2356.2.

b. A licensed psychologist that fails to meet the CPD requirements by June 30 of their reporting year, including acceptable sponsorship, offerings and activities, shall be subject to the provisions of R.S. 37:2357.A(2).

D. The licensee may choose to apply for preapproval of the following unsponsored activities. These activities shall be limited to 10 credits:

1. workshops/conferences without approved sponsor;

2. peer consultation and supervision. Acceptable consultation is regularly scheduled interactions with colleagues, licensed in a health care profession or other general applied psychology profession, in a structured and organized format. Examples include case consultation groups, journal clubs, research groups, and shadowing a colleague. Acceptable supervision is one-to-one general professional, specific case discussion, or skill training that is provided under Chapter 7 of this Part by a qualified supervisor. One hour of acceptable consultation or supervision equals one hour of credit. Documentation required to earn credit shall be a verification form providing evidence that it is a structured program of consultation with regularly scheduled meetings and showing the nature of the consultation, or in the case of supervision the supervised practice plan approved by the board; and The person providing the consultation, or facilitating the case consultation group, must attest, by signature, to the description of the program, number of hours met and that the verification form has been completed;

3. *practice outcome monitoring*—assessing patient/client outcomes via questionnaire(s) that is appropriate to the practice endeavor. One client equals one credit per reporting period. If requested, documentation required to earn credit shall be a verification form and a de-identified copy of the patient/client questionnaire;

4. *professional activities*—serving on an international, national, regional, or state psychological association board or committee; or board member of regulatory body related to the field of psychology. Professional activities shall not include lobbying activities. One year equals 10 credits;

5. *registered attendance at conferences/conventions*—attendance at a conference related to the field of psychology or a conference, that aids in the licensee’s professional development. One conference day equals one credit. This credit is separate from traditional continuing education units that may be awarded by an approved sponsor at said conference. A certificate of attendance is required;

6. *academic courses*—a graduate-level course related to the psychologist’s discipline and practice, taken for credit from a regionally accredited university or one pre-approved by the board. One three-hour course or equivalent equals 20 credits; or, one registered audit, documented by the university, equals five credits;

7. *instruction*—preparation and teaching of a semester-long graduate or undergraduate course, related to psychology, in a regionally accredited institution; or

continuing education workshop presentation. Credit can only be received the first time teaching or presenting the material:

a. credit hours for preparing and teaching a workshop shall be calculated at four times the credit granted attendees, divided by the number of presenters;

b. credit hours for teaching a university course shall be calculated at 10 times the number of credit hours awarded the students. Documentation required to earn credit shall be the course syllabus or brochure;

8. *publications*—author of an article for peer-reviewed publications or author, editor or co-editor of a book/book chapter related to the field of psychology. One article equals 10 hours; one book/book chapter equals 10 credit hours. Documentation required to earn credit shall include a copy of journal abstract or a copy of the publication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:666 (April 2023), repromulgated LR 49:872 (May 2023).

§811. Extensions/Exemptions

A. - C. ...

D. Licensees who meet the requirements for a reduced fee under R.S. 37:2354.E during the applicable reporting period and who are fully retired from the practice of psychology may be granted an exemption from continuing professional development requirements.

1. A licensee granted an exemption under this provision will be classified with the status “emerit” and may use the title “psychologist emerit: retired”.

2. A licensee granted emerit status under this provision shall be prohibited from engaging in the practice of psychology; rendering psychological services in any form; and/or engaging in any activity that might be construed as the practice of psychology within the state of Louisiana.

3. A psychologist emerit: retired, is subject to license renewal in accordance with the provisions of Chapter 9 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19:47 (January 1993), amended LR 32:1229 (July 2006), LR39:2755 (October 2013), LR 41:2617 (December 2015), amended by the Department of Health, Board of Examiners of Psychologists, LR 42:1664 (October 2016), amended LR 49:667 (April 2023), repromulgated LR 49:873 (May 2023).

Chapter 9. Licensees

§905. Psychologists Emerit: Retired

A. A psychologist emerit: retired is eligible to renew their emerit status license provided they submit such renewal application along with the annual renewal fee at the reduced rate established under Chapter 6 of this Part; and are fully retired from the practice of psychology, not rendering psychological services in any form, and are not engaging in any activity that might be construed as the practice of psychology within the state of Louisiana.

B. A psychologist emerit is eligible to renew their current license until July 31 of each year upon submission of the required renewal fee and renewal application form and on showing that the licensee:

1. has been a licensed psychologist for a minimum of 20 years;
2. has no outstanding complaints or ethical violations;
3. is subject to the LSBEP ethics code;
4. is retired from the practice of psychology;
5. is only able to use the title psychologist emeritus: retired;
6. is not required to complete CPD unless they want to reinstate as specified in Subsection C below.

C. A psychologist emerit: retired is eligible to reinstate their status to Licensed Psychologist and resume the independent practice of psychology in Louisiana upon submission of a reinstatement application for licensure including the required reinstatement fee and fulfillment of all continuing professional development requirements as defined under this Chapter, provided they are not in violation of any of the provisions of the Louisiana Revised Statutes, Title 37 Chapter 28. Psychologists.

D. A psychologist emerit returning to full practice after five or more years shall be subject to an oral examination prior to reinstatement to the status of licensed psychologist.

E. A licensee who renews their emerit status shall be exempt from continuing professional development requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:667 (April 2023), repromulgated LR 49:873 (May 2023).

Subpart 2. Licensed Specialists in School Psychology
Chapter 34. Specialist Programs in School Psychology
§3402. Program Requirements—Supervised Practica
Prior to Internship

A. - A.4. ...

5. close supervision of students by program faculty and qualified practicum supervisors, including appropriate performance-based evaluation, to ensure that students are developing professional work characteristics and designated competencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 41:2623 (December 2015), amended by the Department of Health, Board of Examiners of Psychologists LR 49:667 (April 2023), repromulgated LR 49:874 (May 2023).

§3403. Program Requirements—Internship

A. - A.2. ...

3. completion of activities and attainment of school psychology competencies that are consistent with the goals and objectives of the program and emphasize human diversity, and provision of school psychology services that result in direct, measurable, and children, families, schools, and/or other consumers;

4. inclusion of both formative and summative performance-based evaluations of interns that are completed by both program faculty and field-based supervisors, are systematic and comprehensive, and insure that interns demonstrate professional work characteristics and attain competencies needed for effective practice as school psychologists;

A.5. - A.10. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 41:2623 (December 2015), amended by the Department of Health, Board of Examiners of Psychologists, LR 49:000 (April 2023), repromulgated LR 49:874 (May 2023).

Chapter 40. Continuing Education Requirements of Licensed Specialist in School Psychology
§4001. General Requirements

A. Pursuant to R.S. 37:2357 each licensed specialist in school psychology is required to complete continuing education hours within biennial reporting periods. Continuing education is an ongoing process consisting of learning activities that increase professional development.

B. Each licensed specialist in school psychology is required to complete 40 hours of credit of continuing education within a biennial reporting period beginning in July 1 and ending June 30.

1. Two of the above 40 hours of credit of continuing education must be in the areas of ethics or law.

2. Within each reporting period, LSSPs must earn credits in at least two of the nine categories listed under §4002.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 41:2625 (December 2015), amended by the Department of Health, LR 49:668 (April 2023), repromulgated LR 49:874 (May 2023).

Jaime T. Monic
 Executive Director

2305#060

RULE

Department of Health
Board of Nursing

BSN Faculty Exceptions (LAC 46:XLVII.3515)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:918, the Board of Nursing has amended Chapter 35, Section 3515, Subsection B, Subparagraph 9 under Title 46, Professional and Occupational Standards, Part XLVII. The Rule omits the percentage of Baccalaureate of Science in Nursing (BSN) prepared nurses with at least two years of clinical nursing experience allowed to work as faculty exceptions in approved Louisiana schools of nursing. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses: Practical Nurses and Registered Nurses

Subpart 2. Registered Nurses

Chapter 35. Undergraduate and Graduate Nursing Education Degree Programs

§3515. Faculty and Faculty Organization of Undergraduate and Graduate Nursing Education Degree Programs

A. - B.8. ...

9. Exceptions to the academic qualifications for undergraduate nurse faculty shall be justified and approved

under board established guidelines. Exceptions, if granted by the board shall be:

a. baccalaureate in nursing-prepared individuals who are not enrolled in a graduate program in nursing are limited to a maximum two calendar years after which they must be enrolled in a graduate nursing program; and

b. baccalaureate in nursing-prepared individuals who are enrolled in a graduate program in nursing at the master's and/or doctoral level shall be initially approved for two years in accordance with current board guidelines. Exceptions may be granted to each individual for a maximum of four years.

C. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:186 (April 1977), amended LR 10:1025 (December 1984), LR 12:678 (October 1986), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:1147 (September 1993), repromulgated LR 24:1293 (July 1998), amended LR 26:2789 (December 2000), repromulgated LR 27:851 (June 2001), amended LR 33:1123 (June 2007), LR 36:1245 (June 2010), LR 42:880 (June 2016), amended LR 49:874 (May 2023).

Karen C. Lyon, PhD, MBA, APRN-CNS, NEA
Executive Director

2305#005

RULE

Department of Health Bureau of Health Services Financing

Home Health Program
American Rescue Plan Act Funding
(LAC 50:XIII.801)

The Department of Health, Bureau of Health Services Financing has adopted LAC 50:XIII.801 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—GENERAL

Part XIII. Home Health Program

Subpart 1. Home Health Services

Chapter 8. American Rescue Plan Act Funding

§801. Nursing Recruitment and Retention Payments

A. General Provisions

1. Nurses that provide extended home health (EHH) services may be eligible to receive recruitment and retention bonuses through April 2024.

2. A nurse is defined as an individual who possesses and maintains a valid license as a licensed practical nurse (LPN) or registered nurse (RN).

3. All payments shall be administered by the home health agency (HHA) that employs the nurse. If a nurse is employed at multiple agencies, only one HHA may pay the recruitment and retention payment.

4. HHAs shall submit an invoice and supporting documentation for each nurse that meets the requirements

outlined in this Chapter on a monthly basis and shall comply with all other requirements established by LDH to receive a payment.

5. HHAs shall disburse the entire payment to the nurse and are prohibited from reducing the payment in any way.

6. HHAs that provide the required documentation, comply with all applicable requirements, and have at least one nurse a month receiving a bonus payment will be eligible to invoice LDH for an administrative fee of \$2,500 each month.

B. Recruitment

1. Recruitment is the hiring of a new nurse who commits to providing a minimum of 120 hours of EHH services to beneficiaries under the age of 21 who are in a Medicaid waiver program in each calendar month.

2. A one-time, lump sum payment of \$5,000 may be paid to any nurse who is hired by the HHA and commits to providing a minimum of 120 hours of EHH services to beneficiaries in a waiver program and has not received the retention lump sum bonus payment outlined in this Chapter.

3. Each nurse may only receive the lump sum recruitment bonus payment once.

C. Retention

1. Existing nurses who commit to providing a minimum of 120 hours of EHH services to eligible waiver beneficiaries in a calendar month and have not received the recruitment or retention lump sum bonus payment will receive a \$5,000 retention bonus.

2. Nurses who receive the recruitment or retention lump sum bonus payment shall be eligible to receive a monthly payment of \$200 if they provided at least 120 hours of EHH services to eligible waiver beneficiaries during the previous calendar month.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:875 (May 2023).

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

Dr. Courtney N. Phillips
Secretary

2305#055

RULE

Department of Health Bureau of Health Services Financing

Home Health Program
Authorizing Authority and Emergency Provisions
(LAC 50:XIII.Chapter 1)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:XIII.Chapter 1 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the

Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XIII. Home Health Program

Subpart 1. Home Health Services

Chapter 1. General Provisions

§101. Definitions

[Formerly LAC 50:XIX.101]

A. The following words and terms, when used in this Subpart 1, shall have the following meanings, unless the context clearly indicates otherwise:

Authorized Healthcare Provider—a physician, nurse practitioner, clinical nurse specialist, or physician assistant licensed, certified, registered, or otherwise authorized to order home healthcare services consistent with Louisiana law.

* * *

Home Health Services—patient care services provided in the patient's home or place of residence under the order of an authorized healthcare provider that are necessary for the diagnosis and treatment of the patient's illness or injury, including one or more of the following services:

a. - e. ...

f. medical supplies, equipment and appliances suitable for use in the patient's home or place of residence.

* * *

Physical Therapy Services—rehabilitative services necessary for the treatment of the patient's illness or injury or, restoration and maintenance of function affected by the patient's illness or injury. These services are provided with the expectation, based on the authorized healthcare provider's assessment of the patient's rehabilitative potential, that:

a. - b. ...

Place of Residence—location where normal life activities take place but does not include a hospital, intermediate care facility for individuals with intellectual disabilities, or any setting in which payment is or could be made under Medicaid for inpatient services that include room and board.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:431 (March 2004), amended by the Department of Health, Bureau of Health Services Financing, LR 44:59 (January 2018), LR 49:876 (May 2023).

§103. Requirements for Home Health Services

[Formerly LAC 50:XIX.103]

A. Home health services shall be based on an expectation that the care and services are medically reasonable and appropriate for the treatment of an illness or injury, and that the services can be performed adequately by the agency in the recipient's home or place of residence. For initial ordering of home health services, the authorized healthcare provider must document a face-to-face encounter that is related to the primary reason the recipient requires home health services. This face-to-face encounter must occur no more than 90 days before or 30 days after the start of services. For the initial ordering of medical supplies, equipment and appliances, the authorized healthcare

provider must document that a face-to-face encounter that is related to the primary reason the recipient requires medical equipment occurred no more than six months prior to the start of services. A written plan of care for services shall be evaluated and signed by the authorized healthcare provider every 60 days. This plan of care shall be maintained in the recipient's medical records by the home health agency.

B. Home health services shall be provided in the recipient's home or place of residence.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:431 (March 2004), amended by the Department of Health, Bureau of Health Services Financing, LR 44:59 (January 2018), LR 49:876 (May 2023).

§104. Emergency Provisions

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:2293 (September 2022), repealed LR 49:876 (May 2023).

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

Dr. Courtney N. Phillips
Secretary

2305#056

RULE

Department of Health Bureau of Health Services Financing

Medicaid Eligibility—Resource Disregards
(LAC 50:III.10705)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:III.10705 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 5. Financial Eligibility

Chapter 107. Resources

§10705. Resource Disregards

A. - D. ...

E. Disregard from resources unspent funds received as a class member pursuant to a class settlement in the case of *Nancy Anderson, et al. v. Bob Dean Jr., et al.*, 24th Judicial District Court, Parish of Jefferson. No. 820-839.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:1899 (September 2009), amended LR 36:2867 (December 2010), LR 41:949 (May 2015),

amended by the Department of Health, Bureau of Health Services Financing, LR 45:1772 (December 2019), LR 46:1393 (October 2020), LR 49:876 (May 2023).

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

Dr. Courtney N. Phillips
Secretary

2305#057

RULE

**Department of Health
Bureau of Health Services Financing**

Medical Transportation Program
Non-Emergency Medical Transportation
American Rescue Plan Act
(LAC 50:XXVII.Chapter 5)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:XXVII.Chapter 5 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXVII. Medical Transportation Program

Chapter 5. Non-Emergency Medical Transportation

Subchapter A. General Provisions

§505. Requirements for Coverage

A. Payment shall only be authorized for the least costly means of transportation available. The least costly means of transportation shall be determined by the department or its designee and considered the beneficiary’s choice of transportation, the level of service required to safely transport the beneficiary (e.g., ambulatory, wheelchair, transfer), and the following hierarchy:

1. - 3. ...

4. for-profit providers enrolled in the Medicaid Program.

B. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:1639 (November 2021), amended LR 49:877 (May 2023).

Subchapter C. Provider Responsibilities

§517. Provider Enrollment

A. - C. ...

D. All NEMT providers must agree to cover the entire parish or parishes for which he or she provides non-emergency medical transportation services.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:1639 (November 2021), amended LR 49:877 (May 2023).

**Subchapter E. Non-Emergency Medical Transportation
American Rescue Plan Act**

**§531. Non-Emergency Medical Transportation Bonus
Payments**

A. General Provisions

1. Non-emergency medical transportation (NEMT) providers that are fully credentialed in the Medicaid Program may be eligible to receive a bonus payment under the Department of Health’s (LDH) American Rescue Plan Act (ARPA) NEMT Program until the program’s federal funds are exhausted or through the conclusion of the program in March 2024.

2. Fully credentialed NEMT providers who meet all eligibility requirements are entitled to a monthly disbursement of \$500 per vehicle, for up to three vehicles per month, totaling a maximum payment of \$1,500 per month per transportation provider. LDH will determine eligibility for monthly payments based on the NEMT provider’s ongoing compliance for all provider, driver, and vehicle requirements set forth by the Medicaid Program and the LDH ARPA NEMT Program.

3. A NEMT provider is a provider of NEMT services and for the purpose of this bonus payment, includes non-profit and for-profit providers.

4. LDH will administer all payments for the LDH ARPA NEMT Program.

5. In order to receive payments under the LDH ARPA NEMT Program, the NEMT provider shall do the following:

a. accede to all provisions of the LDH ARPA NEMT Program and execute a contractual agreement with LDH, solely for the distribution of ARPA funds;

b. create an account with LAGov to ensure eligibility of payment,

c. maintain ongoing compliance for all provider, driver, and vehicle requirements set forth by the Medicaid Program;

d. submit reporting and credentialing documentation for all drivers and vehicles within their individual company used for NEMT services on a monthly basis. Failure to meet program time requirements shall result in loss of the monthly bonus payment; and

e. submit a monthly attestation to certify the accuracy of the submitted supporting and credentialing documentation.

6. NEMT services are ineligible and shall not be submitted as a completed service if the status of the NEMT service rendered results in one of the following:

a. the provider is a no-show;

b. no NEMT vehicle is available;

c. no NEMT driver is available; or

d. the NEMT provider is late which causes the beneficiary to miss his or her scheduled Medicaid covered service

B. Payments

1. Transportation providers that meet the requirements for both the LDH ARPA NEMT Program and Medicaid Program will receive a single lump sum payment of \$500 per vehicle, for a maximum of three vehicles, totaling a maximum payment of \$1,500 per month. Transportation providers must meet all requirements on a monthly basis for payment eligibility.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:877 (May 2023).

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

Dr. Courtney N. Phillips
Secretary

2305#058

RULE

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

Personal Care Services—Long Term Care
(LAC 50:XV.12901 and 12903)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services has amended LAC 50:XV.12901 and 12903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 9. Personal Care Services

Chapter 129. Long Term Care

§12901. General Provisions

A. The purpose of long term-personal care services (LT-PCS) is to assist individuals with functional impairments with their daily living activities. LT-PCS must be provided in accordance with an approved service plan and supporting documentation. In addition, LT-PCS must be coordinated with the other Medicaid and non-Medicaid services being provided to the participant and will be considered in conjunction with those other services.

B. Each individual requesting or receiving long term-personal care services (LT-PCS) shall undergo a functional eligibility screening utilizing an eligibility screening tool called the level of care eligibility tool (LOCET), or a subsequent eligibility tool designated by the Office of Aging and Adult Services (OAAS).

C. Each LT-PCS applicant/participant shall be assessed using a uniform interRAI home care assessment tool or a subsequent assessment tool designated by OAAS. The assessment is designed to verify that an individual meets eligibility qualifications and to determine resource allocation while identifying an individual's need for support in performance of activities of daily living (ADLs). The assessment generates a score which measures the individual's degree of self-performance of the following activities of daily living:

1. bed mobility;
2. toilet transfer;
3. toilet use; and
4. eating.

D. Based on the individual's ADL Index score, they are assigned and are eligible for a set allocation of weekly service hours associated with that score.

1. If the individual is allocated less than 32 hours per week and believes that they are entitled to more hours, the individual or their responsible representative may request a fair hearing to appeal the decision.

2. The individual may qualify for more hours if it can be demonstrated that:

a. one or more answers to the questions involving the ADLs used in the ADL Index score are incorrect as recorded on the assessment; or

b. they need additional hours to avoid entering into a nursing facility.

E. Requests for LT-PCS shall be accepted from the following individuals:

1. a Medicaid participant who wants to receive LT-PCS;

2. an individual who is legally responsible for a participant who may be in need of LT-PCS; or

3. a responsible representative designated by the participant to act on his/her behalf in requesting LT-PCS.

F. Each individual who requests LT-PCS has the option to designate a responsible representative. For purposes of these provisions, a responsible representative shall be defined as the person designated by the individual to act on his/her behalf in the process of accessing and/or maintaining LT-PCS.

1. The appropriate form authorized by OAAS shall be used to designate a responsible representative.

a. The written designation of a responsible representative does not give legal authority for that individual to independently handle the participant's business without his/her involvement.

b. The written designation is valid until revoked by the participant. To revoke the written designation, the revocation must be submitted in writing to OAAS or its designee.

2. The functions of a responsible representative are to:

a. assist or represent, as needed, the participant in the assessment, care plan development and service delivery processes; and

b. to aid the participant in obtaining all necessary documentation for these processes.

3. No individual may concurrently serve as a responsible representative for more than two participants in OAAS-operated Medicaid home and community-based services. This includes but is not limited to:

a. ...

b. long term-personal care services;

c. - d. ...

G. The Department of Health may remove an LT-PCS provider from the LT-PCS provider freedom of choice list and offer freedom of choice to LT-PCS participants when:

1. one or more of the following departmental proceedings are pending against an LT-PCS participant's service provider:

1.a. - 3....

H. The department may offer participants the freedom to choose another provider if/when the owner(s), operator(s), or member(s) of the governing body of the provider agency is/are under investigation related to:

1. - 8. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:911 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 32:2082 (November 2006), LR 34:2577 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2450 (November 2009), LR 39:2506 (September 2013), LR 41:540 (March 2015), LR 42:902 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services and the Office for Citizens with Developmental Disabilities, LR 43:1980 (October 2017), LR 49:878 (May 2023).

§12903. Covered Services

A. *LT-PCS* are defined as those services that provide assistance with the distinct tasks associated with the performance of the activities of daily living (ADLs) and the instrumental activities of daily living (IADLs). Assistance may be either the actual performance of the personal care task for the individual or supervision and prompting so the individual performs the task by themselves.

1. ADLs are those personal, functional activities required by the participant. ADLs include tasks such as:

- a. eating;
- b. bathing;
- c. dressing;
- d. grooming/personal hygiene;
- e. transferring;
- f. ambulation;
- g. toileting; and
- h. bed mobility.

2. IADLs are those activities that are considered essential but may not require performance on a daily basis. IADLs include tasks such as:

- a. light housekeeping;
- b. food preparation and storage;
- c. shopping;
- d. laundry;
- e. assistance with scheduling medical appointments when necessary;
- f. accompanying to medical appointments when necessary;
- g. assistance with accessing transportation;
- h. medication reminders; and
- i. medically non-complex tasks where the direct service worker has received the proper training pursuant to R.S. 37:1031-1034.

3. Emergency and non-emergency medical transportation is a covered Medicaid service and is available to all participants. Non-medical transportation is not a required component of *LT-PCS*. However, providers may choose to furnish transportation for participants during the course of providing *LT-PCS*. If transportation is furnished, the provider agency must accept any liability for their employee transporting a participant. It is the responsibility of

the provider agency to ensure that the employee has a current, valid driver's license and automobile liability insurance.

4. Constant or intermittent supervision and/or sitter services are not a component of *LT-PCS*.

5. For participants receiving *LT-PCS* with the Adult Day Health Care (ADHC) Waiver, *LT-PCS* may be provided by one worker for up to three *LT-PCS* participants who live together, and who have a common direct service provider.

A.6. - E. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2578 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:2507 (September 2013), LR 42:902 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 42:1931 (November 2016), LR 47:593 (May 2021), LR 49:879 (May 2023).

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

Dr. Courtney N. Phillips
Secretary

2305#059

RULE

Department of Health Office of Public Health Bureau of Emergency Medical Services

Emergency Medical Transportation Services
Licensing Standards
(LAC 48.I.Chapter 60)

The Department of Health, Office of Public Health, Bureau of Emergency Medical Services has amended LAC 48.I.Chapter 60 in Medical Assistance Program as authorized by R.S. 36:254, R.S. 40:1131.1.A, R.S. 40:1133.5(9), 40:1135.1 and R.S. 40:1135.2. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

In compliance with Act 789 of the 2012 Regular Session, Act 106 of the 2017 Regular Session and Act 557 of the 2018 Regular Session of Louisiana Legislature, the Department of Health, Office of Public Health, Bureau of Emergency Medical Services repealed and replaced the provisions governing the licensing standards for emergency medical transportation services in order to: 1) clarify and align these provisions with the corresponding legislative authorities governing emergency medical services; 2) ensure that the provisions are consistent with the standard language used in other healthcare licensing regulations; 3) promulgate the provisions clearly and concisely in the Louisiana

Administrative Code. This Rule is hereby adopted on the day of promulgation.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 60. Emergency Medical Transportation Services

Subchapter A. General Provisions

§6001. Overview

A. In the non-hospital emergency setting, out-of-hospital care minimizes systemic insult or injury and manages life-threatening conditions through high-quality consistent emergency standards of care. Such care is dependent on continuous quality improvement, effective monitoring, medical oversight of out-of-hospital protocols, and collaboration of medical physicians and licensed emergency services personnel. These licensing standards constitute minimum guidelines that each licensed EMS ambulance service shall meet to ensure the safety of patients of all ages in the out-of-hospital setting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:1135.1 and R.S. 40:1135.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:466 (March 2009), amended LR 41:2153 (October 2015), amended Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:880 (May 2023).

§6003. Definitions [Formerly §6001]

Advanced Life Support (ALS)—the provision of medically necessary supplies and services by EMS practitioners who are licensed at least to the level of advanced emergency medical technician or equivalent.

Air Ambulance—any aircraft, either fixed-winged or rotary-winged, designed and operated as a part of a regular course of conduct or business to transport a sick or injured individual, or which is advertised or otherwise held out to the public as such.

Air Ambulance Service—any person, firm, association, or government entity owning, controlling, or operating any business or service which furnishes, operates, conducts, maintains, advertises, engages in, proposes to engage in, or professes to engage in the business or service of transporting, in air ambulances, individuals who may need medical attention during transport.

Ambulance—any authorized emergency vehicle, equipped with warning devices, designed and operated as a part of a regular course of conduct or business to transport a sick or injured individual, or which is advertised or otherwise held out to the public as such.

1. For purposes of these provisions, ambulance shall not mean a hearse or other funeral home vehicle utilized for the transportation of the dead.

2. Transportation by ambulance is inclusive of ground transport vehicles or by aircraft, either fixed-winged or rotary-winged.

Ambulance Service or Ambulance Provider—any person, firm, association, or government entity owning, controlling, or operating any business or service which furnishes, operates, conducts, maintains, advertises, engages in, proposes to engage in, or professes to engage in the business

or service of transporting, in ambulances, individuals who may need medical attention during transport.

1. Ambulance services/providers shall not include any of the following:

a. an agency of the federal government;

b. a volunteer nonprofit organization or municipal nonprofit organization operating an invalid coach or coaches;

c. an entity rendering assistance to a licensed ambulance or ambulances in the case of a major disaster;

d. a licensed hospital providing nonemergency, noncritical, inter-hospital transfer and patient transportation for diagnostic and therapeutic purposes when such transportation originates at a licensed hospital;

e. an entity operating an ambulance(s) from a location outside of the state to transport patients from a location outside of the state to a location inside the state or to transport a patient(s) from a medical facility inside of the state to a location outside of the state; or

f. an entity providing transportation to employees, who become sick or injured during the course of their employment, from a job site to the nearest appropriate medical facility.

Appropriate Facility—an institution generally equipped to provide the needed hospital or skilled nursing care for the illness or injury involved. In the case of a hospital, a physician or a physician specialist is available to provide the necessary care required to treat the patient's condition.

Basic Life Support (BLS)—a basic level of out-of-hospital, hospital, inter-hospital, and emergency service care which includes an assessment or intervention by a licensed emergency medical services practitioner who possesses a Louisiana Bureau of Emergency Medical Services license at the Emergency Medical Technical level.

Bureau of Emergency Medical Services (Bureau of EMS, BEMS)—the EMS regulatory agency that licenses EMS practitioners and ambulance services/providers.

Certified Ambulance Operator—an individual who is certified by the Bureau of EMS as a certified ambulance operator. Documentation outlined in statute must be submitted before certification is received.

Cessation of Business—occurs when an ambulance service is non-operational and voluntarily stops rendering services to the community.

Change of Ownership (CHOW)—the sale or transfer (whether by purchase, lease, gift or otherwise) of an ambulance service/provider by a person/entity with controlling interest that results in a change of ownership, or control of 30 percent or greater of either the voting rights or assets of an ambulance service/provider, or that results in the acquiring person/corporation holding a 50 percent or greater interest in the ownership or control of the ambulance service/provider.

Commission—the Louisiana Emergency Medical Services Certification Commission.

Department—the Louisiana Department of Health (LDH).

Emergency Medical Personnel or Emergency Service Person—an individual who possesses a Bureau of EMS license as an EMS Practitioner.

Emergency Medical Response Vehicle (EMRV)—a marked emergency vehicle with fully visual and/or audible warning signals, operated by a licensed ambulance service/provider,

whose primary purpose is to respond to the scene of a medical emergency to provide emergency medical stabilization or support, command, control, and communications, but which is not an ambulance designed or intended for the purpose of transporting a victim from the scene to a medical facility, regardless of its designation.

1. Included are such vehicles referred to, but not limited to, the designation as "sprint car", "quick response vehicle", "special response vehicle", "triage trucks", "staff cars", "supervisor units", and other similar designations.

2. Emergency medical response vehicles shall not include fire apparatus and law enforcement patrol vehicles that carry BLS first aid or BLS emergency medical supplies, and that respond to medical emergencies as part of their routine duties.

Emergency Medical Services (EMS)—a system that represents the combined efforts of several professionals and agencies to provide out-of-hospital nonemergency, urgent, and emergency care to the sick and injured.

EMS Medical Director—a physician (MD or DO) licensed by the Louisiana State Board of Medical Examiners who has responsibility and authority to ensure the quality of care and provide guidance for all out-of-hospital medical care provided by EMS ambulance services and EMS Practitioners.

EMS Practitioner—an individual who possesses a Bureau of EMS license as an emergency medical responder (EMR), an emergency medical technician (EMT), an advanced emergency medical technician (AEMT), or a paramedic.

EMS Task Force—composed of individuals, subject to the approval of the secretary of the department, which advises and make recommendations to the bureau and the department on matters related to emergency medical services.

Emergency Vehicle—a vehicle that meets the definition of an "authorized emergency vehicle" in the Louisiana Highway Regulatory Act (R.S. 32:1).

Headquarters—an ambulance service's center of operation and control.

Industrial Ambulance—any vehicle owned and operated by an industrial facility and used for transporting any employee who becomes sick, injured or otherwise incapacitated in the course and scope of his employment from a job site to an appropriate medical facility.

Infant—a child not previously subjected to abuse or neglect, who is not more than sixty days old as determined within a reasonable degree of medical certainty by an examining physician.

LERN—the Louisiana Emergency Response Network

Licensed Emergency Medical Services Practitioner—an individual who has successfully completed an emergency medical services education program based on national EMS education standards, and is licensed as any one of the following:

1. a licensed emergency medical technician;
 2. a licensed advanced emergency medical technician;
- or
3. a licensed paramedic.

Licensed Emergency Medical Technician—an individual who has successfully completed the emergency medical technician training program adopted by the bureau, who is licensed by the bureau.

Licensed Advanced Emergency Medical Technician—an individual who has successfully completed the advanced emergency medical technician training program adopted by the bureau, who is licensed by the bureau.

Licensed Paramedic—an individual who has successfully completed the paramedic training program adopted by the bureau, who is licensed by the bureau.

Licensed Emergency Medical Responder—an individual who has successfully completed a training course adopted by the bureau for emergency medical responders and who is licensed by the bureau.

Moral Turpitude—an act of baseness, vileness, or depravity in the duties which one person owes another, or to society in general, which is contrary to the usual, accepted and customary rule of right and duty which a person should follow.

Municipal Nonprofit Organization—an organization owned by a parish, municipality or entity of a parish or municipality which in its regular course of business responds to a call for help and renders medical treatment and whose attendants are emergency medical personnel, a registered nurse or a physician.

National EMS Education Standards—the document that outlines current national EMS education standards.

Non-Operational—an EMS ambulance service that is not available for operation on designated days and hours as stated in the licensing application and as defined in operational requirements pursuant to this Chapter.

Operational—an ambulance service that has a functional communications center (either owned and operated, or contracted) on duty 24 hours a day, 365 days a year. There shall also be at least one staffed ambulance at the service's level of care on duty and able to respond to requests for service 24 hours a day, 365 days a year within the ambulance service's/provider's service area unless excepted under other provisions of this Chapter.

Pediatric Emergency Care Coordinator—an individual or team that facilitates continued pediatric emergency education; ensures quality improvement for pediatric patients; enhances the availability of pediatric medications, equipment, and supplies; represents the pediatric perspective in the development of EMS protocols; and participates in pediatric research. A person and/or team in this role would be expected to oversee the system-based care of pediatric patients and would promote the integration of pediatric elements into day-to-day services as well as local and/or regional disaster planning, while also serving as a pediatric health care liaison among the EMS agency, community pediatricians, and medical home in addition to the local health care facilities.

Physician—a physician licensed to practice medicine by the Louisiana State Board of Medical Examiners.

Safe Haven—a mechanism whereby any parent may relinquish the care of a Safe Haven infant to the state in safety, anonymity, and without fear of prosecution, pursuant to Louisiana Safe Haven statutes.

Scope of Practice—the procedures, actions, and processes that a healthcare practitioner is permitted to undertake in keeping with the term of their professional licensure in accordance with state laws, rules, and regulations. The scope of practice is limited to that which the law allows for

specific education and experience, and specific demonstrated competency.

V-MED 28—the National Emergency Medical Services Mutual Aid (radio) frequency of 155.340 MHZ in the VHF broad band frequency spectrum.

Volunteer Nonprofit Organization—an organization which in its regular course of business responds to a call for help and renders medical treatment, whose attendants are emergency medical personnel, a registered nurse, or a physician and which is chartered as a nonprofit organization under Section 501c of the United States Internal Revenue Code, as a volunteer fire department by the Louisiana State Fire Marshal's Office, or as a nonprofit organization by the Louisiana Secretary of State.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1131.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:466 (March 2009), amended LR 41:2153 (October 2015), amended Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:880 (May 2023).

§6005. Licensing Requirements and Types of Licenses **[Formerly §6003]**

A. All ambulance services shall be licensed by the Department of Health (LDH). It shall be unlawful to operate or maintain an ambulance service in the state of Louisiana without possessing a license from the department. The Department of Health is the only licensing agency for ambulance services in the state of Louisiana.

B. No person, firm, corporation, association or government entity shall conduct, manage, operate, or maintain an ambulance service in Louisiana without a valid current license from the department.

1. Exception. No license shall be required for any hospital that operates a vehicle solely for the purpose of moving its own patients between parts of its own campus, provided that all of the following conditions are met:

a. the parts of the hospital's campus are not more than 10 miles apart;

b. at the time of transport, the patient is attended by at least two individuals who are an emergency medical services practitioner, a licensed practical or registered nurse, or a physician; and

c. the vehicle utilized by the hospital for transport contains the same equipment as is required for a licensed ambulance.

C. No person shall conduct, maintain or operate an ambulance which does not carry with it, in fully operational condition, equipment consistent with the agency protocol, not to exceed the Louisiana scope of practice for emergency medical services practitioners established in R.S. 40:1133.14. Each ambulance service/provider shall develop and maintain a written policy identifying the personnel and equipment required to comply with the provisions of this Chapter.

D. Ground ambulance services shall be licensed separately from air ambulance services. In those air ambulance services that are joint ventures, the license shall be issued to the ambulance service/provider of medical care and services.

E. A separately licensed ambulance service shall not use a name which is substantially the same as the name of another ambulance service licensed by the department unless the applicant is part of the same corporation or is chain affiliated.

F. A license issued to an ambulance service shall:

1. be issued to the person or entity named in the license application;

2. be valid only for one service's headquarters and its substations to which it is issued, and only for the specific geographic address of that headquarters;

3. be valid for one year from the date of issuance, unless revoked, suspended, modified or terminated prior to that date or unless a provisional license is issued;

4. expire on the last day of the twelfth month after the date of issuance, unless timely renewed by the service;

5. not be subject to sale, assignment, donation or other transfer, whether voluntary or involuntary; and

6. be posted in a conspicuous place in the ambulance service's headquarters at all times.

G. The department has the authority to issue the following types of licenses.

1. A full license is issued only to those applicants that are in substantial compliance with all applicable federal, state, and local laws, regulations, and policies. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, suspended or terminated.

2. A provisional license may be issued to those ambulance services/providers or applicants that do not meet the criteria for full licensure. The license shall be valid for a period not to exceed six months.

a. An acceptable plan of correction is required from the ambulance service/provider for any survey where deficiencies have been cited, regardless of whether the department takes other action against the facility for the deficiencies cited in the survey.

b. The ambulance service/provider shall submit the plan of correction to the department for approval within the prescribed timeframe, and the ambulance service/provider shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license.

c. The department may conduct a follow-up inspection prior to the expiration of the provisional license. If at the follow-up inspection, the ambulance service/provider or applicant has correct all non-compliance or violations, the department may issue a full license. The full license shall be valid until the ambulance service's license anniversary date.

d. For an applicant applying for initial licensure, if the follow-up inspection reveals that the ambulance service failed to correct all violations, the applicant shall be required to begin the initial licensing process again by submitting a new initial licensing packet and the required fee to become licensed.

e. For an existing ambulance service, if the follow-up inspection reveals that the ambulance service/provider has failed to correct all violations, the department may re-issue a provisional license or allow the provisional license to expire.

f. A provisional license may be issued by the department for the following nonexclusive reasons:

i. the applicant or service has more than five violations of ambulance service regulations during one inspection;

ii. the applicant or service has more than three valid complaints in a one-year period;

iii. the department, medical director, or the quality improvement program have identified medical care that places patient(s) at risk;

iv. the applicant or service fails to correct violations within 60 days of being cited, or at the time of a follow-up inspection, whichever occurs first;

v. the applicant fails to submit assessed fees after notification by the department; or

vi. there is documented evidence that the applicant has bribed, intimidated or harassed someone to use the services of any particular ambulance service.

3. If an existing licensed ambulance service/provider has been issued a notice of license revocation, suspension, modification or termination and the ambulance service's/provider's license is due for annual renewal, the department shall deny the license renewal. The denial of license renewal of such a license does not affect in any manner the license revocation, suspension, modification or termination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1135.3

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:467 (March 2009), amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, amended LR 49:882 (May 2023).

§6007. Initial Licensing [Formerly §6005]

A. All requirements of the application process for licensing shall be completed by the applicant before the application will be processed by the department.

1. No application will be reviewed until the application fee is paid.

B. An application packet shall be obtained electronically from the department's Bureau of EMS website.

1. A completed application packet for an ambulance service shall be submitted to, and approved by, the department prior to an applicant providing patient care services.

C. The license application shall be submitted to the department on forms provided for that purpose.

1. The application shall provide documentation that the applicant meets the appropriate requirements for an ambulance service/provider as specified by regulations established by the department.

a. An incomplete application shall be returned to the applicant.

D. An applicant seeking a license as an ambulance service/provider shall indicate the:

1. type of license requested;
 - a. ground ambulance service;
 - b. air ambulance service;

2. the highest level of care, as listed below, that the service may provide must be consistent with its equipment and personnel and in accordance with Louisiana Scope of Practice as defined by the EMS Certification Commission:

a. emergency medical response vehicle (EMRV, sprint vehicles, etc.);

b. basic level service ambulance;

c. advanced level service ambulance;

d. air ambulance:

i. fixed-wing; and/or

ii. rotary aircraft.

E. An applicant seeking a license as an ambulance service/provider shall:

1. provide at least one unit for 24 hours a day, 365 days a year at the highest level of care for which the service applies for and becomes licensed to provide;

2. for ambulance services that serve more than one parish, provide at least one unit at the highest level of care for 24 hours a day, 365 days a year in each parish served;

3. in the initial application only, petition the department for hours of operation other than 24 hours a day, 365 days a year;

4. for an air ambulance service, provide the level of care at the licensed paramedic level.

a. The department may require the submission of work schedules and individual credentials to verify;

F. The completed application shall be submitted with the required information and the following supporting documentation:

1. a certificate of insurance verifying proof of required commercial automobile or aircraft liability insurance;

2. Proof that the ambulance service/provider has a medical director and that such director is a physician licensed to practice medicine by the Louisiana State Board of Medical Examiners and who has responsibility and authority to ensure quality of care and provide guidance for all medical aspects of EMS;

3. all medical protocols signed by the physician/medical director with their prescribed approvals by the parish or component medical society, and/or LERN as applicable;

4. copies of key personnel certifications and professional license(s), inclusive of the director of operations, the administrator and the medical director;

5. for ambulance services/providers of advanced life support, verification that the ambulance service/provider possesses a Louisiana controlled substance license and a U.S. Drug Enforcement Administration controlled substance registration;

6. the unit number, vehicle identification numbers and other identifying vehicle registration information for each unit assigned to the area or each aircraft in service;

a. for ground transportation ambulance services/providers, a copy of the certificate of registration from the Office of Motor Vehicles;

b. for air ambulance services/providers, a copy of the Federal Aviation Administration (FAA) part 135 commercial air taxi certificate;

7. proof that the ambulance service holds a Clinical Laboratory Improvement Act (CLIA) certificate commensurate with the level of testing performed;

8. documentation that the applicant seeking licensure as an ambulance service/provider is in compliance with the criminal history check requirements of R.S. 40:1203.1-1203.5;

9. a copy of all necessary local permits and licenses to operate in a service area.

G. Service Area. An applicant for an ambulance service/provider license shall declare his service area in writing. The department may require the applicant to provide a map of the service area.

H. The applicant shall be prepared to be fully operational for an initial inspection within 90 days after payment of the application fee. If the applicant is unable to do so, the application may be closed.

I. If the application is closed and the applicant is still interested in becoming an ambulance service/provider, he/she shall submit a new initial application packet, including a new initial fee to start the licensing process.

I. Prior to the initial license being issued to the provider, an initial licensing inspection shall be conducted to assure compliance with licensing standards and applicable federal, state, or local statutes, laws, ordinances, rules, and regulations.

J. Until the initial license is issued to the ambulance service/provider by the department, the applicant shall not provide EMS care to any individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 1135.3, R.S. 40:1135.8

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:468 (March 2009), amended Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:883 (May 2023).

§6009. Service Areas [Formerly §6007]

A. An ambulance service/provider's service area is that territory which the ambulance service/provider renders services, has vehicles posted or domiciled, and is legally authorized by the local governing body(ies) to provide services.

B. Upon initial application, an applicant for an EMS license shall declare his service area in writing. The department may require the applicant to provide a map of the service area. The applicant shall also provide copies of all necessary local licenses and permits to operate within the service area, or other legal clearances.

C. Expansion of Service Area. If an ambulance service/provider intends to expand into additional service areas, such notice shall be given to the department at least 72 hours in advance.

1. This notification must include:
a. a description of the territory added;
b. the unit numbers and vehicle identification numbers of vehicles assigned to the area; and
c. the address and telephone number of any substations within the designated service area.

2. The ambulance service/provider shall also provide a copy of all necessary local permits and licenses or other legal clearances.

D. Withdrawal from Service Area. If an ambulance service withdraws from a territory, it must notify the department at least 30 days in advance. The ambulance service must provide the department with evidence that it has notified the appropriate local authorities that it will no longer serve as an ambulance service/provider in the area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1135.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:469 (March 2009), amended Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:884 (May 2023).

§6011. Governing Body

A. The ambulance service/provider shall have a governing body that is responsible for establishing and implementing policies regarding the management and operation of the ambulance service.

1. The governing body shall develop, approve, implement, and re-evaluate policies and procedures which define and describe the:

a. scope of services offered;
b. maintenance and availability of equipment and supplies necessary to perform such services; and
c. maintenance of the vehicles to ensure such are in safe and working order.

2. The policies and procedures shall be revised as necessary and reviewed at least annually.

B. The governing body shall be responsible for the:

1. overall operation of the ambulance service
2. performance of the personnel providing direct emergency care; and
3. the performance of the vehicles.

C. The governing body shall appoint, in writing, a director of operations responsible for the management and daily operation of the ambulance service.

D. The governing body of the ambulance service shall appoint a qualified designee charged with the general administration of the ambulance service in the absence of the director of operations.

E. The governing body shall notify the department in writing when a change occurs in the director of operations or the medical director position within 30 calendar days from the date the change occurs. The notice shall include the identity of the replacement individual, the individual's qualifications, and the specific date the change occurred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:1135.1 and R.S. 40:1135.2.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:884 (May 2023).

§6013. Fees [Formerly §6009]

A. Any remittance submitted to the department in payment of a required fee must be in the form/manner specified by the department.

B. Fee amounts shall be determined by the department in accordance with R.S. 40:1135.4 et seq.

C. Fees paid to the department are not refundable.

D. A fee is required to be submitted with:
1. an initial application;
2. a renewal application;
3. a change of controlling ownership;
4. a change of name or physical address; and
5. each application for a permit to add a vehicle to the service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1135.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:469 (March 2009), amended

§6015. Inspections, Surveys or Investigations
[Formerly §6011]

A. Initial Inspections. An applicant must successfully complete an initial inspection by the department which includes:

1. an inspection of all vehicles to determine that they are safe and in working order and that they are equipped with all of the prescribed medical equipment as required by these provisions and in accordance with state and local laws and regulations:

a. safe and working order shall be determined pursuant to the provisions of R.S. 32:1 et seq. and the Louisiana Motor Vehicle Inspection Manual, in addition to the provisions of this Chapter and R.S. 40:1135.1 et seq.;

b. for aircraft, the safe and working order shall be determined by the rules of the FAA, in addition to the provisions of this Chapter and R.S. 40:1135.1 et seq.;

c. each vehicle successfully completing the inspection shall receive a permit (evidenced by a department-issued decal) authorizing it to be operated as part of the applicant's fleet;

2. an inspection of all personnel credentials to verify that they meet the requirements of law;

3. an inspection, and when deemed necessary by the department, verification of the information required in this Chapter and that such information remains current;

4. verification that the ambulance service/provider has complied with all applicable federal, state, and local statutes, and rules, and has obtained all necessary and applicable licenses, permits, and certifications, including certificates of need or certificates of public convenience and necessity; and

5. for those ambulance services/providers rendering advanced life support, verification that the ambulance service/provider possesses a Louisiana controlled substance license and a U.S. Drug Enforcement Administration controlled substance registration.

B. Other Inspections. The department may conduct the following types of inspections.

1. Licensing Inspection. Licensing inspection is a periodic survey or investigation conducted as necessary to assure compliance with ambulance licensing standards.

2. Follow-Up Inspection. A follow-up may be conducted whenever necessary to assure correction of non-compliance. When applicable, the department may clear violations by administrative desk review.

3. Complaint Inspection. In accordance with R.S. 40:2009.13 et seq., a complaint inspection shall be conducted to investigate allegations of noncompliance. Complaint inspections are unannounced.

4. Fleet addition inspections

a. Any ambulance service adding a ground transportation ambulance, air ambulance or sprint vehicle to the fleet shall provide written notification to the department in advance of the addition. The notification shall include:

i. vehicle identification number;

ii. copy of the certificate of registration from the Office of Motor Vehicles or the Federal Aviation Administration;

iii. proof of commercial automobile or aircraft liability insurance; and

iv. vehicle inspection fee.

b. Once a temporary notice of approval for the vehicle fleet addition is received, the vehicle may be placed in service.

i. The temporary notice of approval shall be carried in the vehicle until the fleet addition vehicle inspection is completed and a state-issued permit is received.

ii. The vehicle or aircraft shall be inspected for the requirements of the Louisiana Motor Vehicle Inspection Act, FAA Part 135, and this Chapter

NOTE: The decal shall be affixed to a non-obstructive viewing area of the vehicle, preferably the lower part of the driver's door window.

c. Any vehicle borrowed, leased or rented by the service for less than 90 days shall not be subject to a vehicle inspection fee.

i. All vehicles shall be subject to compliance with this Chapter and must be issued a temporary notice of approval for use.

ii. The temporary approval shall be carried in the vehicle at all times.

C. When a vehicle is required to be inspected, but is not available, it is the responsibility of the ambulance service/provider to arrange for the vehicle to be available to the surveyor for inspection within 30 days of the on-site survey.

D. For ambulance services/providers based in Louisiana, who border an adjacent state and use vehicles from the bordering state, such vehicles are not required to have a Louisiana license plate, but shall be licensed in accordance with the adjacent state's rules, laws and regulations in the operation of the ambulance service's/provider's vehicle. These vehicles shall be available for inspection for compliance with Louisiana inspection requirements pursuant to this Chapter.

E. Louisiana Department of Health surveyors and staff shall be:

1. given access to all areas and relevant files of the ambulance service/provider which are relevant to the purpose of the inspection or investigation during an inspection or investigation; and

2. allowed to interview any person with an ownership interest, staff, or patients, as necessary or required to conduct the inspection or investigation.

F. The ambulance service/ provider shall be given a written statement of findings of any deficiencies cited based on an inspection or investigation which includes notice of the required plan of correction, as applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 40:1135.1 and R.S. 40:1135.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:469 (March 2009) amended Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:885 (May 2023).

§6017. Statement of Deficiencies

A. Except as may otherwise be required by the Louisiana Public Records Law (La. R.S. 44:1 et seq.), any statement of deficiencies issued by the department to the ambulance

service/provider shall be available for disclosure to the public 30 days after the ambulance service/provider submits an acceptable plan of correction or 90 days after the statement of deficiencies is issued to the ambulance service/provider, whichever occurs first.

1. A statement of deficiencies shall:

- a. cite the law or rule of the deficiency,
- b. be reviewed and signed by a representative of the ambulance service/provider on the day of the inspection, and
- c. be delivered, during the exit interview at the time of the survey or by registered mail, return receipt requested, to the ambulance service/provider representative and administrator/chief of EMS no later than two business days following the surveys.

B. Unless otherwise provided in statute or in these licensing provisions, an ambulance service/provider shall have the right to an informal reconsideration of the deficiencies cited as a result of a survey or investigation.

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

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

3. The request for informal reconsiderations of the deficiencies shall be made to the department's Bureau of EMS and will be considered timely if received by the Bureau of EMS within 30 calendar days of the ambulance service's/provider's receipt of the statement of deficiencies.

4. If a timely request for an informal reconsideration is received, the department shall schedule and conduct the informal reconsideration.

NOTE: Informal reconsideration of the results of a complaint investigation are conducted as desk reviews.

5. The ambulance service/provider shall be notified in writing via registered mail, return receipt of the results of the informal reconsideration.

6. Except as provided for complaint surveys pursuant to R.S. 40:2009.13 et seq., and as provided in these licensing provisions for initial license denials, revocations and denial of license renewals in accordance with the provision of §6027, the decision of the informal reconsideration team shall be the final administrative decision regarding the deficiencies.

7. The request for an informal reconsideration of any deficiencies cited as a result of a survey or investigation does not delay submission of the required plan of correction within the prescribed timeframe.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:1135.1 and R.S. 40:1135.2.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:885 (May 2023).

§6019. Changes [Formerly §6013]

A. An ambulance service/provider shall notify the Louisiana Department of Health, in writing, within five working days of the occurrence of any changes in:

1. physical address of the headquarters;
2. agency name;
3. phone number;
4. 24-hour contact procedure;
5. ownership (CHOW form is required);

6. physical address, email address or phone number of any substation or the addition of any substation;

7. administrator(s)/chief of EMS (a completed key personnel change form is required);

8. director of operations (a completed key personnel change form is required);

9. medical directors (a completed key personnel change form is required);

10. insurance coverage;

11. cessation of business in accordance with §6029; or

12. change in the service area.

B. Change of Ownership (CHOW)

1. Actions which constitute a CHOW include, but are not limited to the following.

a. Unincorporated Sole Proprietorship. Transfer of title and property to another party.

b. Corporation/Limited Liability Corporation (LLC). The merger of the ambulance service/provider corporation into another corporation, or the consolidation of two or more corporations, resulting in the creation of a new corporation.

i. Transfer of corporate stock or the merger of another corporation into the ambulance service/provider corporation does not constitute a CHOW.

c. Partnership. In the case of a partnership, the removal, addition or substitution of a partner, unless the partners expressly agree otherwise, as permitted by applicable state law.

d. Leasing. The lease of all or part of an ambulance service's/provider's entity constitutes a CHOW of the leased portion.

2. Change of Ownership packets may be obtained electronically from the Bureau of EMS' website.

a. Only an agency with a full license shall be approved to undergo a CHOW.

b. An ambulance service license is not transferable from one entity or owner to another.

i. an ambulance service that is under license revocation, provisional licensure, or denial of license renewal may not undergo a CHOW.

3. The following information must be submitted within five working days after the act of sale:

a. a new license application and the current licensing fee:

i. the purchaser of the agency must meet all criteria required for initial licensure as an ambulance service/provider;

b. any changes in the name and/or address of the ambulance service;

c. changes in medical director or director of operations, administrator, or chief of EMS.

d. disclosure of ownership forms; and

e. a copy of the Bill of Sale and Articles of Incorporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:1135.1 and R.S. 40:1135.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:470 (March 2009), amended Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:886 (May 2023).

§6021. License Renewal [Formerly §6015]

A. An ambulance service license must be renewed annually.

B. An ambulance service seeking a renewal of its license shall:

1. access the renewal application electronically on the Bureau of EMS Information Management System at least 45 days prior to license expiration;

2. complete all forms and attachments and submit to the department at least 15 days prior to license expiration; and

3. electronically submit the current annual licensing fees using the Bureau of EMS Information Management System

a. An application is not considered to have been submitted unless the licensing fees are received.

4. submit any changes in medical protocols, if made since the last license renewal.

5. submit ambulance crash data on the provided form.

C. The department may issue a full renewal license to an existing licensed ambulance service/provider that is in substantial compliance with all applicable federal, state departmental and local statutes, laws, ordinances, rules, regulations and fees. The license shall be valid until the expiration date shown on the license, unless the license is revoked, suspended, denied, or modified.

D. Failure to submit a completed license renewal application to the department prior to the expiration of the current license, or prior to the expiration of deadlines established by the department, shall result in the voluntary non-renewal of the license.

E. There is no appeal opportunity afforded to an ambulance service/provider for the voluntary non-renewal of an ambulance service/provider license.

F. The renewal of a license does not in any manner affect any sanction, civil monetary penalty, or other action imposed by the department against the ambulance service/provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:1135.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:471 (March 2009), amended Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:887(May 2023).

§6023. Denial, Revocation or Suspension of a License [Formerly §6017]

A. Denial of an Initial License. An applicant may be denied an initial license for one of the following nonexclusive reasons:

1. the background investigation indicates any convictions pursuant to R.S. 40:1203.3 et seq.;

2. has had any license pertaining to the provision of emergency medical services revoked in any jurisdiction;

3. failure to comply with applicable federal, state, and local laws, statutes, rules or regulations;

4. intentional falsification of material information provided pursuant to this Chapter; or

5. conviction, guilty plea or plea of nolo contendere of a felony by the following, as shown by a certified copy of the record of the court of the conviction:

- a. director of operations;
- b. members or officers; or
- c. the person(s) designated to manage or supervise the ambulance service if the applicant is a firm or corporation.

B. Revocation or Denial of License Renewal. An ambulance service's license may be denied renewal or revoked for any one of the following:

1. failure to be in substantial compliance with the ambulance service licensing standards;

2. failure to be in substantial compliance with other required statutes, laws, ordinances, rules or regulations;

3. failure to comply with the terms of a settlement agreement or corrective action letter;

4. failure to uphold patient rights, whereby violations may result in harm or injury;

5. failure of the agency to protect patients/persons in the community from harmful actions of the agency employees; including, but not limited to:

- a. health and safety;
- b. coercion;
- c. threat;
- d. intimidation; and
- e. harassment;

6. failure to notify proper authorities including, but not limited to, law enforcement and the department (Bureau of EMS) of all suspected cases of neglect, criminal activity, or mental or physical abuse which could potentially cause harm to the patient;

7. failure to employ qualified personnel and maintain an adequate quality assurance program that identifies poorly performing staff and remediates or terminates them for deficiencies;

8. failure to continuously maintain in force any required insurance coverage(s)

9. failure to submit fees including, but not limited to:

- a. renewal fee;
- b. change of agency address or name; or
- c. any fines assessed by the department;

10. failure to allow the department to conduct an investigation, inspection or survey, or to interview staff or participants, or to allow access to any relevant records during any inspection;

11. failure to remedy a situation where patients were not protected from unsafe, skilled and/or unskilled care by any person employed by the ambulance service;

12. ambulance service/provider staff or owner has knowingly, or with reason to know, made a false statement of a material fact in:

- a. application for licensing;
- b. data forms;
- c. clinical records;
- d. matters under investigation by the department;
- e. information submitted for reimbursement from any payment source;
- f. the use of false, fraudulent or misleading advertising;
- g. ambulance service staff being misrepresented or was fraudulent in conducting ambulance service business; or
- h. any convictions by an owner, administrator, director of operations, or medical director as shown by a

certified copy of the record of the court of conviction; or if the applicant is a firm or corporation, of any of its members or officers, or of the person designated to manage or supervise the ambulance service agency; or

13. failure to comply with all reporting requirements in a timely manner; or

C. If an ambulance service's/provider's license is revoked or denied renewal by the department, other than for cessation of business or non-operational status, any owner, officer, member, manager or administrator of such service may be prohibited from owning, managing, directing or operating another service for a period of two years from the date of the final disposition of the revocation or denial action.

D. The secretary of the department may immediately suspend the license of an ambulance service/provider in accordance with the provisions of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:1135.1, 40:1135.2 and R.S. 40:1135.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:471 (March 2009), amended Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:887 (May 2023).

§6025. Sanctions

A. In accordance with R.S. 40:1135.5 et seq., any person or ambulance service/provider violating the provisions of this Chapter when such violation poses a threat to the health, safety, rights, or welfare of a patient or client may be liable for sanctions and other penalties, to be assessed by the department, in addition to any criminal action which may be brought under other applicable laws. Such actions may include, but not be limited to:

1. civil fine(s) pursuant to R.S. 40:1135.5(B)2(a-e) et seq.;
2. provisional licensure;
3. denial of license renewal; or
4. license revocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:1135.1, R.S. 40:1135.2 and R.S. 40:1135.5.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:888 (May 2023).

§6027. Notices, Informal Reconsideration and Appeals **[Formerly §6021]**

A. Following any inspection or complaint investigation, the department will issue a notice of deficient practice if deficiencies are found and cited. The ambulance service/provider shall receive written notice, via registered mail, return receipt requested.

B. Informal Reconsideration. Upon notice of an initial license denial, suspension, revocation of a license or denial of license renewal, due to non-compliance with any of the provisions of this Chapter or any applicable statute, or of the imposition of a civil fine, or other sanction, the ambulance service/provider may request an informal reconsideration. An informal reconsideration may also be referred to as administration reconsideration.

1. A request for an informal reconsideration shall be submitted in writing to the department within 30 calendar days of receipt of the notification.

2. The reconsideration shall be conducted by a designated official(s) of the department who did not participate in the initial decision to impose the action taken.

3. The ambulance service/provider shall have the right to appear in person at the informal reconsideration and may be represented by counsel.

4. Reconsideration shall be made based on the documents before the official(s). The ambulance service/provider may present documents at the informal reconsideration.

5. Correction of a violation shall not be the basis for reconsideration.

6. There is no right to an informal reconsideration of the department's decision to issue a provisional license or to allow a provisional license to expire, or for a license that has been voluntarily surrendered or non-renewed.

C. An ambulance service/provider with a provisional license that expires due to non-compliance or deficiencies cited at the follow-up inspection may request an informal reconsideration only of the validity of the deficiencies cited at the follow-up survey.

1. The reconsideration is limited to whether the violations or findings of non-compliance were properly cited at the follow-up inspection.

2. The ambulance service/provider has thirty calendar days from receipt of the notice of the results of the follow-up inspection survey to request an informal reconsideration.

3. Correction of a violation or finding of non-compliance after the applicable inspection shall not be the basis for an informal reconsideration.

4. The ambulance service/provider shall receive written notice, via registered mail, return receipt requested, of the results of the reconsideration.

D. Administrative Appeal of a Decision to Deny, Suspend, Revoke or Deny Renewal of a License. Any ambulance service/provider whose license has been revoked, suspended, denied or denied renewal by the department shall have the right to have an administrative appeal, provided that such request for appeal is made in writing to the Division of Administration Law (DAL) within 30 calendar days of receipt of the notice of the department's decision, or within 30 days of receipt of the results of the informal reconsideration pursuant to the provisions of this Chapter.

1. An appeal of a decision to deny, revoke or deny renewal of a license is suspensive. The department's decision will not be implemented until it is affirmed on judicial review, or there is no request for judicial review made within the applicable time limits.

2. An appeal of a suspension of a license is devolutive. The ambulance service/provider must cease providing services upon receipt of notification of the suspension of its license.

3. An ambulance service/provider has the right to a judicial review of an administrative appeal affirming a denial, suspension, revocation or denial of license renewal in accordance with the Administrative Procedures Act.

E. Administrative Appeal of a Civil Fine or Other Sanction. An ambulance service ambulance service/provider has the right to submit an administrative appeal of a notice of a civil fine(s). Such appeal is suspensive and shall be

submitted within 30 calendar days of receipt of such notice, or within 30 calendar days of the receipt of the results of the informal reconsideration contesting the civil fine(s). If the administrative appeal decision is adverse to the ambulance service/provider, the ambulance service/provider may request a judicial review of the decision in accordance with the Administrative Procedures Act.

F. An ambulance service/provider with a provisional license that expires due to non-compliance or deficiencies cited at the follow-up inspection may request an administrative appeal only of the validity of the deficiencies cited at the follow-up survey.

1. The appeal is limited to whether the violations or findings of non-compliance were properly cited at the follow-up inspection.

2. The ambulance service/provider has 30 calendar days from the notice of the results of the follow-up inspection to request an administrative appeal.

3. The ambulance service's/provider's appeal is devolutive. The ambulance service/provider must cease providing services unless an administrative tribunal issues a stay of the expiration.

a. To request a stay, an application for a stay must be filed by the ambulance service/provider at the time the administrative appeal is filed.

i. The stay may be granted by the administrative tribunal; only after a contradictory hearing and only upon a showing that there is no potential harm to the patient(s) being served by the ambulance service/provider.

G. If an ambulance service/provider fails to submit a timely request for an administrative appeal, the department's decision becomes final.

H. There is no right to an administrative appeal of the department's decision to issue a provisional license, the department's decision to allow a provisional license to expire, or in connection with a license that has been voluntarily surrendered or non-renewed.

I. Correction of a violation or finding of non-compliance after the applicable inspection shall not be the basis for an administrative appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:1135.1, R.S. 40:1135.2 and R.S. 40:1135.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:472 (March 2009), amended Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:888 (May 2023).

§6029. Cessation of Business

A. Except as provided in §6031 or §6032 of this Chapter, a license shall be immediately null and void if an ambulance service ceases to operate.

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

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

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

E. Once the ambulance service has ceased doing business, the ambulance service/provider shall not provide services until the provider has obtained a new initial license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:1134.1 and R.S. 40:1135.2.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:889 (May 2023).

§6031. Inactivation of License Due to a Declared Disaster or Emergency

A. An ambulance service licensed in a parish which is the subject of an executive order of proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766 may seek to inactivate its license for a period not to exceed one year, provided that the following conditions are met:

1. the ambulance service shall submit written notification to the Bureau of EMS within 60 days of the date of the executive order or proclamation of emergency or disaster that:

a. the ambulance service has experienced an interruption in the provision of services as a result to events that are the subject of such executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766;

b. the ambulance service intends to resume operation as an ambulance service in the same service area;

c. includes an attestation that the emergency or disaster is the sole causal factor in the interruption of the provision of services;

d. the ambulance service's initial request to inactivate does not exceed one year.

NOTE: Pursuant to these provisions, an extension of the 60-day deadline for initiation of request may be granted at the discretion of the department.

2. the ambulance service resumes operating in the same service areas within one year of the issuance of an executive order or proclamation of emergency of disaster in accordance with R.S. 29:724 or R.S. 29:766.

3. the ambulance service continues to pay all fees and costs due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties, if applicable; and

4. the ambulance service continues to submit required documentation and information to the department.

B. Upon receiving a completed written request to inactivate an ambulance service license, the department may issue a notice of inactivation of license to the ambulance service.

C. An ambulance service which has received notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met:

1. The ambulance service submits a written license reinstatement request to the Bureau of EMS 30 calendar days prior to the anticipated date of reopening.

a. The license reinstatement request informs the department of the anticipated date of opening, and shall request scheduling of a licensing survey;

b. The license reinstatement request includes a completed licensing application with appropriate licensing fees;

c. The ambulance service submits a copy of the on-site health inspection report with approval of occupancy from the Office of Public Health (OPH), if required by law; and

2. The ambulance service resumes operating in the same service area within one year.

EXCEPTION: If the ambulance service requires an extension of this timeframe due to circumstances beyond the ambulance service's/provider's control, the department will consider an extended period. Such written request for extension shall show the ambulance service's/provider's active efforts to complete construction or repairs and the reasons for the request for extension of the ambulance service's/provider's inactive license. Any approval for an extension is at the sole discretion of the department.

D. Upon receiving a completed written request to reinstate an ambulance service license, the department shall conduct a licensing survey. If the ambulance service meets the requirements for licensure and the requirements under this Section, the department shall issue a notice of reinstatement of the ambulance service license.

E. No change of ownership of the ambulance service shall occur until such ambulance service has resumed operations as an ambulance service.

F. The provisions of this Section shall not apply to an ambulance service which has voluntarily surrendered its license and ceased operation.

G. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the ambulance service license. There is no appeal opportunity for a voluntary surrender of license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:1135.1 and R.S. 40:1135.2.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:889 (May 2023).

§6033. Inactivation of License due to a Non-Declared Disaster or Emergency

A. A licensed ambulance service in an area or areas which have been affected by a non-declared emergency or disaster may seek to inactive its license, provided that the following conditions are met:

1. the ambulance service/provider shall submit written notification to the Bureau of Emergency Medical Services within 30 calendar days of the date of the non-declared emergency or disaster stating that:

a. the ambulance service has experienced an interruption of the provisions of services as a result of events that are due to a non-declared emergency or disaster;

b. the ambulance service intends to resume operation in the same service area;

c. the ambulance attests that the emergency or disaster is the sole causal factor in the interruption of the provision of services; and

d. the ambulance service's initial request to inactivate does not exceed one year.

NOTE: Pursuant to these provisions, an extension of the 30-day deadline for initiation of request may be granted at the discretion of the department.

2. the ambulance service resumes operating in the same areas within one year;

3. the ambulance service continues to pay all fees and costs due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties if applicable; and

4. the ambulance service continues to submit required documentation and information to the department.

B. Upon receiving a completed written request to temporarily inactivate an ambulance service/provider license, the department shall issue a notice of inactivation of license to the ambulance service/provider.

C. An ambulance service which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met:

1. The ambulance service submits a written license reinstatement request to the Bureau of EMS 30 calendar days prior to the anticipated date of reopening.

a. The license reinstatement request informs the department of the anticipated date of opening, and shall request scheduling of a license survey;

b. The license reinstatement request includes a completed licensing application with appropriate licensing fees.

c. The ambulance service submits a copy of the on-site health inspection report with approval of occupancy from the Office of Public Health (OPH), if required by law, and

2. The ambulance service resumes operating in the same service area within one year.

EXCEPTION: If the ambulance service requires an extension of this timeframe due to circumstances beyond the ambulance service's/provider's control, the department will consider an extended period. Such written request for extension shall show the ambulance service's/provider's active efforts to complete construction or repairs and the reasons for the request for extension of the ambulance service's/provider's inactive license. Any approval for an extension is at the sole discretion of the department.

D. Upon receiving a completed written request to reinstate an ambulance service license, the department shall conduct a licensing survey. If the ambulance service meets the requirements for licensure and the requirements under this Section, the department shall issue a notice of reinstatement of the ambulance service license.

E. No change of ownership in the ambulance service shall occur until such ambulance service/provider has resumed operations as an ambulance service.

F. The provisions of this Section shall not apply to an ambulance service which has voluntarily surrendered its license and ceased operation.

G. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the ambulance service license. There is no appeal opportunity for a voluntary surrender of license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:1135.1 and R.S. 40:1135.2

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:890 (May 2023).

Subchapter B. Ambulance Service/Provider Responsibilities

§6041. General Provisions [Formerly §6031]

A. Insurance Coverage

1. Each ambulance service/provider shall continuously have in effect the following minimum amounts of insurance:

a. general liability insurance in the amount of \$500,000 per occurrence and \$500,000 in the aggregate;

b. automobile and/or aircraft liability insurance, as applicable, in the amount of \$500,000 per occurrence and \$500,000 in the aggregate; and

c. medical malpractice liability insurance in the amount of \$500,000.

2. Proof of participation in the Louisiana Patients' Compensation Fund will be accepted as medical malpractice insurance.

3. Each ambulance service/provider shall provide to the Department a certificate of insurance verifying that the ambulance service/provider has the legally mandated insurance coverage.

B. Infection Control and Laboratory Testing

1. An ambulance service must have and comply with a written infection control plan in accordance with 29 CFR 1910.120.

a. The ambulance service/provider shall ensure sufficient infection control equipment and supplies are readily available for each service run.

2. Ambulance services conducting blood glucose or other laboratory testing in the field must have the appropriate Clinical Laboratory Improvement Act (CLIA) certificate, and shall be in compliance with the provisions of such.

C. Communications

1. All ambulance services shall have a dispatch facility. They may either own and operate their own facility or contract their dispatching to an appropriate emergency communications agency. All dispatch facilities must have 24 hour emergency power.

2. In addition to 911, the ambulance service shall provide the department with a conventional seven digit telephone number for their dispatch facility that may be reached 24 hours a day, 365 days a year.

3. All ambulance services shall have a Federal Communications Commission (FCC) type accepted two-way dispatching communications system. They may either own or lease the system.

a. All dispatch center(s) and/or point(s) of dispatch shall have a proper FCC, licensed radio system or an agreement with an FCC, licensed communication provider that does not allow for transmission by unauthorized users, but will provide the capability for the dispatcher, with one transmission, to be heard simultaneously by all of its ambulances/emergency medical response units within that defined geographic service area.

b. Services that utilize multiple transmitters/tower sites shall have simultaneous communications capabilities with all units utilizing a specific transmitter/tower site.

4. All ambulance services shall be compliant with any applicable mandates of the FCC, the U.S. Department of Homeland Security, the Governor's Office of Homeland Security and Emergency Preparedness, and other applicable governmental agencies.

D. Scanner Usage

1. Pursuant to R.S. 40:1135.7, no commercial ambulance shall make any emergency run based solely on information intercepted by the use of a radio communication scanner or similar device except in cases where human life is threatened, unless that commercial ambulance has been specifically requested to respond to such an emergency.

Nothing in this Section shall be construed to prohibit service to a subscriber of a commercial ambulance service.

E. All ambulance services/providers shall maintain a log of all incoming calls received related to patient medical services and in accordance with the ambulance service's/provider's policies and procedures.

F. At any time that the ambulance service/provider has an interruption in services or a change in the licensed location due to an emergency situation, the ambulance service/provider shall notify the Bureau of EMS no later than the next business day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:1135.1 and R.S. 40:1135.3

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:473 (March 2009), amended Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:890 (May 2023).

§6043. Personnel [Formerly §6033]

A. Director of Operations

1. The director of operations (DOO), or equivalent job title, shall be designated, in writing, to supervise:

a. all activities of professional staff and allied health personnel; and

b. responsible for compliance with regulatory requirements.

2. The DOO, or designee, shall be on-site or immediately available to be on-site at all times during operating hours, and additionally as needed. If the DOO is unavailable, he/she shall designate an equally qualified individual to be responsible during his/her absence.

3. The DOO shall be a licensed EMT, or above, and shall be currently licensed to practice in the state of Louisiana:

a. with at least three years' experience as an EMS Practitioner; and

b. be a full-time employee of only one ambulance service facility.

4. The department may exempt the director of operations from the requirements of §6133.A.3.a-b if services are primarily staffed and operated by volunteers.

5. The DOO shall supervise all patient care activities to assure compliance with current standards of accepted EMS practice including, but not limited to, the following:

a. supervise the employee health program and implement policies and procedures that establish and support quality patient care;

b. assure compliance with local, state, and federal laws, and promote health and safety of employees, patients and the community, using the following nonexclusive methods:

i. perform complaint investigations;

ii. provide orientation and in-service training to employees to promote effective ambulance service safety of the patient, and to familiarize staff with regulatory issues, and agency policy and procedures, including but not limited to:

iii. competency evaluation performed biennially to coincide with renewals of licensure of health care personnel or alternatively provide that the competency evaluation will be done through an ambulance service's/provider's quality

assurance policies and procedures that includes a definition of competency when utilizing the quality assurance process;

iv. assure that the care provided by the health care personnel promotes effective emergency medical care and the safety of the patient; and

v. assure that the ambulance service policies are enforced.

6. The DOO shall also perform the following duties:

a. implement personnel and employment policies to assure that only qualified personnel are hired:

i. licensing and/or certification (as required by law) shall be verified prior to employment and annually thereafter, and records shall be maintained to support competency of all allied health personnel;

b. implement policies and procedures that establish and support quality patient care

c. be responsible for and direct the day-to-day operations of the ambulance service facility;

d. act as liaison among staff, patients and the community;

e. designate, in writing, an individual who meets the qualifications of director of operations to assume the authority and the control of the ambulance service if the director of operations is unavailable; and

f. designate policies governing the day-to-day provisions of the ambulance service.

7. The DOO shall refer to the Louisiana Emergency Medical Services Certification Commission, or other authority of competent jurisdiction, any licensed employee who allegedly committed or is accused of committing, or who has been proven to have committed any of the following:

a. the selling, attempting to sell, falsely obtaining, or furnishing any professional certification document;

b. conviction of a crime or offense which reflects the inability of that person to provide care with due regard of the health and safety of the patient. This includes a plea of *nolo contendere* regardless of the final outcome; or

c. is guilty in the aiding and abetting of someone in violation of these regulations or the regulations of the Louisiana EMS Certification Commission.

d. is guilty in the violation of these regulations or the regulations of the Louisiana EMS Certification Commission.

B. Medical Director

1. The medical director must be a licensed physician (MD or DO), authorized to practice medicine in Louisiana and knowledgeable about emergency medical care and the emergency medical services system. The medical director is the clinical supervisor of the ambulance service. The medical director reviews, coordinates, and is responsible for the management of clinical and medical care for all patients. The medical director is responsible for all aspects of patient care. The medical director may be an employee or a volunteer of the agency. The agency may also contract for services of the medical director.

2. The medical director or his designee shall assume overall responsibility for the medical component of the patient care program including, but not limited to:

a. responsibility for all controlled dangerous substances utilized by the ambulance service;

b. developing and coordinating procedures for the provision of emergency medical care; and

c. participating in the development of the protocols or procedures for providing care;

3. The medical director shall maintain a current list of all licensed emergency medical services personnel that function under the medical director's supervision.

4. The medical director shall have the authority to appointment and delegate duties to one or more associate medical directors;

a. Associate medical directors shall have responsibilities and authority that are delineated in writing and shall be recognized with authority and responsibility as delegated by the program's EMS medical director.

5. Documentation of the medical director's credentials shall be kept on file with the service at its headquarters.

C. Licensed Emergency Medical Services Personnel

1. A licensed emergency medical responder (EMR) must be licensed by the Louisiana Bureau of Emergency Medical Services. A licensed emergency medical responders drive the ambulance and assist the EMT. He may not attend the patient in the back of the ambulance by himself.

a. A licensed emergency medical responder shall:

i. drive the ambulance; or

ii. assist the EMT, AEMT or the paramedic on an ambulance; or

iii. provide on-scene patient care to the EMR level (see *Louisiana Scope of Practice*).

2. A licensed emergency medical technician may:

a. drive the ambulance;

b. assist another licensed EMS practitioner;

c. may attend the patient by himself provided the patient does not require advanced life support (ALS) services, and the assessment and interventions fall within the scope of practice of the licensed EMT.

3. A licensed advanced emergency medical technician may:

a. drive the ambulance;

b. assist another licensed EMS practitioner; or

c. attend the patient by himself as long as the assessment and interventions fall within his established Louisiana scope of practice.

4. A licensed paramedic may:

a. drive the ambulance;

b. assist another licensed EMS practitioner; or

c. attend the patient by himself provided the medical procedures being performed, (see *Louisiana Scope of Practice*).

D. Pediatric Emergency Care Coordinator (PECC)

1. A PECC is recommended for the purpose of:

a. staying abreast of and advocating for the most current evidence-based, best practices, and model guidelines in out-of-hospital emergency care.

b. advocating for the ambulance service to collect and submit EMS data to be utilized for quality improvement purposes.

c. collaborate with the ambulance service's leadership and external partners to improve all aspects of pediatric care, education, and training.

d. maintaining knowledge of pediatric capabilities within regional hospitals and destinations of care.

e. dedicating the quality improvement efforts focused on pediatric patients.

E. Certified Ambulance Operator:

1. A certified ambulance operator must be certified by the Louisiana Bureau of Emergency Medical Services.

a. A certified ambulance operator shall:

- i. drive the ambulance; or
- ii. assist the EMT, AEMT or the paramedic with lifting and moving patients and cardiopulmonary resuscitation while responding to calls for assistance on an ambulance.

F. Other Medical Personnel. Other medical personnel such as physicians, registered nurses, etc., may function in an ambulance in accordance with R.S. 40:1135.1 et seq., and within the scope of practice in accordance with the licensed practitioner's professional licensing board.

G. All medical personnel providing services in any capacity on an ambulance shall have either a current Health Care Provider or a Professional Rescuer CPR certification from the American Heart Association or the American Red Cross, or the equivalent cardiopulmonary resuscitation certification.

H. All drivers shall successfully complete and hold a valid current defensive driving certificate issued by the National Safety Council or its equivalent.

I. Pilots

1. Pilots shall not participate in patient care activities, except for loading and unloading the patient, and incidental duties.

2. Pilots shall:

- a. hold a valid appropriate commercial pilot's license from the Federal Aviation Administration;
- b. have a valid physical examination certificate from an FAA flight surgeon.

NOTE: Copies of these documents listed in a. and b. above shall be made available to the department.

- c. be qualified to operate the specific aircraft; and
- d. have an appropriate instrument flight rating as necessary.

J. Identification and Credentials

1. All personnel working on an ambulance and/or sprint vehicle shall carry with them their current driver's license at the level required by the Louisiana Highway Regulatory Act

2. All medical personnel working on a ground transportation ambulance, air ambulance, or emergency medical response vehicle (sprint), shall have their level of licensure readily identifiable to the public utilizing the appropriate designated patch or name tag issued by the ambulance service/provider.

K. Criminal History Reports

1. In accordance with R.S. 40:1203.2 et seq., all ambulance service personnel shall have a state of Louisiana criminal history report and sexual offender checks conducted prior to an offer of employment or a contract. No personnel shall be employed in violation of those statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:1135.1 and R.S. 40: 1135.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:474 (March 2009), amended Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:891 (May 2023).

§6045. Medications [Formerly §6035]

A. All medications, including IV fluids, shall be in accordance with the manufacturer's guidelines and utilized prior to the expiration date.

1. Medical directors are authorized to extend expiration dates up to one year for critical medications.

B. All ambulance services shall have a system in place to identify and remove outdated and recalled pharmaceuticals from the service's inventory.

C. Controlled Dangerous Substances

1. All advanced life support ambulance services/providers must have both a Louisiana controlled dangerous substance (CDS) license and a U.S. Drug Enforcement Administration (DEA) controlled substance registration.

a. If the ambulance service is owned by a hospital that holds a CDS license and DEA registration it is exempt from this requirement.

2. All controlled dangerous substances carried on ambulances must be under the personal control of a licensed EMS practitioner who is allowed to control these types of substances under their scope of practice or kept in a substantially constructed, securely locked cabinet on the vehicle. Controlled substances may not be left unattended in unlocked medication kits.

3. All controlled substances kept at the ambulance service's central location must be stored in a substantially constructed securely locked cabinet or a safe.

4. Ambulance services must maintain both a dispenser's log and a perpetual inventory of their controlled substances, unless the service is part of a hospital and are maintained by the hospital.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:1135.1 and R.S. 40:1135.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:475 (March 2009), amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:893 (May 2023).

§6047. Medical Protocol [Formerly §6037]

A. In parishes where the parish or component medical society has established a written out-of-hospital EMS protocol for use within its jurisdiction, the ambulance service shall follow that protocol, and/or the protocols of the Louisiana Emergency Response Network as applicable.

B. In parishes where the parish or component medical society have not established a written out-of-hospital EMS protocol for use within its jurisdiction, the EMS service shall develop a protocol to be used by its personnel. The appropriate portions of this protocol shall be approved by the parish or component medical society.

C. At a minimum, protocols shall include the care of the following conditions for adult (if applicable), geriatric (if applicable) and pediatric (if applicable) patients:

1. abuse and neglect;
2. active seizure;
3. acute coronary syndrome (STEMI, bradycardias, supraventricular tachycardia, suspected cardiogenic chest pain or suspected myocardial infarction, ventricular tachycardia);
4. anaphylactic reactions;
5. behavioral health;

6. bites and envenomation;
7. burns;
8. cardiac arrest;
9. childbirth;
10. drowning;
11. eclampsia;
12. functional needs (special healthcare and technology dependent);
13. head injury;
14. hemorrhage (internal, external);
15. hyperthermia;
16. hypoglycemia;
17. injuries from weapons of mass destruction;
18. mass casualty incidents;
19. neonatal resuscitation;
20. obstetrical emergencies;
21. orthopedic injuries;
22. pain management;
23. patient with advanced directives;
24. prehospital diversion/patient destination;
25. respiratory emergencies (distress, failure, arrest);
26. shock (all-inclusive);
27. stroke or suspected stroke;
28. sepsis;
29. suspected poisoning/drug overdose;
30. syncope;
31. traumatic injuries;
32. treatment induced unconsciousness, altered mental status, hypotension or respiratory depression from physician ordered or protocol appropriate paramedic administered narcotics; and
33. unconsciousness or altered mental status;

D. The EMS service shall adopt the protocols established by the Louisiana Emergency Response Network (LERN) or develop an agency specific protocol with specific language related to the transportation of the following patients:

1. Acute stroke patients shall be transported to the closest appropriate comprehensive stroke center, thrombectomy capable stroke center, primary stroke center, or acute stroke ready hospital; however, acute stroke patients exhibiting signs or symptoms of airway, breathing or circulatory compromise, or any other potentially life-threatening emergency, as defined by protocols implemented by the ambulance service's medical director, shall be transported to the closest appropriate hospital capable of caring for the patient's emergency condition.

- a. Acute stroke patients may also be diverted to the closest appropriate hospital by order of LERN or online medical control from the local facility, potential receiving facility, or medical director.

2. Patients suffering an acute ST elevation myocardial infarction (STEMI), occlusion myocardial infarction (OMI), or non-occlusion myocardial infarction (NOMI) shall be transported to the closest appropriate STEMI receiving center or, when appropriate, a STEMI referring center.

3. In any case where the treating EMS Practitioner's evaluation, according to protocol, indicates a potentially unstable condition or potential medical emergency that, if traveling the extra distance to the recommended appropriate facility could put the patient at higher risk, the EMS Practitioner in his/her discretion may divert to the nearest appropriate facility.

E. All protocols shall:

1. meet or exceed the requirements of these licensing standards and all applicable federal, state, and local laws;
2. be consistent with the current National EMS Education Standards, the Louisiana *Scope of Practice* and the rulings of the Louisiana EMS Certification Commission;
3. be reviewed annually by the licensed agency's medical director, or the parish medical society;
4. be immediately available to the department when requested for investigations and during surveys; and
5. contain medical directives for substitute medications during a national drug shortages.

F. Ambulance services are accountable for assuring compliance with applicable protocols by their personnel. Exceptions to these protocols must be reviewed on a case-by-case basis by the medical director.

1. Treatment decisions shall be considered given the current health status of the patient in conjunction with all of the associated risks factors including, but not limited to, distance to the nearest stroke facility.

G. Ambulance services must produce, and provide to all personnel, a policy and procedures manual governing the service's operation and shall hold all personnel in compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:1135.1 and 40:1135.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:476 (March 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:2153 (October 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1090 (July 2016), amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:893 (May 2023).

§6049. Records [Formerly §6039]

A. There shall be a permanent record of each patient encounter made by the ambulance service. These records may be maintained as hard copy and/or electronically. The record shall be maintained to assure that the medical treatment of each patient is completely and accurately documented. Records shall be readily available and systematically organized to facilitate the compilation and copying of such information.

B. The record of each patient encounter shall include at a minimum:

1. pertinent demographic information about the patient;
2. location of the response;
3. date and time of response;
4. situation;
5. patient's chief complaint;
6. patient's signs and symptoms;
7. a synopsis of the assessment of the patient to include both the initial and complete assessment of the patient;
8. vital signs;
9. pertinent past medical history;
10. any interventions or treatments conducted;
11. transport destination and arrival time if applicable; and
12. any other significant information that pertains to the patient or the response.

C. Ambulance service/provider may submit NEMSIS compliant data to the state EMS registry.

D. Safeguards shall be established and implemented to maintain confidentiality and protection of the medical record from fire, water, or other sources of damage.

E. Safeguards shall be established and implemented to maintain the confidentiality and protection of all medical records in accordance with the Health Insurance Portability and Accountability Act (HIPAA) regulations.

F. The department shall have access to all business records, patient records or other documents maintained by, or on behalf of the ambulance service/provider, to the extent necessary to ensure compliance with this Chapter. Ensuring compliance includes, but is not limited to:

1. permitting photocopying of records by the department; and

2. providing photocopies to the department of any record or other information the department may deem necessary to determine or verify compliance with this Chapter.

G. The ambulance service/provider shall keep patient records for a period of six years after the patient encounter. The patient records shall:

1. remain in the custody of the ambulance service/provider;

2. be easily retrievable, accessible and available to surveyors, as requested; and

3. not be disclosed or removed unless authorized by law or regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:1135.1 and R.S. 40:1135.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:476 (March 2009), amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:894 (May 2023).

§6051. Emergency Preparedness [Formerly §6041]

A. All ambulance services/providers shall have an all hazards disaster plan on file that has been approved by their local Office of Emergency Preparedness and/or Homeland Security.

B. All ambulance services shall have disaster mutual aid agreements with all ambulance services that are located in the same LDH established region(s) in which the ambulance service operates.

C. All ambulance services shall have appropriate medical protocols as a part of their disaster plan.

D. All ambulance services shall have an emergency communications plan

E. All ambulance services shall have policies and procedures addressing emergency preparedness, inclusive of training of all employees, either contracted or directly employed. Such shall be reviewed and approved at least annually by the ambulance service's governing body and medical director.

F. All ambulance services shall have safe haven relinquishment policies and procedures, in accordance with the applicable *Louisiana Safe Haven* statutes, which shall be reviewed and approved at least annually by the ambulance service's/provider's governing body and medical director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:1135.1 and R.S. 40:1135.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:477 (March 2009), amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:895 (May 2023).

§6053. Quality Assurance [Formerly §6043]

A. The ambulance service shall have an on-going comprehensive, integrated, self-assessment quality improvement process that provides assurance that patient care is provided at all times in compliance with accepted standards of professional practice.

B. The ambulance service shall have written plans, policies, and procedures addressing quality assurance.

C. The ambulance service shall follow a written plan for continually assessing and improving all aspects of operations which include:

1. goals and objectives;

2. the identity of the person responsible for the program;

3. a system to ensure systematic, objective regular reports are prepared and distributed to the ambulance service/ provider's governing body and any other committees as directed by the governing body;

4. the method for evaluating the quality and the appropriateness of care;

5. a method for resolving identified problems; and

6. a method for implementing practices to improve the quality of patient care.

7. a method to document EMS Practitioner skills competencies including a process for demonstrating correct use of pediatric-specific equipment based on the agency or local protocols/guidelines.

D. The plan shall be reviewed at least annually and revised as appropriate by the ambulance service's medical director and director of operations.

E. Quality assessment and improvement activities shall be based on the systematic collection, review, and evaluation of data which, at a minimum, includes:

1. services provided by professional and volunteer staff;

2. audits of patient charts;

3. reports from staff, volunteers and patients/clients about services;

4. concerns or suggestions for improvement in services;

5. organizational review of the ambulance service program;

6. patient/family evaluations of care; and

7. high-risk, high volume and problem-prone activities.

F. When problems are identified in the provision of ambulance care, there shall be:

1. evidence of corrective actions, including ongoing monitoring;

2. revisions of policies and procedures, as appropriate; and

3. educational intervention and changes in the provision of services.

G. The effectiveness of actions taken to improve services or correct identified problems shall be evaluated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:254, R.S. 40:1135.1 and 40:1135.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:477 (March 2009); amended by Bureau of Emergency Medical Services, LR 49:895 (May 2023).

Subchapter C. Emergency Vehicles—Ground Transportation

§6061. General Provisions

A. All ground emergency medical response vehicles utilized by ambulance services must be in compliance with the Louisiana Motor Vehicle Regulatory Act and designated as one of the following:

1. emergency medical response sprint vehicle; or
2. ambulance ground transportation service.

B. All emergency medical ground ambulance services shall be insured in accordance with R.S. 40:1135.9 et seq.

C. An ambulance service may rent or borrow a vehicle for up to 90 days without having it inspected or pay certification fees. However, the vehicle will be subject to random inspection if necessary. The vehicle must be in compliance with R.S. 32:1 et seq., and the provisions of this Subchapter.

D. Unless an ambulance or a sprint vehicle is obtained for less than 90 days, it must be registered in the ambulance service's name.

E. All ground emergency medical response vehicles shall have permanent signage indicating the name of the ambulance service/provider and the unit number. All numbering and lettering shall be reflective and be at least 3 inches high or greater. If a logo is used it must be 6 inches or greater in size. This shall appear on the rear and on both sides of the vehicle.

1. Vehicles borrowed or rented for less than 90 days are exempt from this permanent signage requirement.

F. Emergency Warning Lights. These lights shall be mounted as high and as widely spaced laterally apart as practicable.

1. There shall be two alternating flashing red lights mounted at the same level on the front of the vehicle.

2. There shall be two alternating flashing red or blue lights mounted at the same level on the rear of the vehicle.

a. these front and rear lights shall have sufficient intensity to be visible at 500 feet in normal sunlight.

3. The following exceptions apply:

a. Any authorized emergency vehicle may be equipped with a large revolving red light on the roof instead of alternating flashing red lights on the front. This light shall be discernible in all directions and have sufficient intensity to be visible at 500 feet in normal sunlight.

b. Authorized emergency medical response vehicles of organized fire companies may be equipped with a large red and white light on the roof encased in a clear dome, instead of the large red light on the roof. This light shall be discernible in all directions and have sufficient intensity to be visible at 500 feet in normal sunlight.

G. Audible Warning Signals. Each emergency medical response vehicle or ambulance shall have a siren, exhaust whistle, or bell capable of giving an audible signal sufficient to warn motorists of its approach (audible up to 500 feet).

H. Emergency medical response vehicles and ambulances shall have injury-prevention equipment as outlined in the most current joint policy statement for "equipment for ground ambulances". This includes, but is not limited to:

1. audible warning signals. Each emergency medical response vehicle must have a siren, exhaust whistle, or bell capable of giving an audible signal sufficient to warn motorists of its approach (audible up to 500 feet);

2. availability of necessary age/size-appropriate restraint systems for all passengers and patients transported in ground ambulances;

3. fire extinguisher; and

4. reflective safety wear for each crewmember.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:1135.1 and 40:1135.2.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:896 (May 2023).

§6063. Emergency Medical Response Vehicles (Sprint Vehicles)

A. Emergency Medical Response Vehicle Qualifications. The vehicle may be on either an automobile or truck chassis, have four or more wheels and must have the following external markings:

1. all numbering and lettering shall be reflective;

2. the unit number shall be displayed in numerals 3 inches high or greater on the rear and both sides of the vehicle;

3. the agency's name shall appear on both sides of the vehicle in lettering 3 inches high or greater, or with a logo that is 6 inches or greater in size;

4. the agency's name or logo shall appear on the trunk or rear door in lettering 3 inches high. Agency logos shall be specific to the agency and on file with the department; and

5. the vehicle's markings shall indicate its designation as an emergency medical response vehicle such as sprint car, supervisor, chief, special services, etc. No markings on the vehicle may imply that it is an ambulance.

B. Equipment and Supplies

1. All vehicle units shall have a FCC type accepted two-way radio communication system for day-to-day communications. The emergency medical response vehicle's dispatch center(s) and/or point(s) of dispatch shall be capable of interactive two-way radio communications within all of the service's defined area.

2. In addition to the day-to-day communication system, all emergency medical response vehicles must have a two-way radio with disaster communications capability that is compatible with the Statewide Louisiana Wireless Information Network (LWIN) system.

3. Direct communication with a physician and hospital shall be conducted through an appropriate system sufficient to ensure adequate communication, such as:

a. a radio compatible with the statewide LWIN system;

b. wireless telephone; or

c. radio-telephone switch states (FTSS); or

d. med. 10 system, etc.

4. Emergency medical response vehicles shall have injury-prevention equipment as outlined in the most current

joint policy statement for “equipment for ground ambulance”. This includes, but is not limited to:

- a. Availability of necessary age/size-appropriate restraint systems for all passengers and patients transported in ground ambulances;
- b. Fire extinguisher;
- c. Department of Transportation Emergency Response Guide (paper copy or electronic copy);
- d. Reflective safety wear for each crewmember.

5. All emergency medical response vehicles shall have basic life support equipment and medical supplies as determined by the ambulance service/provider medical director and protocols.

6. All emergency medical response vehicles that are not staffed and equipped to the advanced life support level shall carry an automated external defibrillator (either automatic or semi-automatic) with the appropriate lead cables and at least two sets of the appropriate disposable defibrillation pads or electrodes. If the automated defibrillator is also capable of manual defibrillation, an appropriate lock-out mechanism (such as an access code, computer chip, or lock and key) to prevent unauthorized use of the device by those persons not authorized to manually defibrillate shall be an integral part of the device.

7. All advanced life support emergency medical response vehicles shall carry equipment and medical supplies dependent on the level of licensure of personnel and as determined by the ambulance service’s/provider’s medical director and governing body who have developed policies and procedures to maintain, update, or not carry certain advanced life support equipment and medical supplies as medically indicated or contraindicated for their service area and have documentation available to support the determination.

a. This includes all basic life support equipment and medical supplies; and the equipment and medical supplies consistent with the joint position statement for “Equipment for Ground Ambulances”. The additional equipment and medical supplies includes, but is not limited to the following:

- i. vascular access;
- ii. medications;
- iii. cardiac monitor/defibrillator with transcutaneous pacing capabilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:1135.2 and R.S. 40:1135.2.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:896 (May 2023).

§6065. Ground Transportation Ambulances

A. Any vehicle used as a ground transportation ambulance shall be designed and constructed by the manufacturer as such and shall not be used to transport more than the intended patient capacity of the vehicle.

B. The following medical and safety equipment are requirements for certification of all ground ambulances operating within the state of Louisiana.

1. All ground transportation ambulances shall have a national standard public safety two-way radio communication (day-to-day communications). The ambulance dispatch center(s) and/or point(s) of dispatch must be capable of interactive two-way communications within all of the service’s defined area.

2. Two-way radio with disaster communications shall be compatible with the statewide LWIN system and statewide interoperability channels.

a. Any unit used during a declared disaster that responds outside of the usual coverage area shall meet ESF-8 requirements for communication capability.

3. Direct communication with a physician and hospital must be conducted through an appropriate system sufficient to ensure adequate communication such as:

- a. a radio compatible with the statewide LWIN system; or
- b. wireless telephone; or
- c. radio-telephone switch station (RTSS); or
- d. med. 10 system, etc.

4. All ground transportation ambulances shall carry basic life support equipment and medical supplies as determined by the ambulance service/provider medical director and governing body who have developed policies and procedures to maintain, update, or not carry certain medical supplies and equipment as medically indicated or contraindicated for their service area and have documentation available to support the determination. Such basic life support equipment and medical supplies shall be:

- a. consistent with the standards of practice for EMS practitioners;
- b. consistent with the density of the population served and geographic conditions of the region; and
- c. consistent with the recommendation of the Louisiana scope of practice for emergency medical technicians established in R.S. 40:1133.14 and consistent with the joint position statement for “equipment for ground ambulance”. This includes, but is not limited to the following:

- i. ventilation and airway equipment;
- ii. cardiac monitoring and defibrillation;
- iii. immobilization devices;
- iv. bandages/hemorrhage control;
- v. communication; and
- vi. any other equipment required by law that shall be maintained on the ambulance.

5. All ambulances that are not staffed and equipped to the advanced life support level shall carry an automated external defibrillator (either automatic or semi-automatic) with the appropriate lead cables and at least two sets of the appropriate disposable defibrillation pads or electrodes, for adult and non-adult patients, for monitoring and defibrillation. If the automated defibrillator is also capable of manual defibrillation, an appropriate lock-out mechanism (such as an access code, computer chip, or lock and key) to prevent unauthorized use of the device by those persons not authorized to manually defibrillate must be an integral part of the device.

6. All advanced life support emergency medical response vehicles shall carry equipment and medical supplies dependent on the level of licensure of personnel and as determined by the ambulance service/provider medical director and governing body who have developed policies and procedures to maintain, update, or not carry certain advanced life support equipment and medical supplies as medically indicated or contraindicated for their service area and have documentation available to support the determination.

a. Such equipment and supplies shall be determined by the ambulance service/provider medical director and governing body who have developed policies and procedures to maintain, update or delete certain advanced life support equipment and medical supplies as medically indicated or contraindicated for their service area and have documentation available to support the determination; and

b. Such equipment and supplies shall be consistent with the Louisiana scope of practice for emergency medical practitioners established in R.S. 40:1133.14, including of all basic life support equipment and medical supplies and the equipment and medical supplies consistent with the Joint policy Statement for “equipment for ground ambulance”. The additional equipment and medical supplies includes, but is not limited to the following:

- i. vascular access;
- ii. medications;
- iii. cardiac monitor/defibrillator with transcutaneous pacing capabilities;
- iv. any other equipment required by law that shall be maintained on the ambulance.

c. All ground transportation ambulances shall have functional temperature control in the patient compartment. Such temperature control equipment shall function within the vehicle manufacturer’s recommended guidelines or specifications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:1135.2 and R.S. 40:1135.2.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:897 (May 2023).

Subchapter D. Emergency Vehicles—Aircraft Transportation

§6071. General Provisions

A. All ambulance services/providers whose aircraft are utilized as air ambulances shall provide the department with copies of the air ambulances’ FAA certificate of registrations and certificate of air worthiness. Upon request, the ambulance service/provider shall make their maintenance logs available to the department.

B. Certifications of all air ambulance personnel shall meet FAA requirements and local pilot and medical personnel staffing protocols.

C. All air ambulances shall be equipped with the safety equipment required by the FAA and shall be maintained and remain operable.

D. In accordance with R.S. 40:1135.8 et seq., all air ambulances shall be equipped with the medical and safety equipment established under rules promulgated by the Department of Health and based upon the recommendations of an advisory committee. The medical and safety equipment shall conform to local protocol as established by the medical director of the air ambulance service/ provider.

E. Air ambulances shall carry the medical equipment that is mandated to them in the protocol by the ambulance service/provider medical director and approved by the ambulance service/provider governing body and, at a minimum, the medical equipment and supplies equivalent to such required by ground ambulance transportation.

F. All air ambulance services shall carry advanced life support equipment and medical supplies dependent on the level of licensure of personnel (paramedic level) and as determined by the ambulance service/provider medical

director and governing body who have developed policies and procedures to maintain, update, or delete certain advanced life support equipment and medical supplies as medically indicated or contraindicated for their service area and have documentation available to support the determination.

G. All air ambulances shall be staffed to the advanced life support (paramedic) level. The paramedic(s) and each member of the flight team are each responsible to ensure that equipment and supplies are readily available and operable, as appropriate, for each flight service run to meet the needs of the patients served.

H. All air ambulances shall have a thermometer mounted inside the cabin. Cabin temperatures must be in the range of 50-95 degrees Fahrenheit.

I. Mitigation measures must be documented for when the cabin temperatures are outside this range and the outcomes of these mitigation measures must be documented when the temperature falls outside this range.

I. If a service provides inter-hospital air transport, air transport from hospital to another facility, air transport from hospital to home, or similar air transport, the service must certify that a medical director is employed to advise the service on the appropriate staffing, equipment, and supplies to be used for the transport of patients aboard an air ambulance.

J. Provisions in this section shall not be construed to prohibit, limit, or regulate random mercy flights made by a person or corporation in privately or publically owned aircraft who may on occasion transport individuals who may need medical attention during transport, or human organs intended for transplantation including, but not limited to the heart, lungs, kidneys, liver and other soft tissue and bones, on either a not-for-profit basis or gratuitously.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:1135.1 and R.S. 40:1135.2.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:898 (May 2023).

§6073. Emergency Aircraft—Rotary-Winged (Reserved)

§6075. Emergency Aircraft—Fixed (Reserved)

Dr. Courtney N. Phillips
Secretary

2305#041

RULE

Department of Insurance Office of the Commissioner

Regulation 103—Utilization Review Organizations and Independent Review Organizations (LAC 37:XIII.Chapter 62)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has amended Regulation 103—Utilization Review Organizations and Independent Review Organizations. The purpose of the amendment to Regulation 103 is to provide the requirements for incomplete requests

for external review as provided in Act 81 of the 2022 Regular Session of the Louisiana Legislature and to make technical changes. This Rule is hereby adopted on the day of promulgation.

**Title 37
INSURANCE**

Part XIII. Regulations

**Chapter 62. Regulation Number 103—Utilization
Review Organizations and Independent
Review Organizations**

§6209. Requesting an External Review

A. All requests for external review must be made by the health insurance issuer through the IRO review request module, which can be accessed via the industry access link on the LDI's website: www.ldi.la.gov. When a covered person or his authorized representative requests an external review, the health insurance issuer shall notify the LDI by entering this request via the link. The request must be entered even if the health insurance issuer determines the request is ineligible for review.

B. If the covered person or his authorized representative requests an external review, but the health insurance issuer determines that the request is not complete, the health insurance issuer shall notify the LDI through the IRO review request module described in §6209.A by completing the field indicating that the covered person's or his authorized representative's request is incomplete and stating with specificity the information or materials needed to make the request complete. Such notice shall be provided to the LDI within five business days following the date of receipt of the external review request from the covered person or his authorized representative pursuant to R.S. 22:2436.

C. If the covered person or his authorized representative requests an external review, but the health insurance issuer denies the request as being ineligible pursuant to R.S. 22:2436(B), the covered person or his authorized representative may appeal in writing to the commissioner. The health insurance issuer and the covered person or his authorized representative both may submit additional documentation, such as the policy to verify coverage limitations as well as dates of coverage, documentation of service dates, etc., to help establish why the denial should be upheld or reversed. However, no medical or protected health information should be submitted to the commissioner for this review, unless such information is determinative of the issue in the appeal.

D. Upon receipt of an appeal of a health insurance issuer's eligibility determination, the LDI may contact the health insurance issuer's designated contact to request additional information, if necessary. Therefore, all health insurance issuers should ensure that the designated contact's information is regularly updated in the industry access portal, as all electronic communications, including assignment of a case to an IRO, reporting of an IRO's external review results, reporting of the commissioner's decision on eligibility for an external review, etc., will be sent automatically to the designated contact of record that is on file with the LDI.

E. To facilitate notice of the right to appeal a determination of ineligibility to the commissioner, the health insurance issuer shall include the reason for ineligibility, as

well as the following language (or language that is substantially similar), in its notice to the covered person.

"[Name of health insurance issuer] has determined that your request for an independent external review of your adverse determination does not meet the eligibility requirements for independent external reviews because [reason]. However, [name of health insurance issuer]'s determination that you are ineligible for an external review may be appealed to the Commissioner of Insurance, who has the authority to reverse [name of health insurance issuer]'s decision and order an independent external review of your adverse determination. If you wish to appeal this decision, you should go to the following website: <https://ldi.la.gov/OnlineServices/IROConsumerAppeals>.

Once you access the website, enter your last name and case number where instructed. Following verification of your name and case number, you will be able to enter the reasons you believe your adverse determination should be eligible for an independent external review. If you have questions or if you or your authorized representative is unable to access the website, you may contact the Louisiana Department of Insurance by email at ConsumerAppeals@ldi.la.gov or by telephone at (225) 342-1355. Your case number is _____."

1. Health insurance issuers must also upload a copy of the adverse determination letter when reporting external review requests that have been deemed ineligible.

F. If the covered person or his authorized representative requests an external review and the health insurance issuer does not deny the request as being ineligible or if the commissioner reverses a request that the health insurance issuer had deemed ineligible for external review, the health insurance issuer must submit the request to the LDI for assignment of an external review by using the IRO review request form which can be located on the LDI website, www.ldi.la.gov via the industry access portal.

G. When completing the IRO review request form, the health insurance issuer must enter the following information:

1. covered person's name;
2. covered person's contact information (address, telephone, email address, fax);
3. name of covered person's authorized representative (if applicable);
4. authorized representative's contact information (if applicable);
5. policy/contract number;
6. name of primary care doctor or specialist;
7. type of specialty;
8. type of appeal requested: medical, rescission or experimental;
9. type of appeal requested: standard or expedited;
10. result of request: eligible or ineligible.

H. Once the case has been assigned, neither the covered person nor the health insurance issuer may request the case be reassigned to another IRO, as all IRO assignments are final, unless reassignment is necessary pursuant to §6211.E.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2436 and R.S. 22:2452.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 41:2174 (October 2015), amended LR 49:899 (May 2023).

James J. Donelon
Commissioner

2305#015

RULE

Department of Insurance Office of the Commissioner

Regulation 127—The Hurricane Property Insurance Claim Alternate Dispute Resolution Program (LAC 37:XIII.Chapter 195)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., has adopted Regulation 127—The Hurricane Property Insurance Claim Alternate Dispute Resolution Program. Regulation 127 is promulgated as necessary to establish rules and regulations pertaining to the hurricane mediation program, codified at R.S. 22:2651, et seq., in accordance with Act 591 of the 2022 Regular Session of the Louisiana Legislature.

Regulation 127 addresses the nature and purpose of the hurricane mediation program and identifies who is eligible to participate in the hurricane mediation program, the circumstances under which it may be used, and the manner of requesting mediation. Regulation 127 also establishes guidelines for mediation firms that elect to participate in the hurricane mediation program. Lastly, Regulation 127 creates procedures for complying with the hurricane mediation program disclosure notice requirements, including the deadline and methods for delivering the notice to insureds, all in accordance with R.S. 22:2656. This Rule is hereby adopted on the day of promulgation.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 195. Regulation 127—The Hurricane Property Insurance Claim Alternate Dispute Resolution Program

§19501. Authority

A. Regulation 127 is promulgated on behalf of the Department of Insurance by the Commissioner of Insurance pursuant to the authority granted under the Louisiana Insurance Code, R.S. 22:11, and as specifically instructed in accordance with R.S. 22:2657.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:2651, et seq., and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:900 (May 2023).

§19503. Purpose

A. The purpose of Regulation 127 is to establish rules and regulations pertaining to the hurricane mediation program, codified at R.S. 22:2651, et seq., in accordance with Act 591 of the 2022 Regular Session of the Louisiana Legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:2651, et seq., and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:900 (May 2023).

§19505. Scope and Applicability

A. Regulation 127 applies to all property and casualty insurers of residential property situated in a geographical area that is included in a state of emergency declaration

issued by the governor of Louisiana in response to a hurricane, named storm, or named windstorm event.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:2651, et seq., and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:900 (May 2023).

§19507. Definitions

A. These terms when used in this Chapter shall have the following meanings.

Commissioner—the Louisiana Commissioner of Insurance.

Department—the Louisiana Department of Insurance.

Disclosure Notice—a written notification issued by insurers to insureds disclosing the existence of the hurricane mediation program as required in R.S. 22:2656.

Governor—the governor of the state of Louisiana.

Hurricane Mediation Program—the “Hurricane Property Insurance Claim Alternate Dispute Resolution Program” set forth in Chapter 22 of Title 22 of the Louisiana Revised Statutes of 1950, at R.S. 22:2651, et seq.

Mediation Firm—an entity or person that has elected to participate in the hurricane mediation program, complies with all requirements set forth in R.S. 22:2654, meets the qualifications set forth in R.S. 9:4106, and is listed as an approved mediation firm on the department’s website.

Parties—the insured and insurer, collectively.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:2651, et seq., and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:900 (May 2023).

§19509. Nature and Purpose of the Hurricane Mediation Program

A. The hurricane mediation program was enacted in response to a demonstrated need for effective, fair, and timely handling of residential property insurance claims for residential properties damaged by a hurricane, named storm, or named windstorm event.

B. The hurricane mediation program is voluntary and provides for a non-adversarial alternative dispute resolution procedure designed to give insurers and insureds a way to resolve disputed residential property insurance claims in a timely and low-cost manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:2651, et seq., and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:900 (May 2023).

§19511. Participation in the Hurricane Mediation Program

A. Every insured may request mediation involving a residential property insurance claim, provided such claim:

1. arises from a hurricane, named storm, or named windstorm event that results in the governor declaring a state of emergency in accordance with R.S. 29:724,

2. is for damages to residential property that is situated within a geographical area included in the governor’s state of emergency declaration, and

3. involves disputed amounts of up to \$150,000. Parties may agree to mediate and be subject to the provisions of R.S. 22:2651, et seq. for disputed amounts that exceed \$150,000.

B. Once the parties agree to mediate a damage claim in dispute through the hurricane mediation program, the insured must contact one of the participating mediation firms listed on the department's website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:2651, et seq., and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:900 (May 2023).

§19513. Mediation Firm Requirements for Participating in the Hurricane Mediation Program

A. Every mediation firm that elects to participate in the hurricane mediation program shall:

1. contact the department within ten calendar days regarding any change involving its official name, contact information, municipal address, electronic mail address, telephone number, and mediation qualification status,

2. give written notice to the parties within five business days after receiving the mediation assignment,

3. set the matter for mediation to occur within 30 days from the date the mediation assignment is received,

4. conduct the mediation in accordance with the standards of professional conduct for mediation adopted by the American Bar Association pursuant to R.S. 9:4107,

5. establish and describe the mediation procedures to be followed,

6. conduct in-person mediations statewide in a metropolitan statistical area and at an office or business location to be selected by the mediation firm, and

7. provide advanced notification as needed to accommodate a party's request to participate in the mediation remotely via telephone, video conference, or other similar electronic means.

B. Mediation firms may meet with the parties separately as needed to stimulate communications, promote meaningful negotiations, and to otherwise encourage settlement of the disputed claims.

C. Mediation sessions shall be conducted in accordance with the time limitations articulated in R.S. 22:2654(A)(10).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:2651, et seq., and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:901 (May 2023).

§19515. Costs Associated With the Hurricane Mediation Program

A. Once an insured has contacted a participating mediation firm that is listed on the department's website, the mediation firm shall submit its proposed mediation rate for approval to the department's Property and Casualty Division, which will examine the proposed rate to confirm that it is reasonable in accordance with the prevailing mediation rates for the location where the residential property insurance claim arises.

B. Mediation costs shall be the responsibility of the insurer in accordance with R.S. 22:2655.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:2651, et seq., and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:901 (May 2023).

§19517. Notification of the Hurricane Mediation Program

A. Whenever a hurricane, named storm, or named windstorm event results in the governor declaring a state of emergency in accordance with R.S. 29:724, an insurer shall prepare and deliver a disclosure notice to all insureds who have filed a covered residential property insurance claim for property situated within the geographical area included in the state of emergency declaration.

B. The insurer must deliver a disclosure notice to the insured prior to conducting an initial investigation of the insured's residential property insurance claim.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:2651, et seq., and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:901 (May 2023).

§19519. Authorized Methods of Delivering a Disclosure Notice

A. A disclosure notice shall be delivered to the insured in a manner specified in R.S. 22:2656.A, which specifically authorizes delivery via United States mail, electronic mail, or by hand-delivery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:2651, et seq., and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:901 (May 2023).

§19521. Proof That Disclosure Notice Was Timely Delivered

A. Delivery by Mail. If a disclosure notice is sent to the insured via United States mail, proof of such mailing shall be sufficient evidence to establish delivery of the disclosure notice, provided it reflects the date of the mailing and the name of the insured.

B. Electronic Delivery. If a disclosure notice is sent to the insured via email, the email delivery receipt or, if none, a copy of the as-sent email, shall be sufficient evidence to establish delivery of the disclosure notice, provided the delivery receipt or email reflects the date of the electronic mailing and the name of the insured.

C. Hand-Delivery. If a disclosure notice is hand-delivered to the insured, the representative of the insurer perfecting delivery must complete and sign a certificate of hand-delivery, verifying pertinent details related to the delivery of the disclosure notice, including the date and location of the delivery, the name of the person accepting the delivery, and the name of the insured. Insurers may use the "Certificate of Hand-Delivery" form set forth in Appendix A of this Regulation, or insurers may create and use a substantially similar form to verify delivery details provided it complies with all requirements of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:2651, et seq., and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:901 (May 2023).

§19523. Severability Clause

A. The provisions of this Subpart are severable. If any provision or item of this Subpart, or application thereof, is held invalid, such invalidity shall not affect other provisions,

items, or applications of this Subpart, which are to be given effect without the invalid provision, item, or application of the Subpart.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:2651, et seq., and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:901 (May 2023).

§19525. Effective Date

A. Regulation 127 shall become effective upon publication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:2651, et seq., and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:902 (May 2023).

§19527. Appendix A

**CERTIFICATE OF HAND-DELIVERY
HURRICANE MEDIATION PROGRAM
DISCLOSURE NOTICE**

I hereby certify that on the ____ day of _____, 20____,
I appeared at:

(Physical address):

and personally hand-delivered a true and complete copy of the
hurricane mediation program disclosure notice to:

(Name of recipient):

Delivery of this disclosure notice was made in connection with
the following policy of insurance:

(Policy number):

(Insured):

(Printed name):

(Signature):

(Date signed):

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:2651, et seq., and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:902 (May 2023).

James J. Donelon
Commissioner

2305#046

RULE

**Department of Natural Resources
Office of Conservation**

Pipeline Safety

(LAC 43:XI:Chapters 1-47 and LAC 33:Chapters 301-303)

The Department of Natural Resources, Office of Conservation has amended LAC 43:XI in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana.

The Rule changes combine carbon dioxide rules in Title 43 with Title 33 and amends the rules in Title 43 in accordance with the Commissioner’s authority under R.S. 30:4(C)(17), and amends the damage prevention rules in accordance with the Commissioner’s authority under R.S. 40:1749.27 and amends the pipeline operations rules in accordance with the Commissioner’s authority under R.S. 30:546. This Rule is hereby adopted on the day of promulgation.

Title 43

NATURAL RESOURCES

Part XI. Office of Conservation—Pipeline Division

Subpart 1. Natural Gas and Coal

Chapter 3. Applications

§305. Applications Requiring Public Notice

A. - A.4. ...

B. The commissioner shall submit a copy of the public notice to the applicant. A copy of the public notice, with a copy of the application, shall be mailed by the applicant to all interested parties within two working days of the receipt of said public notice from the commissioner.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501-599, 601-606.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 4:76 (March 1978), amended LR 7:80 (March 1981), LR 49:902 (May 2023).

§307. Applications Requiring Public Hearing

A. No order, ruling or finding may be made or other action taken with respect to R.S. 30:553, 554, 555(A) and (C), 555(F), 556, 557, 558, 571 through 576, 593, 596, 598(E), 599, 722, and 723, without a public hearing after due notice to all interested parties unless the right to a public hearing is waived pursuant to the provisions of the Administrative Procedure Act, as amended, (R.S. 49:951-968) or the Natural Resources and Energy Act of 1973 expressly provides that no hearing is required in that instance.

B. - G. ...

H. Hearings on applications for approval to connect an intrastate natural gas pipeline, gas gathering line or coal slurry pipeline to an interstate natural gas pipeline or coal slurry pipeline filed pursuant to R.S. 30:555.H and Article IX of the Louisiana Constitution 1974 shall be held not less than 10 days after notice given in the manner provided in §311. Provided, however, that if the commissioner, in his judgment, determines that an emergency exists, which, in the interest of public health, safety or welfare, requires that said hearing be held on shorter notice, said emergency hearing may be held on any abbreviated notice, but not less than three days following the date of publication of notice of said hearing in the official journal of the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501-599, 601-606.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 4:77 (March 1978), amended LR 7:80 (March 1981), LR 49:902 (May 2023).

Chapter 5. Requirements

§503. Requirements for Abandonment of All or Any Portion of a Facility, or Any Service Rendered by Means of Such Facility under §§555.B and 722 of the Act

A. This regulation shall apply to requirements of an intrastate natural gas or coal slurry transporter to abandon all or any portion of a facility, or any service rendered by means of such facility, pursuant to the provisions of §§ 555.B or 722 of the Act; provided, however, that this regulation shall not apply to any coal slurry transporter then being regulated by a federal agency having jurisdiction or to abandonments authorized by §513.C.5. Except as provided in Section 513, application for abandonment shall be filed in accordance with the regulation and §§305 and 307. However, an application for the abandonment of a sale or transportation contract or related facility under this section shall be submitted to the commissioner at least 30 days, but no more than six months, prior to the contract termination date, or prior to the proposed date of termination of a service or abandonment of a facility in the absence of a contract. The commissioner may for good cause shown grant an exception to said time limitations.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501-599, 601-606.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 4:79 (March 1978), amended LR 7:82 (April 1981), LR 49:903 (May 2023).

§509. Requirements for Connections Pursuant to §§555.H and 722 of the Act and Louisiana Constitution 1974

A. ...

B. Except as provided otherwise in Section 513, no order, ruling or finding may be made or other action taken with respect to this regulation without a public hearing after due notice to all interested parties unless the right to a public hearing is waived pursuant to the provisions of Administrative Procedure Act, as amended (R.S. 49:951-968).

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501-599, 601-606.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 4:81 (March 1978), amended LR 7:84 (March 1981), LR 49:903 (May 2023).

§513. Transportation of Intrastate Natural Gas and the Construction, Extension, Acquisition and Operation of Facilities or Extensions Thereof for the Purpose of Acquisition of Gas Supplies within a Gas Supply Acquisition Service Area or Transportation of Gas Supplies for Others within a Gas Supply Transportation Service Area Pursuant to the Provisions of §555(F) of the Act

A. ...

B. Each transporter owning or operating an intrastate pipeline, the construction and operation (or acquisition) of which has been approved by order of the commissioner under Section 555.C of the Act, shall have the right to apply to the commissioner for the establishment of a gas supply acquisition service area or gas supply transportation service area. Within such gas supply acquisition service area or gas supply transportation service area a transporter may at its option enlarge or extend its facilities by construction, acquisition, or interconnection, for the purpose of acquiring or transporting for others additional supplies of natural gas or may abandon certain facilities within such area. All applications by the transporter filed with the commissioner requesting the establishment of a gas supply acquisition service area or gas supply transportation service area shall be in writing, verified under oath by an individual having authority, shall be in the form approved by the commissioner, shall be noticed upon interested parties by publication in the official journal of the state of Louisiana and the official journal of each parish within which the gas supply acquisition service area or gas supply transportation service area will be located, and shall contain the information required by §505. All information required to be included within the application which has been presented to the commissioner through prior hearing evidence and all records and documents in the possession of the commissioner filed pursuant to the Natural Resources and Energy Act of 1973 may be incorporated in the application by reference. Each application shall include a map depicting the location of the transporter's existing intrastate pipeline to which facilities constructed, acquired, interconnected or abandoned pursuant to this regulation shall connect.

C. ...

1. Location. A gas supply acquisition service area or gas supply transportation service area shall be a defined geographic area in which some or all of the applicant's existing pipeline facilities are located.

2. Size. Facilities constructed or acquired pursuant to this regulation shall not exceed 42 inches nominal diameter pipe.

3. Duration. An order of the commissioner establishing a gas supply acquisition service area or gas supply transportation service area shall remain in effect until

terminated or modified by subsequent order of the commissioner.

4. Facilities Not Subject to Jurisdiction of Commissioner. An order of the commissioner shall not establish gas supply acquisition service areas or gas supply transportation service areas in conjunction with facilities which are not subject to the jurisdiction of the commissioner under the Act.

5. Notice and Prohibition of Proposed Enlargement or Extension. Prior to abandoning, enlarging or extending its facilities within a gas supply acquisition service area or gas supply transportation service area, a transporter shall give the commissioner 20 days' notice, on a form approved by the commissioner, of the location, size, nature and purpose of the proposed abandonment, enlargement, or extension, or interconnection. The notice shall be contemporaneously mailed to those persons who are identified in the ad valorem tax records of the parish as the owners of the land traversed by the proposed facility and to those who will be connected or disconnected. Included in the notice to the interested parties shall be a statement that objections to the application shall be made to the commissioner within 20 days of the postmark date of the mailing of the notice. The commissioner may, within such 20-day period, beginning on the date of receipt of the written notice in the Office of Conservation, deny the application and require the transporter to apply for an order to construct and operate the proposed facilities pursuant to §555.C of the Act. Upon request by the transporter, the commissioner may notify the transporter orally at the end of the 20-day period.

D. - E. ...

F. All hearings under §555(F) of the Act shall be in accordance with the rules of procedure of the commissioner, except that notification of interested parties shall be in accordance with this regulation.

G. Nothing contained in this regulation shall be construed as a limitation upon the power of the commissioner to order overlapping gas supply acquisition service areas or gas supply transportation service areas for service of an area already being served by another transporter.

H. Any action taken by a transporter within a gas supply acquisition service area or gas supply transportation service area shall be subject to all other rules and regulations pursuant to R.S. 30:501 et seq., and the Louisiana Constitution of 1974.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501-599, 601-606.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 4:85 (March 1978), amended LR 7:80 (March 1981), LR 21:824 (August 1995), LR 49:903 (May 2023).

Chapter 9. Coal Slurry Water Usage and Disposal §903. Requirements for Disposal of Water Resulting from Coal Slurry Pipeline Operations under §723(G) of the Act

A. Water used in the transportation of coal by pipeline to any point in Louisiana shall conform to regulations of the Department of Environmental Quality prior to its discharge into rivers or streams or holding pits from which seepage can occur.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501-599, 601-606.

HISTORICAL NOTE: Promulgated by the Department of Natural Resource, Office of Conservation, LR 7:86 (March 1981), amended LR 49:904 (May 2023).

Chapter 11. Transportation, Usage, and Allocations §1103. Governing Compilation and Publication of Information Pursuant to §§546(A)(5) and 550 of the Act

A. ...

B. All information required by this regulation shall be filed on forms provided by the Office of Conservation. At the request of the commissioner, each natural gas transporter, gas distributor, power plant and industrial user shall file the information requested on the appropriate Office of Conservation questionnaire required for transporters, distribution companies, power plants and industrial users. Other persons required by law and this regulation to file a questionnaire should submit their name, mailing address and type of business to the Louisiana Office of Conservation, Post Office Box 94275, Baton Rouge, LA 70804-9275, in order to facilitate timely distribution of the questionnaires.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501-599, 601-606.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 8:650 (December 1982), amended LR 49:904 (May 2023).

Subpart 4. Carbon Dioxide

Chapter 33. General

§3301. Definitions

A. The words used in these regulations shall have their usual meanings unless specifically defined as follows in this §3301, or elsewhere in these regulations.

* * *

Facility—any component of a pipeline or pipeline systems through which carbon dioxide moves, including pipe, valves, and other appurtenances attached to the pipe, compressor units, pumps, metering stations, regulator stations, delivery stations, holders, and fabricated assemblies and other components but shall not include:

a. facilities which constitute the replacement of previously approved existing facilities which have or will soon become physically deteriorated or obsolete to the extent that replacement is deemed advisable;

b. piping, metering, processing, compressing, regulating and other installations necessary to establish one or more delivery or injection point(s) for carbon dioxide within the confines of a secondary or tertiary recovery project for the enhanced recovery of liquid and gaseous hydrocarbons or geologic sequestration project previously approved by the commissioner.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(C)(17), R.S. 30:1104(A) and R.S. 30:1107.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 12:115 (February 1986), amended LR 49:904 (May 2023).

Chapter 35. Requirements

§3501. Operation, Construction, Extension, Acquisition, Interconnection or Abandonment of Carbon Dioxide Transmission Facilities

A. No person shall engage in the transmission of carbon dioxide or undertake the construction or extension of any facility therefor, or acquire or operate any such facility or

extension thereof to serve secondary or tertiary recovery projects for the enhanced recovery of liquid or gaseous hydrocarbons or geologic sequestration project unless there is in force and effect with respect to such person an order of the commissioner authorizing such acts or operations. Provided, however, as to any person engaged in the transmission of carbon dioxide or the operation of any such facility to serve an existing secondary or tertiary recovery project for enhanced recovery of liquid or gaseous hydrocarbons or geologic sequestration project prior to the effective date of these regulations, over the routes and within the area for which application is made and has so operated since that time, the commissioner may issue such order without hearing and without requiring further proof that the public interest will be served upon certification by the operator that it is willing and able to comply with LAC 33:V, excepting the requirements for construction and design specifications, together with such other exceptions as the commissioner may grant to an applicant, if application for such order is made to the commissioner within 180 days after the effective date of these regulations. Pending the determination of any such application, the continuance of such operation shall be lawful. Provided further, that any person engaged in the construction of a facility for the transmission of carbon dioxide prior to the effective date of these regulations is authorized to continue such construction without an order of the commissioner for a period of 180 days after the effective date of these regulations, after which time said construction shall cease unless said person has filed an application with the commissioner for an order authorizing said construction. Pending the determination of any such application, the continuance of such construction shall be lawful.

B. - C. ...

D. No person shall exercise the rights of expropriation under the laws of this state in connection with the construction or operation of a carbon dioxide facility until the enhanced recovery project for liquid or gaseous hydrocarbons to be served or geologic sequestration project thereby has been approved by the commissioner and a certificate of public convenience and necessity for such facility has been issued. Provided, however, that the requirement for the issuance of a certificate of public convenience and necessity shall be limited to those facilities for which the right of expropriation of private property under the general state expropriation laws is asserted.

E. - F.1. ...

2. that the applicant proposes to construct and/or operate facilities for the transmission of carbon dioxide for injection in connection with a secondary or tertiary recovery project for the enhanced recovery of liquid or gaseous hydrocarbons or geologic sequestration project which has been approved by the commissioner pursuant to the provisions of Title 30 of the Louisiana Revised Statutes and the rules and regulations promulgated thereunder; and

3. that the proposed facilities are reasonably necessary to serve such approved secondary or tertiary recovery project or geologic sequestration project.

G. - G.2. ...

3. that the applicant proposes to construct and/or operate facilities for the transmission of carbon dioxide for injection in connection with a secondary or tertiary recovery

project for the enhanced recovery of liquid or gaseous hydrocarbons or geologic sequestration project which has been approved by the commissioner pursuant to the provisions of Title 30 of the Louisiana Revised Statutes and the rules and regulations promulgated thereunder; and

4. that the proposed facilities are reasonably necessary to serve such approved secondary or tertiary recovery project or geologic sequestration project.

H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(C)(17), R.S. 30:1104(A) and R.S. 30:1107.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 12:115 (February 1986), amended LR 49:904 (May 2023).

§3503. Hearings, Notice, Conferences and Orders

A. - C.1. ...

2. The commissioner shall mail submit a copy of the public notice to the applicant. A copy of the public notice, with a copy of the application, shall be mailed by the applicant to all interested parties within two working days of the receipt of said public notice from the commissioner.

3. ...

D. Interested parties who wish to object to said application or participate in the hearing must file a petition or notice with the commissioner and the applicant by 5:00 PM of the day prior to the hearing date. Petitions or notices filed in connection with the application shall set forth clearly and concisely the facts from which the nature of the interested party's alleged right or interest can be determined, the grounds of the proposed participation, and the position of the interested party in the proceeding so as to fully and completely advise the applicant and the commissioner as to the specific issues of fact or law to be raised concerning public interest, provided however, that the right to participate in a proceeding commenced under this regulation shall not extend to objections directed solely to the matters involving right-of-way including, but not limited to, the public purpose and necessity to be served in an expropriation thereof or the compensation therefor which is a judicial question pursuant to the Constitution of the State of Louisiana 1974, Article 1, Section 4. An interested party who fails to comply with the requirements of this rule, may, at the commissioner's discretion, be precluded from introducing witnesses or from presenting evidence at the hearing; however, any person shall be permitted to make statements confined to his position in the matter.

E. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(C)(17), R.S. 30:1104(A) and R.S. 30:1107.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 12:115 (February 1986), amended LR 49:905 (May 2023).

§3505. Applications, Form and Content

A. - B.4. ...

5. a map(s), of its pipeline system(s), which shall reflect the location and capacity of all compressor/pump sites, all points of connection between such system(s) and pipelines, or pipeline system(s) of other persons, the date of such connections, and all major points of supply;

6. a listing of applicant's points of CO₂ disposition to secondary and tertiary oil and gas recovery projects or geologic sequestration projects;

7. - 9. ...

10. a copy of the order of the commissioner approving the pertinent enhanced recovery project(s) or geologic sequestration projects;

11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(C)(17), R.S. 30:1104(A) and R.S. 30:1107.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 12:115 (February 1986), amended LR 49:905 (May 2023).

Chapter 39. Transportation of Carbon Dioxide

§3901. Scope

A. This regulation prescribes the minimum standards for the state of Louisiana to regulate the construction, design, and operation of pipelines transmitting carbon dioxide in a gaseous or non-supercritical state within the jurisdiction of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(C)(17) and R.S. 30:1104(A).

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 12:115 (February 1986), amended LR 49:906 (May 2023).

§3903. Applicability

A. - A.1. ...

2. transportation of carbon dioxide downstream from the outlet flange or other connection of each carbon dioxide pipeline where carbon dioxide is delivered to the operator's secondary or tertiary recovery project or geologic sequestration project;

3. transportation of carbon dioxide through all facilities within the secondary or tertiary recovery project or geologic sequestration project;

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(C)(17) and R.S. 30:1104(A).

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 12:115 (February 1986), amended LR 49:906 (May 2023).

§3905. Definitions

A. As used in these regulations:

* * *

Line Section—a continuous run of pipe between adjacent pressure compressor stations, between a pressure compressor station and terminal, between a pressure compressor station and a block valve, or between adjacent block valves.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(C)(17) and R.S. 30:1104(A).

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 12:115 (February 1986), amended LR 49:906 (May 2023).

Chapter 41. Incident Reporting for Carbon Dioxide Pipelines

§4101. Scope

A. - A.3.d. ...

4. estimated property damage to the property of the operator or others, or both, exceeding \$122,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(C)(17) and R.S. 30:1104(A).

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 12:115 (February 1986), amended LR 49:906 (May 2023).

§4103. Telephonic Notice of Certain Accidents

A. - A.2. ...

3. caused estimated damage to the property of the operator or others, or both, exceeding \$122,000;

A.4. - A.5. ...

B. Reports made under Subsection A of this Section are made by telephone to the Office of Conservation, Pipeline Division, at 225-342-5505, and must include the following information:

1. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(C)(17) and R.S. 30:1104(A).

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 12:115 (February 1986), amended LR 49:906 (May 2023).

§4105. Incident Reporting

A. Each operator that experiences an incident that is required to be reported under this Chapter shall, as soon as practicable but not later than 30 days after discovery of the incident, prepare and file an incident report on the form and in accordance with procedures established therefore by the commissioner and to the party he specifies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(C)(17) and R.S. 30:1104(A).

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 12:115 (February 1986), amended LR 49:906 (May 2023).

§4107. Changes in or Additions to Incident Reports

A. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(C)(17) and R.S. 30:1104(A).

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 12:115 (February 1986), amended LR 49:906 (May 2023).

§4109. Operator Assistance in Investigation

A. If the commissioner investigates an incident, the operator involved shall make available to the representative of the commissioner all records and information that in any way pertains to the incident, and shall afford all reasonable assistance in the investigation of the incident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(C)(17) and R.S. 30:1104(A).

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 12:115 (February 1986), amended LR 49:906 (May 2023).

§4313. External Loads

A. Anticipated external loads: e.g., earthquakes, vibration, thermal expansion, and contraction must be provided for in designing a pipeline system. In providing for expansion and flexibility, Section 419 of ASME/ANSI B31.4 must be followed.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(C)(17) and R.S. 30:1104(A).

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 12:115 (February 1986), amended LR 49:906 (May 2023).

§4319. Valves

A. - A.3. ...

4. Each valve must be both hydrostatically shell tested and hydrostatically seat tested without leakage to at least the

requirements set forth in Section 11 of ANSI/API 6D (incorporated by reference, see §3907).

5. - 6.d....

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(C)(17) and R.S. 30:1104(A).

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 12:115 (February 1986), amended LR 49:906 (May 2023).

§4321. Fittings

A. Butt-welding type fittings must meet the marking, end preparation, and the burst strength requirements of ASME/ANSI B16.9 or MSS SP-75 (incorporated by reference, see §3907).

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(C)(17) and R.S. 30:1104(A).

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 12:115 (February 1986), amended LR 49:907 (May 2023).

§4327. Closures

A. Each closure to be installed in a pipeline system must comply with the 2007 ASME Boiler and Pressure Vessel Code (BPVC) (Section VIII, Division 1) (incorporated by reference, see §3907), and must have pressure and temperature ratings at least equal to those of the pipe to which the closure is attached.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(C)(17) and R.S. 30:1104(A).

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 12:115 (February 1986) amended LR 49:907 (May 2023).

Chapter 45. Construction Requirements for Carbon Dioxide Pipelines

§4519. Welders: Testing

A. Each welder must be qualified in accordance with section 6, section 12, Appendix A or Appendix B of API Std 1104 (incorporated by reference, see §3907), or section IX of the ASME Boiler and Pressure Vessel Code (ASME BPVC), (incorporated by reference, see §3907) except that a welder qualified under an earlier edition than listed in §3907 may weld but may not requalify under that earlier edition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(C)(17) and R.S. 30:1104(A).

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 12:115 (February 1986), amended LR 49:907 (May 2023).

§4525. Welds and Welding Inspections: Standards of Acceptability

A. ...

B. The acceptability of a weld is determined according to the standards in Section 9 or Appendix A of API Std 1104. Appendix A of API Std 1104 may not be used to accept cracks.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(C)(17) and R.S. 30:1104(A).

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 12:115 (February 1986), amended LR 49:907 (May 2023).

§4557. Compression Equipment

A. Adequate ventilation must be provided in compressor station buildings to prevent the accumulation of carbon dioxide vapors and/or vapors that could be dangerous. Warning devices must be installed to warn of the presence of such vapors in the compression station building.

B. The following must be provided in each compressor station:

1. safety devices that prevent over-pressuring of compression equipment, including the auxiliary compression equipment within the compression station;

2. a device for the emergency shutdown of each compression/ station;

3. if power is necessary to actuate the safety devices, an auxiliary power supply.

C. Each safety device must be tested under conditions approximating actual operations and found to function properly before the compression station may be used.

D. Except for offshore pipelines, compression equipment may not be installed:

1. on any property that will not be under the control of the operator; or

2. less than 50 feet from the boundary of the station.

E. Adequate fire protection must be installed at each compressor station.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(C)(17) and R.S. 30:1104(A).

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 12:115 (February 1986), amended LR 49:907 (May 2023).

Chapter 49. Operating and Maintaining Carbon Dioxide Pipelines

§4909. Maps and Records

A. - A.1. ...

a. compressor station;

1.b. - 4. ...

B. Each operator shall maintain daily operating records that indicate the discharge pressures at each compressor station and any unusual operations of a facility. The operator shall retain these records for at least three years.

C. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(C)(17) and R.S. 30:1104(A).

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 12:115 (February 1986), amended LR 49:907 (May 2023).

§4919. Cathodic Protection

A. No operator may operate a pipeline that has an external surface coating material, unless that pipeline is cathodically protected.

B. ...

C. Each operator shall electrically inspect all buried compressor station piping, as to the need for cathodic protection, and cathodic protection shall be provided where necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(C)(17) and R.S. 30:1104(A).

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 12:115 (February 1986), amended LR 49:907 (May 2023).

§4937. Signs

A. Each operator shall maintain signs visible to the public around each compressor station area. Each sign must contain the name of the operator and an emergency telephone number to contact.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(C)(17) and R.S. 30:1104(A).

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 12:115 (February 1986), amended LR 49:907 (May 2023).

§4939. Security of Facilities

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(C)(17) and R.S. 30:1104(A).

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 12:115 (February 1986), amended LR 49:908 (May 2023).

§4941. Smoking or Open Flames

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(C)(17) and R.S. 30:1104(A).

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 12:115 (February 1986), amended LR 49:908 (May 2023).

§4945. Reports

A. ...

B. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(C)(17) and R.S. 30:1104(A).

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 12:115 (February 1986), amended LR 49:908 (May 2023).

Subpart 6. Damage Prevention

Chapter 59. General

§5901. Scope

A. This Chapter applies to the prevention of damage of underground pipelines.

B. It is the public policy of this state to promote the protection of property, workmen, and citizens in the immediate vicinity of an underground pipeline from damage, death, or injury and to promote the health and well-being of the community by preventing the interruption of essential services which may result from the destruction of, or damage to, underground pipelines.

AUTHORITY NOTE: Promulgated in accordance with 40:1749.27.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:954 (July 2020), amended LR 49:908 (May 2023).

§5903. Definitions

A. The following words and terms, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise.

* * *

Emergency—any crisis situation which poses an imminent threat or danger to life, health, or property which requires immediate action, if such action is taken. The term also includes an unplanned pipeline outage, which requires immediate action, if such action is taken.

Excavation or *Excavate*—any operation causing movement or removal of earth, rock, or other materials in or on the ground or submerged in a marine environment that could reasonably result in damage to underground or submerged pipelines by the use of powered or mechanical or manual means, including but not limited to pile driving, digging, blasting, augering, boring, back filling, dredging, compaction, plowing-in, trenching, ditching, tunneling, land-leveling, grading, and mechanical probing. *Excavation* or *excavate* shall not include manual probing, normal commercial farming operations, or any force majeure, act of God, or act of nature.

* * *

Mark by Time—the date and time provided by the regional notification center by which the pipeline operator is required to mark the location or provide information to enable an excavator or demolisher, using reasonable and prudent means, to determine the specific location of the pipeline as provided for in §6301. The mark by time may be extended if mutually agreed upon and documented between the excavator and operator.

Normal Commercial Farming Operations—operations or activities for agricultural cultivation purposes that do not encroach on a pipeline servitude or operations or activities that do encroach on a pipeline servitude and the depth of excavation is less than 12 inches in the soil below the existing surface grade.

* * *

AUTHORITY NOTE: Promulgated in accordance with 40:1749.27.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:955 (July 2020), amended LR 49:908 (May 2023).

Chapter 61. Notifications

§6101. Excavation and Demolition; Prohibitions

A. ...

B. Except as provided in §6303, prior to any excavation or demolition, each excavator or demolisher shall serve telephonic or electronic notice of the intent to excavate or demolish to the regional notification center or centers serving the area in which the proposed excavation or demolition is to take place and shall include the specific location where the excavation or demolition is to be performed. Such notice shall be given to the notification center at least 48 hours, but not more than 120 hours, excluding weekends and holidays, in advance of the commencement of any excavation or demolition activity. Holidays shall consist of the following: New Year's Day; Martin Luther King, Jr. Day; Good Friday; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Eve; and Christmas Day. The marking of an operator's pipeline shall be provided for excavation or demolition purposes only.

1. ...

2. The excavator or demolisher shall provide the specific location for excavation or demolition using white paint, flags, stakes, or similar means under American Public Works Association guidelines prior to submitting notice.

3. The excavator or demolisher shall wait at least 48 hours, beginning at 7 a.m. on the next working day, following notification, unless mutually agreed upon and documented by the excavator and operator to extend such time, before commencing any excavation or demolition activity, except in the case of an emergency as defined in the provisions of this Chapter or if informed by the regional notification center that no operators are to be notified.

4. Concerning pipelines located on or in water, when an extension of time to mark a pipeline cannot be agreed upon and the operator has determined said pipeline(s) cannot be adequately marked by the mark by time listed on the Regional Notification Center ticket, the operator may appeal to the commissioner for an extension to the mark by time. Said request shall be made via e-mail to

PipelineInspectors@la.gov and the contact e-mail listed on the regional notification center ticket shall be copied on the request. The request shall contain the ticket no., location of the pipe and a summary explaining why the line cannot be located by the mark by time. The request shall be made on a form as provided by the commissioner.

C. This Chapter shall not apply to activities by operators or landowners excavating their own underground pipelines on their own property or operators' exclusive right-of-way provided there is no encroachment on the rights-of-way of any operator and the operator controls access to the location.

D. For purposes of this Section, any physical markings or electronic drawings identifying a specific location as provided for in Subsection B of this Section shall not exceed the actual area of excavation or demolition.

AUTHORITY NOTE: Promulgated in accordance with 40:1749.27.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:955 (July 2020), amended LR 49:908 (May 2023).

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Wastes and Hazardous Materials

Subpart 3. Natural Resources

Chapter 301. Transportation of Hazardous Liquids by Pipeline

[49 CFR Part 195]

Subchapter A. General [49 CFR Part 195 Subpart A]

§30125. Reporting Accidents [49 CFR 195.50]

A. - A.5. ...

6. in addition to those listed in §30125.A.1-5, any release of carbon dioxide resulting in the following:

- a. any potential dangers to human beings and/or animals from the escaped material;
- b. bodily harm to any person resulting in one or more of the following:
 - i. loss of consciousness;
 - ii. necessity carry a person from the scene;
 - iii. necessity for medical treatment;
 - iv. disability which prevents the discharge of normal duties or the pursuit of normal duties beyond the day of the accident

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:863 (August 1992), LR 21:816 (August 1995), LR 27:1524 (September 2001), LR 29:2811 (December 2003), LR 49:909 (May 2023).

§30167. Fracture Propagation [49 CFR 195.111]

A. A carbon dioxide pipeline system must be designed to mitigate the effects of fracture propagation. Piping systems must be analyzed for potential propagating fractures. Methods of limiting the extent of such fractures shall be applied where warranted [49 CFR 195.111]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 18:864 (August 1992), amended LR 29:2815 (December 2003), LR 49:909 (May 2023).

§30193. Additional Requirements for Carbon Dioxide Pipelines

A. Vents

1. Carbon dioxide may not be relieved into the atmosphere of a building or other confined space where hazardous levels of carbon dioxide might accumulate above the human exposure level set by the United States Department of Labor, Occupational Safety and Health Administration as depicted in the following table, unless the appropriate respiratory protection is provided.

Condition	Minimum Respiratory Protection Required above 5000 vppm
Gas concentration 50,000 vppm or less	Any supplied air respirator or self-contained respirator.
Greater than 50,000 vppm or entry and escape from unknown concentrations	Self-contained breathing apparatus with a full face-piece operated in pressure demand or other positive pressure mode. A combination respirator which includes a Type C supplied-air respirator with a full face-piece operated in pressure-demand or positive pressure or continuous flow mode and an auxiliary self-contained breathing apparatus operated in pressure-demand or other positive pressure mode.
Fire Fighting	Self-contained breathing apparatus with a full face-piece operated in pressure-demand or other positive pressure mode.
Escape	Any escape self-contained breathing apparatus

2. except for the reporting requirements of Subchapter B of this Subpart see §30199, transportation of a hazardous liquid through a pipeline by gravity; [49 CFR 195.1(b)(2)]

B. Sensing Devices

1. Each operator shall determine the appropriate location for and install sensing devices necessary to monitor the operation of components used in transporting carbon dioxide to detect malfunction which could cause a hazardous condition if permitted to continue; and

2. Buildings in which potentially hazardous quantities of carbon dioxide may exist must be continuously monitored by carbon dioxide sensing devices set to activate audible and visual alarms in the building and at the control center.

C. Fail-Safe Control

1. Control systems for components on carbon dioxide pipelines must have a fail-safe design where practical from good engineering practice. A safe condition must be maintained until personnel take appropriate action either to reactivate the component served or to prevent a hazard from occurring.

D. Sources of Power

1. Electrical control systems, means of communication, emergency lighting and firefighting systems must have at least two sources of power which function so that failure of one source does not affect the capability of the other source.

2. Where auxiliary generators are used as a second source of electrical power, they must be located apart or protected from components so that they are not unusable

during a controllable emergency, and the fuel supply must be protected from hazards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 49:909 (May 2023).

Chapter 302. Transportation of Hazardous Liquids by Pipeline—Construction
[49 CFR Part 195 Subpart D]

§30266. Construction Records [49 CFR 195.266]

A. - A.6. ...

7. for pipelines transporting carbon dioxide, the location of each weighted pipe or other item connected to the pipe.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2822 (December 2003), amended LR 49:910 (May 2023).

Chapter 303. Transportation of Hazardous Liquids by Pipeline—Pressure Testing
[49 CFR Part 195 Subpart E]

§30302. General Requirements [49 CFR 195.302]

A. Except as otherwise provided in this Section and in §30305.B, no operator may operate a pipeline unless it has been pressure tested under this Chapter without leakage. In addition, no operator may return to service a segment of pipeline that has been replaced, relocated, or otherwise changed until it has been pressure tested under this Chapter without leakage. Pipelines transporting carbon dioxide must be hydrostatically tested without leakage. [49 CFR 195.302(a)]

B. - C.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2822 (December 2003), amended LR 49:910 (May 2023).

§30306. Test Medium [49 CFR 195.306]

A. - B. ...

C. Carbon dioxide pipelines must use water as the test medium unless another medium is approved by the Commissioner. [49 CFR 195.306(c)]

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2823 (December 2003), amended LR 49:910 (May 2023).

Richard P. Ieyoub
Commissioner

2305#018

RULE

Department of Natural Resources
Office of Conservation

Use of Reclaimed Oilfield Waste (ROW)
for Downhole Well Operations
(LAC 43:XIX.301, 303, 311, 313, 501, 519 and 565)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950, et seq.) and Title 30 of the Louisiana Revised Statutes of 1950 (R.S. 30:4 et seq.), the Louisiana Department of Natural Resources, Office of Conservation has amended LAC 43:XIX Subpart 1 (Statewide Order No. 29-B) Chapter 3 (Pollution Control—Onsite Storage, Treatment and Disposal of Exploration and Production Waste (E and P Waste) Generated from the Drilling and Production of Oil and Gas Wells (Oilfield Pit Regulations)) and Chapter 5. Off-Site Storage, Treatment and/or Disposal of Exploration and Production Waste Generated from Drilling and Production of Oil and Gas Wells to expand the use of produced water for all downhole well operations and allow operator-to-operator transfers. Benefits of these amendments include conservation of fresh water resources; reduced costs associated with disposal, transportation and water sourcing; reduced truck traffic and strain on disposal infrastructure. This Rule is hereby adopted on the day of promulgation.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations
Subpart 1. Statewide Order No. 29-B

Chapter 3. Pollution Control—Onsite Storage,
Treatment and Disposal of Exploration
and Production Waste (E and P Waste)
Generated from the Drilling and
Production of Oil and Gas Wells (Oilfield
Pit Regulations)

§301. Definitions

* * *

ROW Fluid—reclaimed Oilfield Waste fluid as defined in §501.

* * *

Staging Location—a registered site used by the operator for receiving and storing reclaimed oilfield waste fluid for use in that operator's onsite or nearby downhole well operations.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2798 (December 2000), amended LR 33:1653 (August 2007), LR 36:2570 (November 2010), LR 49:910 (May 2023).

§303. General Requirements

A. - O.6. ...

P. ROW fluid received by an operator regulated pursuant to this Chapter shall be used solely as media for downhole well operations. Upon receiving possession of ROW fluid from a commercial facility, wellsite or staging location, the operator shall be solely responsible for ensuring that this requirement is met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2799 (December 2000), amended LR 30:254 (February 2004), LR 33:1654 (August 2007), LR 36:2570 (November 2010), LR 49:911 (May 2023).

§311. Pit Closure

A. Pits must be closed properly to assure protection of soil, surface water, groundwater aquifers and USDW's. Operators may close pits utilizing onsite land treatment, burial, solidification, onsite land development, or other techniques approved by the Office of Conservation only if done so in compliance with §313 and §315. Otherwise, all E and P waste must be manifested according to §511 and transported offsite to a permitted commercial facility unless used in downhole well operations in accordance with the requirements of LAC 43:XIX.313.J.

B. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2803 (December 2000), amended LR 33:1658 (August 2007), LR 35:2464 (November 2009), LR 40:2596 (December 2014), LR 49:911 (May 2023).

§313. Pit Closure Techniques and Onsite Disposal of E and P Waste

A. Reserve pit fluids, as well as drilling muds, cuttings, etc. from holding tanks, may be disposed of onsite provided the technical criteria of §313.C, D, E, F, or G below are met, as applicable. All E and P waste must be either disposed of on-site, used in downhole well operations in accordance with the requirements of LAC 43:XIX:313.J or transported to an approved commercial facility or transfer station in accordance with the requirements of LAC 43:XIX.Chapter 5 or under the direction of the commissioner.

B. - I.3. ...

J. Use of E and P Waste (Produced Water, Rainwater, Drilling, Workover, Completion and Stimulation Fluids) for Downhole Well Operations

1. Produced water, rainwater, drilling, workover, completion and stimulation fluids generated at a wellsite (originating wellsite) that are classified as E and P Waste as defined in LAC 43:XIX.501 may be transported offsite for use in downhole well operations at another wellsite (receiving wellsite) in accordance with the following provisions.

a. Nothing in this rule is intended to authorize interstate transfer of E and P Waste between different operators or the intrastate transportation, storage, treatment, use, or disposal of such E and P Waste.

b. All residual waste generated in the treatment or processing of E and P Waste prior to its use in downhole well operations must be properly disposed of in accordance with the following:

i. All residual waste generated as a result of treatment or processing conducted at the originating wellsite must be either disposed of onsite at the originating wellsite in accordance with all the requirements of LAC 43:XIX.311 and 313, except and not including Subsection 313.J, or offsite in accordance with the requirements of LAC 43:XIX.Chapter 5.

ii. All residual waste generated as a result of treatment or processing conducted at the receiving wellsite meeting the definition of E and P waste in LAC 43:XIX.501 must be disposed of offsite in accordance with the requirements of LAC 43:XIX.Chapter 5.

c. The types and volumes of E and P waste generated for use along with the well name and well serial number of the receiving wellsite, and the receiving operator (if different) must be reported on either Form ENG-16 (oilfield waste disposition) for the originating well and/or Form ENG-17 (reclaimed oilfield waste fluid tracking ticket) and/or maintained in a substantively similar manifest system depending on the waste types involved. Waste tracking records documenting transfers between operators must be maintained for at least three years and must be submitted in a timely and legible manner to the Office of Conservation upon request.

d. Operators must have authority from surface owners to store and use E and P Waste from an offsite location at the receiving wellsite or staging location.

e. E and P waste intended for use must be stored at the receiving wellsite or at a staging location operated by the same operator of record as the receiving wellsite in an above ground storage tank or a lined production pit which conforms to the liner requirements and operational provisions of LAC 43:XIX.307.A.

f. The receiving operator assumes responsibility for ROW fluid once it is off-loaded from a transport or exits a transfer line at the receiving operator's staging location or wellsite.

2. The commissioner of Conservation, the secretary of the Department of Natural Resources, and the state of Louisiana shall be held harmless from and indemnified for any and all liabilities arising from use of E and P waste pursuant to this Subsection, and the operator of record and the surface owner shall execute agreements as the commissioner requires for this purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2804 (December 2000), amended LR 33:1659 (August 2007), LR 35:2464 (November 2009), LR 36:1265 (June 2010), LR 40:2596 (December 2014), LR 49:911 (May 2023).

Chapter 5. Off-Site Storage, Treatment and/or Disposal of Exploration and Production Waste Generated from Drilling and Production of Oil and Gas Wells

§501. Definitions

* * *

Reclaimed Oilfield Waste Fluid (ROW fluid)—a material that would otherwise be classified as E and P Waste, but which has been reclaimed for the sole use as media for Office of Conservation permitted downhole well operations.

* * *

Reusable Material—a material that would otherwise be classified as E and P Waste, but which is capable of resource conservation and recovery and has been processed in whole or in part for reuse. To meet this definition, the material must have been treated physically, chemically, or biologically or otherwise processed so that the material is significantly changed (i.e., the new material is physically, chemically, or biologically distinct from the original material), and meets the criteria §565.F. This term does not include ROW Fluid

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2811 (December 2000), amended LR 27:1898 (November 2001), LR 29:937 (June 2003), LR 34:1421 (July 2008), LR 36:2570 (November 2010), LR 43:536 (March 2017), LR 45:1600 (November 2019), LR 49:911 (May 2023).

§519. Permit Application Requirements for Commercial Facilities

A. - A.1. ...

2. A major modification to an existing commercial facility or transfer station permit is one in which the facility requests approval to include ROW fluid operations or make significant technological changes to an existing E and P Waste treatment and/or disposal system, including the construction and operation of additional equipment or systems to treat and/or dispose of E and P waste streams other than those previously accepted by the facility. A major modification request may include a request to expand an existing commercial facility or transfer station onto adjacent property not previously permitted for E and P Waste disposal activities

A.3. - C.21. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2823 (December 2000), amended LR 27:1905 (November 2001), LR 29:938 (June 2003), LR 36:2570 (November 2010), LR 45:1601 (November 2019), LR 49:912 (May 2023).

§565. Resource Conservation and Recovery of Exploration and Production Waste

A. In order to encourage the conservation and recovery of resources in the oilfield industry, the processing of E and P waste into reusable materials or ROW fluid, in addition to or beyond extraction and separation methods which reclaim raw materials such as crude oil, diesel oil, etc., is recognized as a viable alternative to other methods of disposal.

B. Commercial facilities may function for the purpose of generating reusable material or ROW fluid only, or they may generate reusable material or ROW fluid in conjunction with other storage, treatment or disposal operations.

C. Commercial facilities that generate reusable material or ROW fluid are subject to all of the permitting requirements imposed on other commercial facilities. They are also subject to the same operational requirements without regard to the distinction between E and P waste and reusable material or ROW fluid. Existing permits may be amended to allow re-use or ROW fluid operations at commercial facilities which acquire the capability to engage in processing for reuse or ROW fluid operations. Commercial facilities which utilize extraction or separation

methods to reclaim raw materials such as crude oil, diesel oil, etc. may do so without amendment of existing permits.

D. - I. ...

J. Onsite use of E and P waste for downhole well operations is permissible only as authorized by the Office of Conservation and in accordance with the requirements of LAC 43:XIX.313.J.

K. Existing commercial facilities who desire to commence ROW fluid operations must comply with the notification, application and permitting requirements of LAC 43:XIX.519.

L. The Commissioner of Conservation, the Secretary of the Department of Natural Resources, and the State of Louisiana upon issuance of a permit to a commercial facility operator for ROW fluid operations shall be held harmless from and indemnified for any and all liabilities arising from such operations and use of ROW fluid, and the commercial facility operator shall execute such agreements as the commissioner requires for this purpose.

M. Reporting. Each commercial facility which generates ROW fluid must furnish the commissioner a monthly report showing the disposition of all such material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:1916 (November 2001), amended LR 29:939 (June 2003), LR 34:1422 (July 2008), LR 36:2571 (November 2010), LR 49:912 (May 2023).

Monique M. Edwards
Commissioner

2305#012

RULE

**Department of Revenue
Policy Services Division**

**Voluntary Disclosure Agreements
(LAC 61:III.2103)**

Under the authority of R.S. 47:1502, 1511 and 1603(A), and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has amended LAC 61:III.2103.

R.S. 47:1603(A) specifically authorizes the secretary to promulgate rules and regulations concerning the waiver of penalties, including but not limited to the establishment of a voluntary disclosure program. Act 406 of the 2022 Regular Session of the Louisiana Legislature directs the department to establish a voluntary disclosure program for reporting undisclosed withholding tax liabilities that would have been due for workers who were not classified as employees. LAC 61:III.2103 outlines the department's current voluntary disclosure program. The purpose of the amendments is to implement Act 406 and establish a specific program that allows employers who are registered for withholding tax but discover that they have been misclassifying one or more classes of workers as independent contractors to enter into a voluntary disclosure agreement for the undisclosed withholding tax associated with the misclassified workers.

The amendments set forth the conditions under which an applicant may qualify for a voluntary disclosure agreement

specifically related to withholding taxes due for workers who were consistently treated as independent contractors or other non-employees by the taxpayer for the previous three years. The amendments also outline the process for entering into a voluntary disclosure agreement with the Department of Revenue, and the requirements that must be complied with for the Department of Revenue to remit or waive payment of the whole or any part of the penalties under a valid voluntary disclosure agreement. Finally, the amendments clarify that the look back period for collected-but-not-remitted taxes applies also to taxes that are withheld but not remitted. This Rule is hereby adopted on the day of promulgation.

Title 61

REVENUE AND TAXATION

Part III. Administrative and Miscellaneous Provisions

Chapter 21. Interest and Penalties

§2103. Voluntary Disclosure Agreements

A. Definitions. For purposes of this Section, the following terms have the meanings ascribed to them.

* * *

Look-Back Period—a period for which a qualified applicant agrees to disclose and pay the tax and interest due. The *look-back period* shall be as follows.

a. Except as provided in Subparagraphs b through e, the *look-back period* shall include the current calendar year up to the date of registration with the department and the three immediately preceding calendar years.

b. For taxes collected or withheld and not remitted, the look-back period shall include all periods in which tax was collected or withheld and not remitted. This look-back period shall not affect the look-back period described in Subparagraph a. of this Paragraph for undisclosed liabilities unrelated to tax collected or withheld and not remitted.

c. For discontinued, acquired, or merged entities, the look-back period shall include undisclosed liabilities in the last calendar year in which the qualified applicant had nexus within this state and the three immediately preceding calendar years.

d. For withholding taxes associated with misclassified employees, the look-back period shall include the current calendar year up to the date of the application and the three immediately preceding calendar years. This look-back period shall not apply to any taxes actually withheld from an employee and not remitted.

e. The secretary and the applicant may agree to adjust a look-back period to include other years.

f. The look-back period(s) shall be established at the time the secretary or his authorized representative signs the voluntary disclosure agreement.

Misclassified Employees—a class or classes of workers who were consistently treated as independent contractors or other non-employees by the taxpayer for the previous three years and for which the taxpayer filed all required IRS Forms 1099-NEC, 1099-MISC or equivalent form, consistent with the non-employee treatment.

Qualified Applicant—any taxpayer subject to the reporting and payment of a tax imposed by the state of Louisiana that is not disqualified under Subsection B of this Section.

* * *

Withholding Tax—income tax that is required to be deducted or withheld by an employer from the wages paid to an employee in accordance with R.S. 47:112.

B. Disqualification. Any applicant who meets one or more of the criteria below shall be disqualified from entering into a voluntary disclosure agreement:

1. The applicant is registered with the department as of the application date but failed to file returns or underreported the amount due for a tax for which a voluntary disclosure agreement is requested.

a. Registration with the department for reporting and payment of any tax for which a voluntary disclosure agreement is not being requested will not disqualify a qualified applicant from entering into a voluntary disclosure agreement.

2. The applicant submitted returns, extensions, payments, or was registered with the department within three years of the application date for a tax for which a voluntary disclosure agreement is requested.

3. The applicant is requesting a voluntary disclosure agreement for withholding tax due for misclassified employees and:

a. the workers for which the agreement is requested do not qualify as misclassified employees; or

b. the applicant actually withheld taxes from wages paid to workers included in the class or classes for which a voluntary disclosure agreement request is being made; or

c. the applicant has not provided proof of worker's compensation coverage for all employees.

4. The applicant has been contacted by the department concerning a liability regarding a tax for which a voluntary disclosure agreement is requested, including but not limited to a potential liability or contact for the purpose of performing an audit of the taxpayer's records.

5. The applicant is affiliated with another entity that has been contacted by the department for the purpose of performing an audit of the affiliated entity's records. An applicant may become a qualified applicant after the audit of the affiliated entity has been completed, provided the applicant is not disqualified under any other criteria.

C. Acceptance of Offer to Enter into Voluntary Disclosure Agreement

1. After the secretary has reviewed the application and determined from the information included therein that the applicant qualifies for a voluntary disclosure agreement, the secretary shall send a copy of the agreement to the qualified applicant or the qualified applicant's representative for signature.

2. The qualified applicant or qualified applicant's representative, acting under the authority of a power of attorney, shall sign the agreement and return it to the secretary within 30 calendar days of the postmark or e-mail date, or within any extension of time authorized by the secretary beyond 30 calendar days from the postmark or e-mail date.

3. After the signed agreement is received from the applicant, the secretary or his authorized representative shall sign the agreement and return a copy of the agreement to the applicant which has been signed by both parties.

RULE

**Workforce Commission
Plumbing Board**

Plumbers—Introductory Information; Licenses
(LAC 46:LV.101, 301, 303, 304, 305, 306, 307,
308, 309, 310, 312, 313, 314, 503, 701, and 901)

4. If the application was submitted to the Multistate Tax Commission, the applicant shall return signed agreements in accordance with policies established by the commission.

D. Waiver or Remittance of Payment of Penalty

1. After all tax and interest due for the look-back period have been paid, the delinquent penalties shall be waived, unless the tax disclosed was collected or withheld but not remitted.

2. Where the tax was collected or withheld but not remitted, the secretary may consider waiving payment of the whole or any part of the delinquent penalties on a case-by-case basis.

E. Payment of Tax, Interest, and Penalty Due

1. All tax due for the look-back period must be paid within 60 calendar days of the secretary’s signing date of the voluntary disclosure agreement or within any extension of time authorized by the secretary beyond 60 calendar days of the signing date. All schedules or returns required by the secretary to show the amount of tax due must be included with this payment.

2. For purposes of withholding tax due for misclassified employees, any wages timely reported on a Louisiana individual income tax return filed by any worker in the class or classes of workers identified in the application as verified by the Department of Revenue shall be excluded for purposes of calculating the liability due by the qualified applicant.

3. The secretary shall compute the interest and penalty due for the tax disclosed by the applicant and send a schedule by mail or email to the applicant or his representative showing the amount of tax, interest and penalty due. The applicant must submit payment of the full amount of the interest and any penalties not waived within 30 calendar days from the postmark or e-mail date of the schedule or, if applicable, within any extension of time granted by the secretary. If payment of the full amount due has not been received at the expiration of such time, the secretary may void the agreement.

F. The secretary may disclose tax information to the Multistate Tax Commission or any political subdivision of the state which has entered into an information exchange agreement with the department in order to coordinate the delivery and acceptance of applications for voluntary disclosure agreements. Any information so furnished shall be considered and held confidential and privileged by the Multistate Tax Commission or the political subdivision to the extent provided by R.S. 47:1508.

G. The terms of the voluntary disclosure agreement shall be valid, binding, and enforceable by and against all parties, including their transferees, successors, and assignees.

H. The secretary reserves the right to void the voluntary disclosure agreement if the applicant fails to comply with any of the conditions outlined in the agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1502, R.S. 47:1511, R.S. 47:1580, and R.S. 47:1603.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 41:558 (March 2015), amended LR 49:913 (May 2023).

Kevin J. Richard, CPA
Secretary

2305#021

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953, the Plumbing Board (board), determined amending LAC 46:LV. clarifies the meaning of “constant on-the-job supervision”; amends a restricted plumber’s license to comply with R.S. 37:1368 amended in August 2022; identifies the procedure followed when a board member is not available for an examination; the appointment of an interim vice chairman; allows for references to the advisory body consistent with the law and clarification on ID cards; amends NSF charges to comply with R.S. 37:1371; clarifies the requirement of the posting of a physical address on signs of an employing entity; and corrects the administrative charges for processing an application.

These adjustments will be effective upon final publication in the *Louisiana Register*. This Rule is hereby adopted on the day of promulgation.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part LV. Plumbers**

**Chapter 1. Introductory Information
§101. Definitions**

Direct, Constant On-The-Job Supervision—a licensed journeyman plumber/master plumber or natural gas fitter/master natural gas fitter is physically present and in direct communication at the property or jobsite for residential construction and single-story or single building commercial construction, and in the same building on the same floor level for multi-level or multi-story commercial construction, where the apprentice is engaged in plumbing. A licensed journeyman plumber/master plumber or natural gas fitter/master natural gas fitter may supervise apprentices who are engaged in plumbing or natural gas fitting at that time as governed by the Louisiana Workforce Commission. An apprentice doing work other than plumbing or natural gas fitting shall not be considered an apprentice for purposes of supervision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1277 and R.S. 37:1366.

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended and promulgated by the Department of Employment and Training, Plumbing Board, LR 17:49 (January 1991), amended by the Department of Labor, Plumbing Board, LR 21:1348 (December 1995), LR 26:329 (February 2000), amended by the Workforce Commission, Plumbing Board, LR 42:575 (April 2016). LR 43: 541 (March 2017), LR 43:972 (May 2017), LR 44:633 (March 2018), amended by the Workforce Commission, Plumbing Board, LR 44:1915 (October 2018), amended by the Workforce Commission, Plumbing Board, LR 47:274 (February 2021), LR 49:914 (May 2023).

Chapter 3. Licenses

§301. Licenses Required

A. ...

B. No natural person shall engage in doing the work of an apprentice unless he possesses a registration or renewal thereof issued by the board as established in §508. Registered apprentices may engage in the art of plumbing only when they are under the direct, constant on-the-job supervision of a licensed plumber as defined in §101, and as governed by the Louisiana Workforce Commission.

C. ...

D. No natural person shall engage in the work of a master plumber unless he possesses a master plumber's license or renewal thereof issued by the board. The board shall issue a master plumber license to any person who qualifies under the board's regulations and who desires to engage in doing the work of a master plumber if he passes a written examination given by the board and pays the fees established by the board. A written examination shall not be required for persons applying pursuant to this Section and §303. A master plumber shall not engage in the work of a journeyman plumber unless he also possesses a journeyman plumber's license issued by the board or previously possessed a journeyman plumber's license issued by the board. A person issued a master plumber's license shall designate to the board, as required by the rules of the board, an employing entity, which may be a corporation, partnership, or sole proprietorship. A licensed master plumber shall notify the board of any change of employment status with an employing entity within 30 days of the effective date of change in employment status. A master plumber shall designate no more than one employing entity at any time. The board may charge a reasonable fee for processing such redesignations.

E. No employing entity shall hold itself out as engaging in the business or art of plumbing unless it employs a master plumber. No master plumber shall knowingly allow an employing entity to hold itself out as employing such master plumber at a time when it does not employ him within the meaning of R.S. 37:1368.C and this Section. Notwithstanding any other provision to the contrary, a journeyman plumber may repair existing plumbing independently and without the supervision of a master plumber. In the event a master plumber employed by an employing entity dies, the employing entity will be permitted to operate on the basis of the deceased master plumber's license for a period of time not to exceed six months following the death of the master plumber. The board may require proof of death. The six-month grace period provided herein must be applied for, in writing, within 30 days of the death of the master plumber. The employing entity must comply with all other regulations issued by the board during the grace period.

F. Every employing entity shall maintain an established place of business, with facilities for receiving complaints, calls and notices during normal business hours, from any person for whom it is performing plumbing or from the board and its representatives. It shall display a sign, plainly visible from the street at every place where it and its employees are performing plumbing work. If the employing entity is the sole-employing entity for a multi-site project, where employees are performing plumbing work, it may

post one sign, plainly visible from the street, at the entrance of the project. All posted signs shall designate the employing entity's full name, physical address, telephone number and master plumber license number issued by the board to the designated active master plumber in its employ. The sign posted at a single site shall include legible lettering at least 2 inches high with the words "Louisiana Licensed Master Plumber" (or abbreviated "LA Lic. Master Plumber" or "LMP _____"). For multi-site projects, where only a single sign is posted, in addition to the above requirement, the lettering must be at least 4 inches high. The employing entity shall also identify itself by permanent signs or lettering affixed to its service vehicles on both sides of such vehicles indicating the same information required of job-site signs in at least 2-inch lettering." All public advertising, solicitations, customer invoices, and business correspondence issued by or on behalf of an employing entity shall set forth the information described herein.

G. Employment of an active master plumber by an employing entity on a regular paid basis, as required by R.S. 37:1368.C and this Section, shall mean employment or self-employment for wages or under a bona fide contract of hire with no more than one employing entity at any given time. Such employment or self-employment must include services performed by the active master plumber which is within the state of Louisiana or both within and without the state of Louisiana.

H. ...

I. Any individual who maintained a restricted journeyman's license or restricted master plumber's license prior to January 1, 2023, and maintained compliance with the provisions of R.S. 37:1371 and 1380 through January 1, 2023, shall be issued a journeyman's license or master plumber's license upon written request to the board. Any individual who was issued a restricted journeyman's license or master plumber's license prior to January 1, 2023, but did not maintain such license due to a lack of compliance with R.S. 37:1371 and 1380, shall be treated as if he was inactive upon his last day of compliance with such provisions. Upon submission of a written request to the board, payment of renewal fees in accordance with R.S. 37:1371(A), and submission of a written showing of compliance with R.S. 37:1380, the board shall issue the individual a journeyman's license, if the individual previously held a restricted journeyman's license or master plumber's license, if the individual previously held a restricted master plumber's license. The board may refuse to grant a journeyman or master plumber's license to an individual who previously maintained a restricted journeyman or restricted master plumber's license, if the individual failed to comply with additional licensing requirements not provided for in R.S. 37:1371 and 1380.

J. An inactive master plumber, as that term is used in R.S. 37:1368.E, shall mean a natural person who is licensed by the board as a master plumber or who successfully applies for and passes the examination for master plumber license administered by the board pursuant to §305. An applicant for inactive master plumber status must state in a form supplied by the board that he does not wish or intend to practice as a master plumber. An inactive master plumber shall not be permitted to designate an employing entity, or knowingly allow an employing entity to hold itself out as

employing him as a master plumber. An inactive master plumber can convert his status to that of a master plumber by submitting to the board an appropriate form supplied by the board and upon payment of a fee established by the board. During the period of his inactive status the inactive master plumber shall pay a fee established by the board. An inactive master plumber converting his status under this Section shall designate an employing entity. An inactive master plumber shall be permitted to work as journeyman plumber during the period or periods he maintains an inactive plumber's license, if he is currently or was previously licensed by the board as a journeyman plumber.

K. The board is empowered to assess special enforcement fees on a daily basis at a rate not to exceed \$10 a day relative to any master plumber or employing entity, or both, that fails or refuses, after due notice, to comply with the sign and posting requirements established by. The daily enforcement fees assessed by the board under this provision shall not exceed, in the aggregate, \$500. This special enforcement fee shall be in addition to any licensing fees required by law, or any other penalty or sanction assessed by a court of competent jurisdiction or by the board.

L. - M. ...

N. Apprentices may engage in the art of gas fitting only when they are under the direct, constant on-the-job supervision of a licensed gas fitter as defined in §101, and as governed by the Louisiana Workforce Commission.

O. ...

P. No natural person shall engage in the work of a master gas fitter unless he possesses a master gas fitter's license or renewal thereof issued by the board. The board shall issue a master gas fitter license to any person who qualifies under the board's regulations and who desires to engage in doing the work of a master gas fitter if he passes a written examination given by the board and pays the fees established by the board. A written examination shall not be required for persons applying pursuant to §310. A master gas fitter shall not engage in the work of a gas fitter unless he also possesses a gas fitter's license issued by the board or previously possessed a gas fitter's license issued by the board. A person issued a master gas fitter's license shall designate to the board, as required by the rules of the board, an employing entity, which may be a corporation, partnership, or sole proprietorship. A licensed master gas fitter shall notify the board of any change of employment status with an employing entity within 30 days of the effective date of change in employment status. A master gas fitter shall designate no more than one employing entity at any time. The board may charge a reasonable fee for processing such redesignations.

Q. ...

R. Every employing entity shall maintain an established place of business, with facilities for receiving complaints, calls and notices during normal business hours, from any person for whom it is performing gas fitting or from the board and its representatives. It shall display a sign, plainly visible from the street at every place where it and its employees are performing gas-fitting work. If the employing entity is the sole-employing entity for a multi-site project, where employees are performing natural gas work, it may post one sign, plainly visible from the street, at the entrance

of the project. All posted signs shall designate the employing entity's full name, physical address, telephone number and master gas fitter license number issued by the board to the designated active master gas fitter in its employ. The sign posted at a single site shall include legible lettering at least 2 inches high with the words "Louisiana Licensed Master Gas Fitter" (or abbreviated "LA Lic. Master Gas Fitter" or "LMNGF ____"). For multi-site projects, where only a single sign is posted, in addition to the above requirement, the lettering must be at least 4 inches high. The employing entity shall also identify itself by permanent signs or lettering affixed to its service vehicles on both sides of such vehicles indicating the same information required of job-site signs, in at least 2-inch lettering." All public advertising, solicitations, customer invoices, and business correspondence issued by or on behalf of an employing entity shall set forth the information described herein.

S. Employment of an active master gas fitter by an employing entity on a regular paid basis, as required by this Section, shall mean employment or self-employment for wages or under a bona fide contract of hire with no more than one employing entity at any given time. Such employment or self-employment must include services performed by the active master gas fitter which is within the state of Louisiana or both within and without the state of Louisiana.

T. - U. ..

V. The board is empowered to assess special enforcement fees on a daily basis at a rate not to exceed \$10 a day relative to any master gas fitter or employing entity, or both, that fails or refuses, after due notice, to comply with the sign and posting requirements established by this Section. The daily enforcement fees assessed by the board under this provision shall not exceed, in the aggregate, \$500. This special enforcement fee shall be in addition to any licensing fees required by law, or any other penalty or sanction assessed by a court of competent jurisdiction or by the board.

W. In the event any applicant for any license or endorsement who successfully completes a required examination, but fails to pay to the board any requisite license or endorsement fee within 90 days of notice of his examination results shall not be issued the applicable license or endorsement unless and until he submits to and successfully completes re-examination and pays the appropriate fees for such re-examination and subsequent license or endorsement fee. Imposition of this re-examination requirement may be waived for good cause. Any special endorsement fees incurred before or during the re-examination process shall not be affected.

X. - Y. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended and promulgated by the Department of Employment and Training, Plumbing Board, LR 17:49 (January 1991), amended by the Department of Labor, Plumbing Board LR 19:897 (July 1993), LR 19:1593 (December 1993), LR 21:1348 (December 1995), LR 25:1857 (October 1999), amended by the Workforce Commission, Plumbing Board, LR 42:576 (April 2016), LR 43:541 (March 2017), LR 43:972 (May 2017), LR 47-274 (February 2021), LR 49:915 (May 2023).

§303. Application for License

A. - B. ...

C. Applications for master plumber license shall be completed and sworn to before a notary public by the applicant. The applicant must submit proof that he is licensed by the board at the time of application as a journeyman plumber or the applicant must submit proof that he is a professional engineer licensed by the state of Louisiana with experience in the art of plumbing as defined in R.S. 37:1377.D. He must furnish whatever other information relevant to his experience that is requested in the application form or specially requested by the board.

D. An application for medical gas piping installer shall be completed and sworn to before a notary public by the applicant. The applicant must submit proof that he has completed a course of training described in §304 by an organization certified by the board pursuant to R.S. 37:1368.G. Additionally, the applicant must present proof of maintenance of performance qualification as a brazer in accordance with §304. The applicant must furnish whatever other information relevant to his experience that is requested in the application form or specially requested by the board.

E. An application for a water supply protection specialist endorsement to a master or journeyman plumber license shall be completed and sworn to before a notary public by the applicant. The applicant must submit proof that he is licensed by the board at the time of application as a master or journeyman plumber. The applicant must submit proof that he has completed a course of training described in §310. He must furnish whatever other information relevant to his experience that is requested in the application form or specifically requested by the board.

F. An application for medical gas and vacuum systems verifiers license shall be completed and sworn to before a notary public by the applicant. The applicant must submit proof that he has successfully completed a course of training and related certification testing described in §315 by an organization certified by the board pursuant to R.S. 37:1368(I). The applicant must furnish whatever information relevant to his experience that is requested in the application form or specifically requested by the board.

G. Applications for gas fitter license shall be completed and sworn to before a notary public by the applicant. Each application shall state two years of having performed manual labor of gas fitting in that two-year training period was under the direct, constant on-the-job supervision of a licensed gas fitter as defined in §101.

G.1. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended and promulgated by the Department of Employment and Training, Plumbing Board, LR 17:50 (January 1991), amended by the Department of Labor, Plumbing Board, LR 21:1348 (December 1995), LR 26:329 (February 2000), amended by the Workforce Commission, Plumbing Board, LR 42:576 (April 2016), LR 43:542 (March 2017), LR 43:972 (May 2017), LR 49:917 (May 2023).

§304. Medical Gas Piping Installer License

A. No natural person shall engage in the work or business of medical gas piping installation unless he possesses a license or renewal thereof issued by this board. The board shall issue a medical gas piping installer license

to any person who qualifies under the board's regulations and who desires to engage in the work or business of a medical gas piping installer if he passes a written and manual examination given by the board for this purpose and pays the fees established by the board. No person shall qualify for examination as a medical gas piping installer unless he completes a course of training provided by an organization recognized by the board pursuant to this Section.

B. - B.4. ...

5. Courses of instruction defined in this Section must be provided by a person or persons possessing a current medical gas system instructor certification compliant with the guidelines of *ASSE Series International Series 6000, Standard 6050*, pursuant to R.S. 37:1368(G).

C. ...

D. An applicant for a medical gas piping installer license must attach to his application a money order or check for the appropriate fee established in §312.

E. - G. ...

H. The board may accept, in lieu of an examination directly administered by the board to any applicant, the verifiable results of an examination administered by an organization meeting the criteria of *ASSE Series 6000, Standard 6010* §10-3.2.3, as certified pursuant to R.S. 37:1368(G) as evidence of successful completion of the examination referred to in R.S. 37:1368(G). Any papers from such examinations must be available for inspection and the board may require notarized affidavits from the applicant and the administering organization representative attesting to the accuracy of the examination results and the scope of any such examination, which must minimally include the subject areas of the practical examination described in this Section.

I. A medical gas piping installer shall, as a condition of licensing under these regulations, maintain his brazer performance qualification in accordance with *NFPA 99 Health Care Facilities Code*, pursuant to R.S. 37:1368(G).

J. Any person, who at any time is cited by the board for working as a medical gas piping installer without possessing the necessary license issued by the board, shall be subject to a special enforcement fee as a precondition to any subsequent examination or licensing of any nature. This fee shall be in addition to the regular fees assessed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D) and R.S. 37:1368(G).

HISTORICAL NOTE: Promulgated by the Department of Labor, Plumbing Board, LR 21:1349 (December 1995), amended LR 25:1858 (October 1999), amended by the Workforce Commission, Plumbing Board, LR 42:576 (April 2016), LR 43:973 (May 2017), LR 49:917 (May 2023).

§305. Requirements to Take Exam for Journeyman Plumber's License

A. Requirements

1. An applicant for journeyman plumber's examination shall have performed 8,000 hours of manual labor of plumbing under the direct, constant on-the-job supervision of a licensed plumber as defined in §101.

B. - D. ...

E. The examination shall be given by one or more examiners. At least one board member shall be present. If one is not available, the executive director shall oversee examinations only after notification to all board members.

F. The chairman of the board shall appoint the examiner or examiners, who may be representatives of a private professional service provider qualified to administer a standardized, nationally recognized test duly adopted by the board. If necessary, the chairman shall appoint additional examiners to conduct the special examination described in this Section or an examiner to conduct any special examination required as an accommodation to a qualified disabled individual under the Americans with Disabilities Act.

G. An applicant for journeyman plumber's examination, who does not have sufficient education to read and write the answers to the examination questions, as required in this Section, can apply to the board for a waiver of that particular requirement upon producing satisfactory proof to the board that the applicant has 10 years experience in manual labor of plumbing under the direct, constant on-the-job supervision of a licensed plumber as defined in §101 and has no more than a fourth grade education. A fee for this examination may be established by the board.

G.1. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(A) and (D).

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended and promulgated LR 14:440 (July 1988), amended LR 15:1088 (December 1989), amended and repromulgated by the Department of Employment and Training, Plumbing Board, LR 17:51 (January 1991), amended by the Department of Labor, Plumbing Board, LR 24:1948 (October 1998), LR 25:1857 (October 1999), amended by the Workforce Commission, Plumbing Board, LR 42:577 (April 2016), LR 49:917 (May 2023).

§306. Requirements to Take Exam for Master Plumber License

A. Requirements

1. An applicant for master plumber examination shall have a current journeyman plumber license issued by the board, or the applicant shall possess a current license issued by the State Board of Registration for Professional Engineers and Land Surveyors certifying or registering him as a professional engineer. A registered or certified professional engineer must further have experience in the art of plumbing as defined in R.S. 37:1377.D for a period of five years.

2. ...

3. The applicant shall furnish a 2-inch by 2-inch photograph of himself with the application.

4. He shall submit his application and required documents to the office of the state Plumbing Board of Louisiana not less than 30 days before any scheduled examination. The board shall inform all interested persons of the examination schedule.

5. He must attach a money order or check for the appropriate fee to the application. The fee is established in §309.

B. Regular quarterly examinations will be held in conjunction with the examination conducted pursuant to §305, or on such days specially set by the board.

C. ...

D. Special examinations may be held by the board under the same conditions described in §305.

E. The examination shall be given by one or more examiners. At least one board member shall be present. The examiner must be a master plumber licensed by the board or a special appointee under this Section.

F. - G. ...

AUTHORITY NOTE: Adopted in accordance with R.S. 37:1377 and R.S. 37:1366.

HISTORICAL NOTE: Adopted by the Department of Labor, State Plumbing Board, 1968, amended and promulgated by the Department of Employment and Training, State Plumbing Board, LR 17:52 (January 1991), amended by the Department of Labor, Plumbing Board, LR 25:1858 (October 1999), amended by the Workforce Commission, Plumbing Board, LR 42:577 (April 2016), LR 49:918 (May 2023).

§307. Requirements to Take Exam for Gas Fitter's License

A. Requirements

1. An applicant for gas fitter's examination must have been a registered apprentice with the board for two years and shall provide notarized affidavit of having performed manual labor of gas fitting in that two-year training period under the direct, constant on-the-job supervision of a licensed gas fitter as defined in §101.

A.2. - D. ...

E. The examination shall be given by one or more examiners. At least one board member shall be present. If one is not available, the executive director shall oversee examinations only after notification to all board members.

F. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Promulgated by the Workforce Commission, Plumbing Board, LR 43:543 (March 2017), amended LR 49:918 (May 2023).

§308. Requirements to take Exam for Master Gas Fitter License

A. - A.5. ...

B. Regular quarterly examinations will be held in conjunction with the examination conducted pursuant to §307, or on such days specially set by the board.

C. ...

D. Special examinations may be held by the board under the same conditions described in §307.

E. The examination shall be given by one or more examiners. At least one board member shall be present. If one is not available, the executive director shall oversee examinations only after notification to all board members. The examiner must be a master gas fitter licensed by the board or a special appointee under this Section.

F. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Promulgated by the Workforce Commission, Plumbing Board, LR 43:543 (March 2017), amended LR 49:918 (May 2023).

§309. Requirements to Take Exam for Tradesman Plumber License

A. Requirements

1. An applicant for tradesman plumber's examination shall have a current apprentice registration certificate issued by the board and have performed 4,000 hours of manual

labor of plumbing under the direct, constant, on-the-job supervision of a licensed plumber as defined in §101.

A.2. - D. ...

E. The examination shall be given by one or more examiners. At least one board member shall be present. If one is not available, the executive director shall oversee examinations only after notification to all board members.

F. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D) and R.S. 37:1368(G).

HISTORICAL NOTE: Promulgated by the Workforce Commission, Plumbing Board, LR 43:973 (May 2017), amended LR 49:918 (May 2023).

§310. Renewals

A. ...

B. All renewal applications received at the board's office later than midnight the last day of December will be delinquent and will require a revival fee in addition to the renewal fee. Any license not renewed by the last day of December will pay a revival fee, in addition to the renewal fee, if renewed between January 1 and March 31. Any license renewed after March 31, will require an increased revival fee, in addition to the renewal fee. The fees are set forth in §312. Any person performing the work of a tradesman plumber, journeyman plumber or a master plumber without the appropriate license issued by the board after March 31 of any year without having renewed his license from the immediately preceding year shall be subject to the special enforcement fee established in §305 or §306 or §309.

C. A person who has allowed his previously issued tradesman plumber or journeyman plumber license to expire may be afforded the option, in lieu of re-examination, of paying a special revival fee of \$50 per year for each year the license was not renewed up to a limit of four consecutive years. However, any such person who performs the work of a journeyman plumber without possessing a license issued by the board during this period shall be subject to the special enforcement fee established in §305 or §309.

D. A person who has allowed his previously issued master plumber license, or inactive master plumber license to expire may be afforded the option, in lieu of re-examination, of paying a special revival fee of \$250 per year for each year the license was not renewed up to a limit of four consecutive years. Any person who performs the work of a master plumber without possessing a license issued by the board during any period of lapsed license shall be subject to the special enforcement fee established in §306.

E. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, promulgated LR 2:419 (December 1976), amended LR 7:588 (November 1981), amended by Department of Employment and Training, Plumbing Board, LR 17:52 (January 1991), LR 18:30 (January 1992), amended by the Department of Labor, Plumbing Board, LR 21:1350 (December 1995), LR 26:329 (February 2000), amended by the Workforce Commission, Plumbing Board, LR 42:577 (April 2016), LR 43:544 (March 2017), LR 43:974 (May 2017), LR 49:919 (May 2023).

§312. Fees

A. - A.4. ...

5. special enforcement fee imposed under §301 - \$500.

B. - B.7. ...

8. administrative charges for processing application (to be retained by the board should applicant withdraw his application before taking examination) - 50 percent of examination fee;

9. ...

10. special enforcement fee imposed under §309 - \$500.

C. - C.7. ...

8. administrative charges for processing application (to be retained by the board should applicant withdraw his application before taking the examination) - 50 percent of examination fee;

9. ...

10. special enforcement fee imposed under §305 - \$500.

D. The fees and charges of the board relative to master plumbers and inactive master plumbers shall be as follows:

D.1. - 7. ...

8. special enforcement fee imposed under §306 - \$500;

9. - 11. ...

12. special daily enforcement fee imposed under §301 - \$10/day, not to exceed \$500 in the aggregate;

E. - E.7. ...

8. special enforcement fee imposed under §304 - \$500.

F. - F.7. ...

8. special enforcement fee imposed under §313 - \$500.

G. - G.7. ...

8. administrative charges for processing application (to be retained by the board should applicant withdraw his application before taking the examination)—50 percent of examination fee;

9. ...

10. special enforcement fee imposed under §307—\$500.

H. - H.8. ...

9. fee for N.S.F. or returned check—\$20;

10. special enforcement fee imposed under §307—\$500.

I. - I.6. ...

7. fee for N.S.F. or returned check - \$20;

8. special enforcement fee imposed under §306 - \$500;

9. - 11. ...

12. special daily enforcement fee imposed under §308 - \$10/day, not to exceed \$500 in the aggregate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D) and R.S. 37:1371.

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended and promulgated LR 7:588 (November 1981), amended LR 15:1089 (December 1989), amended by the Department of Employment and Training, Plumbing Board, LR 16:23 (January 1990), LR 17:53 (January 1991), amended by the Department of Labor, Plumbing Board, LR 19:898 (July 1993), LR 19:1594 (December 1993), LR 21:1351 (December 1995), LR 26:327 (February 2000), amended by the Workforce Commission, Plumbing Board, LR 43:545 (March 2017), LR 43:975 (May 2017), LR 44:633 (March 2018), repromulgated LR 46:401 (March 2020), amended LR 49:919 (May 2023).

§313. Water Supply Protection Specialist Endorsement

A. ...

B. As authorized by R.S. 37:1368(H), the board shall recognize and certify certain programs of education and training of water supply protection specialist offered by private or public organizations or institutions compliant with *ASSE International, Cross-Connection Control Professional Qualifications Standard ASSE Series 5000* or a nationally recognized, board-approved program. A journeyman or master plumber licensed by this board who successfully completes any such program shall qualify for admission to an examination offered under §313.A of these regulations. Any such organization must satisfy the board that its program or programs includes training and testing as specified in the *ASSE International, Cross-Connection Control Professional Qualifications Standard ASSE Series 5000*, or a nationally-recognized, board-approved program.

C. Courses of instruction defined in-this Section must be provided by a person or persons meeting the credentials and requirements of *ASSE Series 5000*, or a nationally-recognized board-approved program.

D. To be eligible for board certification pursuant to R.S. 37:1368(H), an interested organization providing water supply protection specialist training and education must complete a written application on a form or forms supplied by the board. The board shall be entitled to receive timely information on the program or programs administered by such organization and background of instructors upon request at any time. The board, acting through its representatives, may also inspect the facility and observe the actual training and education programs used and offered by such organization. Failure to cooperate with the board and its representatives may be grounds for denial or withdrawal of board certification of any such organization. The board may investigate complaints concerning such programs. Adverse administrative action affecting an organization's application for certification or its continued status as an organization certified by the board pursuant to R.S. 37:1368(H) will be subject to the Administrative Procedure Act.

E. The board may accept, in lieu of an examination directly administered by the board to any applicant, the verifiable results of an examination administered by an organization certified pursuant to R.S. 37:1368(H) as evidence of successful completion of the examination referred to in R.S. 37:1368(H). Any papers from such examinations must be available for inspection and the board may require notarized affidavits from the applicant and the administering organization representative attesting to the accuracy of the examination results and the scope of any such examination, which must minimally include the subject areas described in-this Section.

F. An applicant for a water supply protection specialist endorsement must attach to his application a money order or check for the appropriate fee established in §312.

G. Regular quarterly examinations for water supply protection specialist endorsements may be held in conjunction with examinations for journeyman or master plumber license applications, or on such days specially set by the board. Interested persons shall be notified of the examination schedule.

H. A water supply protection specialist endorsement application must be submitted to the office of the state

Plumbing Board of Louisiana not less than 30 days before any scheduled examination.

I. The chairman of the board shall appoint an examiner or examiners to conduct water supply protection specialist endorsement examinations. An examiner may be a representative of a private or public professional service provider qualified to administer a standardized, nationally recognized test duly adopted by the board.

J. Any person, who at any time is cited by the board for working as a water supply protection specialist without possessing an endorsement to that effect, shall be subject to a special enforcement fee as a precondition to any subsequent examination or licensing of any nature. This fee shall be in addition to the regular fees assessed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D) and R.S. 37:1368(H).

HISTORICAL NOTE: Promulgated by the Department of Labor, Plumbing Board, LR 21:1350 (December 1995), amended by the Department of Labor, Plumbing Board, LR 25:1859 (October 1999), amended by the Workforce Commission, Plumbing Board, LR 42:577 (April 2016), repromulgated LR 43:546 (March 2017), LR 43:976 (May 2017), LR 49:920 (May 2023).

§314. Integrity of Examination

A. ...

B. The board is empowered to act upon reports of violation of Subsection A of this Section by examinees received from private or public organizations recognized as examiners under §§304, 306, 313, or 310 and impose sanctions as described in this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366.D.

HISTORICAL NOTE: Promulgated by the Department of Labor, Plumbing Board, LR 24:1948 (October 1998), amended LR 26:328 (February 2000), repromulgated by the Workforce Commission, Plumbing Board, LR 43:547 (March 2017), LR 43:977 (May 2017), LR 49:920 (May 2023).

Chapter 5. The Board

§503. Officers

A. - A.1.e. ...

f. Appoint a vice chairman in his vacancy until the next board meeting, where a nomination committee will recommend the next vice chairman, subject to a vote by the entirety of the board.

2. - 3.p. ...

AUTHORITY NOTE: Adopted in accordance with R.S. 37:1377 and R.S. 37:1366.

HISTORICAL NOTE: Adopted by the Department of Labor, State Plumbing Board, 1968, amended and promulgated by Department of Employment and Training, State Plumbing Board, LR 17:53 (January 1991), amended by the Workforce Commission, Plumbing Board, LR 49:920 (May 2023).

Chapter 7. Board Employees

§701. Seasonal and Part-Time Employees

A. Board members and advisory committee members shall be given photo ID cards so that they can act as special enforcement officers for the board.

B. - C.5. ...

D. Examiners

1. Examiners employed to conduct any examination for a journeyman plumber license must be licensed journeyman plumbers or possess such skill and knowledge relating to the pipe trades as the board may deem appropriate. Examiners employed to conduct any examination for a master plumber license shall conform with

§306. They shall be notified two weeks prior to date of examination, and shall notify the board if they are unable to attend. They shall receive for their wages a fee fixed by the board. The journeyman plumber examiner shall report at least 15 minutes prior to time of the examination, to the board member presiding over examination, and his duties shall be as follows:

a. ...

b. correct any papers pertaining to the examination and tabulate for final grades, before leaving, unless the examination is administered by a representative of a private professional service provider as described in §305;

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

AUTHORITY NOTE: Adopted in accordance with R.S. 37:1377 and R.S. 37:1366.

HISTORICAL NOTE: Adopted by the Department of Labor, State Plumbing Board, 1968, amended and promulgated by Department of Employment and Training, State Plumbing Board, LR 17:54 (January 1991), amended by the Department of Labor, Plumbing Board, LR 25:1858 (October 1999), amended by the Workforce Commission, Plumbing Board, LR 49:920 (May 2023).

Chapter 9. Revocation and Related Administration Proceedings

§901. Revocation, Suspension and Probation Procedures

A. All adjudication proceedings initiated pursuant to R.S. 37:1378 and conducted by the board shall be in accordance with the Administrative Procedure Act, R.S. 49:955 et seq. The term *licensee*, as used in this Section, shall refer, where applicable, to the holder of a tradesman plumber, journeyman plumber, master plumber, inactive master plumber, gas fitter, master gas fitter, medical gas piping installer or medical gas and vacuum systems verifier license, and holder of a water supply protection specialist endorsement.

B. - K.3.a. ...

b. The definite time of suspension shall be stipulated by the board in the order to the licensee. Upon termination of the time period the licensee shall be entitled to receive his license upon payment of the required fee and upon documented compliance with the conditions which may have been imposed by the board at the time of the original order. The reinstatement fee shall not exceed the special enforcement fee under §305, §306, or §309.

c. If a license is suspended for an indefinite term, the licensee may petition for reinstatement of his license only after one calendar year has lapsed from the date of the original order. The board may terminate the suspension and reinstate such license after a hearing is held and the board determines that the cause/causes for the suspension no longer exist or that intervening circumstances have altered the condition leading to the suspension. If reinstatement is granted the licensee shall pay the required reinstatement fee, which shall not exceed the amount established as the special enforcement fee under §305, §306, or §309.

L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended and promulgated by the Department of Employment and Training, Plumbing Board, LR

17:55 (January 1991), amended by Department of Labor, Plumbing Board, LR 21:1352 (December 1995), LR 26:331 (February 2000), amended by the Workforce Commission, Plumbing Board, LR 43:549 (March 2017), LR 43:978 (May 2017), LR 49:921 (May 2023).

Ashley Jones Tullier
Executive Director

2305#004

RULE

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

General Subgrant Guidelines
(LAC 22:III.4509 and 5501)

In accordance with the provision of R.S. 15:1204 et seq., and R.S. 40:905 et seq., which is the Administrative Procedure Act, the Louisiana Commission on Law Enforcement has amended rules relative to crime reporting. This Rule is hereby adopted on the day of promulgation

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part III. Commission on Law Enforcement and Administration of Criminal Justice

Subpart 3. General Subgrant Guidelines

Chapter 45. Guidelines

§4509. Funding Restrictions

A. - D.2. ...

3. Information Reporting. State and local criminal justice agencies must comply with all requests for information mandated by LCLE. This requirement includes participation in the Louisiana Incident Based Crime Reporting System (LIBRS) when appropriate.

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:252 (March 1985), LR 32:80 (January 2006), amended LR 45:658 (May 2019), LR 49:921 (May 2023).

Subpart 5. Grant Application or Subgrants Utilizing Federal, State or Self-Generated Funds

Chapter 55. Crime Reporting

§5501. Funding Eligibility

A. Effective January 1, 2021, law enforcement agencies that fail through certification as a Louisiana Incident Based Crime Reporting System (LIBRS) agency shall not be eligible for funding under any grant program administered by the Commission on Law Enforcement.

B. Any agency receiving funding to participate in the Louisiana Incident Based Crime Reporting System (LIBRS) that fail to participate in the system shall be ineligible for funding under any grant program administered by the Commission on Law Enforcement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204(9).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 24:936 (May 1998), LR 49:921 (May 2023).

Mr. Jim Craft
Executive Director

2305#061

RULE

Office of the Governor Commission on Law Enforcement and Administration of Criminal Justice Crime Victims Reparations Board

Compensation to Victims
(LAC 22:XIII.301, 303, and 503)

In accordance with the provisions of R.S. 49:950 et seq., which is the Administrative Procedure Act, and R.S. 46:1801 et seq., which is the Crime Victims Reparations Act, the Crime Victims Reparations Board has amended rules and regulations regarding the awarding of compensation to applicants. There will be no impact on family earnings or the family budget as set forth in R.S. 49:972. This Rule is hereby adopted on the day of promulgation.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part XIII. Crime Victims Reparations Board

Chapter 3. Eligibility and Application Process

§301. Eligibility

A. To be eligible for compensation, an individual must have suffered personal injury, death or catastrophic property loss as a result of a violent crime.

1. Victim Conduct and Behavior

a. The Crime Victims Reparations Board may vote to deny or reduce an award to a claimant who is a victim, or who files an application on behalf of a victim. When one part of an award is denied, the board shall favor a partial award over the total denial. And an award may be denied or reduced when any of the following occurs:

i. ...

ii. the totality of circumstances indicate that the victim contributed to or provoked the offense through his/her own misconduct.

1.b. - 3.g. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Crime Victims Reparations Board, LR 20:539 (May 1994), amended LR 22:710 (August 1996), amended LR 31:2009 (August 2005), amended LR 35:65(January 2009), LR 36:2278(October 2010), LR 37:1605(June 2011), LR 41:1487 (August 2015), amended LR 44:2243 (December 2018), LR 47:364(March 2021), LR 49:922 (May 2023).

§303. Application Process

A. Claimant Responsibility

1. Applications for reparations must be submitted to the sheriff's office in the parish where the crime occurred, filed online at the board's website, or sent directly to the board's office. Applications involving an adult victim of a

sexually-oriented criminal offense are sent directly to the board's office.

2. - 2.a. ...

b. Victims of sexual assault may assign their right to collect medical expenses associated with the sexual assault to a hospital/health care facility. The hospital/health care facility may then apply for reparations.

c. An adult victim of a criminal offense is not required to report the crime to any law enforcement officer in order to file an application.

d. If a victim chooses not to report the crime to a law enforcement officer, the claimant must submit reasonable documentation (as provided by R.S. 46:1806(A.)(1)(b) with the application) to show the commission of a crime relevant to the application.

3. The claimant, who is not a healthcare provider, must list each expense being claimed.

4. An itemized bill, not a billing statement, must accompany the application for each non-FME expense claimed.

A.5. - D.2. ...

3. The appeal will be scheduled for the next available meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Crime Victims Reparations Board, LR 20:539 (May 1994), amended LR 22:710 (August 1996), amended by the Office of the Governor, Crime Victims Reparations Board, LR 41:1668 (September 2015), LR 42:570 (April 2016), LR 42:743 (May 2016), LR 49:922 (May 2023).

Chapter 5. Awards

§503. Limits on Awards

A. General

1. There will be a \$15,000 limit for awards for all victims with the exception of those primary victims who become totally and permanently disabled as a result of the crime. For those awards, the board may, at its discretion, award up to \$25,000, depending on availability of funds, its administrative rule limits for certain award benefits, and the extent, if any, of collateral resources. For purposes of this Section:

1.a. - 2. ...

3. Payments for forensic medical examinations shall not exceed \$600 for the healthcare provider, and \$1,000 for the healthcare facility.

B. - B.3. ...

C. Funeral Expenses

1. The board will reimburse up to a maximum of \$5,000 (\$6,500 for crimes occurring after May 1, 2023) to cover reasonable expenses actually incurred for the funeral, burial, or cremation.

C.2. - D.4.a. ...

b. for the loss of income from work by the parent or legal guardian of a minor or dependent victim who must miss work to obtain or provide the medically indicated services or care for the personal injury.

5. - 9. ...

E. Loss of Support

1. - 2.

3. The board will reimburse loss of support up to a maximum award of \$ 10,000 (\$15,000 for crimes occurring after May 1, 2023).

a. - b. ...

F. Ambulance

1. - 3. ...

4. If the ambulance bill is part of the total hospital bill and the total hospital bill is under \$ 15,000, the ambulance transfer bills will be isolated and paid separately. If the total bill is over \$ 15,000, the ambulance charges will not be isolated for payment.

G. Medical Expenses.

1. - 3. ...

4. If the total outstanding charges exceed the maximum award cap, then all providers listed in the claim will be paid out at the actual percentage for those bills in relation to the available case funds.

5. - 6.b.ii. ...

iii. All provider/therapist/s charges are reimbursed at the same hourly rate as out-patient mental health services, that is:

(a). doctoral level providers (e.g. M.D. PhD., PsyD.):\$110/hr;

(b). master's level providers (e.g., L.P.C., L.C.S.W., L.M.F.T.): \$90/hr;

(c). group therapy rates (90 minutes): \$50/session.

6.c. - 11. ...

12. Tattoo removal for victims of human trafficking:

(a). must be performed by board certified physician; or

(b). non-physician acting under direct supervision of a licensed physician.

H. - I.1. ...

2. Limits on Charges

a. For the life of each claim, reimbursable charges may not exceed \$2,500. These limits include the cost of all treatment services and psychological or neuro/psychological evaluations/testing as described in §503.1.8. Victims/claimants may apply for an additional \$2,500 in reimbursement when there is a documented need for long-term mental health services.

b. All applications for extended reimbursement of mental health expenses are subject to peer review by a psychiatrist or psychologist, licensed by the state of Louisiana, consulting with the board which will have a peer review of the following:

i. complete progress notes for crime-related conditions(s) being treated;

ii. any psychological evaluations/testing pertaining to the crime-related condition;

iii. description of prior conditions or treatments;

iv. updated treatment plan.

3. Limits on Evaluation/Testing

a. Psychological evaluation/testing may not exceed \$800 and neuropsychological evaluation/testing may not exceed \$1,500.

b. Any evaluation/testing must be conducted by a licensed psychologist and should include the following:

i. description of any structured interview used;

ii. case formulation and DSM-V diagnoses.

4. Treatment plans completed by the therapist of record (or primary therapist) are required for consideration of mental health expenses. The therapist must show that the psychological condition being treated is a direct result of the crime. Treatment plans must be fully documented in a "problem" and "intervention" format. Detail must be provided for both symptom and intervention. Single word descriptors such as "nightmares" or supporting counseling" will not suffice. Insufficient treatment plans will be returned to the originating therapist and the case may be deferred or denied until revised.

5. Payments for services are subject to review and audit by the board.

6. Rates for Reimbursement

a. Only physicians, psychiatrists, state certified or state licensed psychologists, licensed professional counselors, or board-certified social workers are eligible for reimbursement.

b. The rates for reimbursement shall be:

i. doctoral level providers (e.g. M.D., PhD., PsyD): \$110;

ii. master's level providers (e.g., L.P.C., L.C.S.W., L.M.F.T.): \$ 90/hr;

iii. group therapy rates: (90 minutes) (\$50/session).

7. It is the board's assessment that psychiatric inpatient hospitalization of a crime victim is rarely required. If under unusual circumstances such treatment is required, compensation will be subject to a peer review as previously described. Reimbursement for such treatment is limited in amounts and procedures listed under "medical" services.

8. Any claim for injuries sustained may be denied if prescribed or preempted as a matter of law.

J. Catastrophic Property Loss

1. A maximum award up to \$ 10,000 (\$15,000 for crimes occurring after May 1, 2023) may be awarded if a victim's abode is owned by them and destroyed by criminal act.

2. This loss must produce a "verifiable" overwhelming financial effect for that person.

J.3. - M.1.c. ...

M.2. - M.6. Repealed.

N. Medical Examination of Sexual Assault Victims

1. A healthcare provider can submit a claim for reimbursement for a forensic medical exam performed on a victim of a sexually-oriented criminal offense. The direct reimbursement claim form must be accompanied by the attestation form signed by the forensic medical examiner. The healthcare provider who performs the forensic medical exam will be reimbursed an amount as provided by law. The healthcare facility at which the forensic medical exam was conducted will be reimbursed an amount as provided by law.

2. The reimbursement amounts for the forensic medical exam will cover the services (listed by R.S. 40:1216.1).

3. Healthcare services or expenses ancillary to a forensic medical examination and directly related to the crime may be reimbursed.

O. Crime Scene Cleanup

1. Crime scene cleanup means the removal or attempted removal of blood, stains, odors, broken glass,

impurities or other debris caused by the crime or the processing of the crime scene where the crime occurred.

2. Expenses for crime scene cleanup may not exceed total costs of \$2500.

3. Types of allowable expenses for clean up include:

- a. equipment rental;
- b. disinfecting and cleaning supplies;
- c. professional cleaning services insured for that purpose.

4. Expenses for crime scene cleanup cannot be used for:

- a. property repair;
- b. replacement of personal property;
- c. costs not directly billed to victim and/or claimant.

P. Loss of Support for Victim in Sexual Crimes

1. Loss of support may be paid on behalf of a child victim of a sexual offense if the offender was providing support through employment or a benefits program before the date the crime was committed.

2. Claimant qualifications:

- a. must be a parent, or legal guardian of the minor child(ren);
- b. must provide documented proof that offender supported the home and minor child victim;

c. is only eligible if the offender is incarcerated.

3. The board may award loss of support up to \$10,000 maximum (\$15,000 for crimes occurring after May 1, 2023).

Q. Relocation is for claimants who have to relocate as a result of the crime for reasons of personal safety or other concerns reasonably related to a crime.

1. Relocation expenses are limited up to \$5,000 per head of household for reimbursement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:539 (May 1994), amended LR 22:710 (August 1996), LR 24:328 (February 1998), LR 25:26 (January 1999), LR 26:1019 (May 2000), LR 29:577 (April 2003), LR 31:1330 (June 2005), LR 32:242 (February 2006), LR 35:65 (January 2009), LR:37:1605 (June 2011), LR 39:1042 (April 2013), LR 41:1668 (September 2015), LR 42:570 (April 2016), LR 42:743 (May 2016), LR 44:270 (February 2018), LR 48:40 (January 2022), LR 49:922 (May 2023).

Judy Dupuy
Chair

2305#062

Notices of Intent

NOTICE OF INTENT

Board of Elementary and Secondary Education

Foreign Language and Math Credits
(LAC 28:LXXIX.2317 and 2323;
LAC 28:CXV.2345 and 2353)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education proposes to amend LAC 28:CXV in Bulletin 741—*Louisiana Handbook for School Administrators* and LAC 28:LXXIX in Bulletin 741(Nonpublic)—*Louisiana Handbook for Nonpublic School Administrators*. The revisions establish the effective date for courses for foreign language and math credit to align with TOPS eligibility requirements. The revisions clarify that AP Computer Science A, Computer Science, and Computer Coding as a Foreign Language may be used as a foreign language credit beginning with students graduating during or after the 2026-2027 school year.

Title 28 EDUCATION

Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators Chapter 23. High School Program of Studies

§2317. Foreign Languages

A. The foreign language course offerings shall be as follows.

Course Title	Unit(s)
* * *	
Cambridge AICE—AS (Honors): Japanese	1
AP Computer Science A (effective for students graduating during or after 2026-2027)	1
Computer Science (effective for students graduating during or after 2026-2027)	1
Computer Coding as a Foreign Language I, II (effective for students graduating during or after 2026-2027)	1 each
* * *	

B. AP Computer Science A may be used as either a math or elective credit for students graduating prior to the 2026-2027 school year.

1. For students graduating during or after the 2026-2027 school year and beyond:

a. AP Computer Science A may be used as either a math, elective, or foreign language credit.

b. Computer Science and Computer Coding as a Foreign Language courses may be used as an elective or foreign language credit.

C. - C.1. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2354 (November

2003), amended LR 31:3086 (December 2005), LR 38:770 (March 2012), LR 40:1685 (September 2014), LR 40:2538 (December 2014), LR 45:1458 (October 2019), LR 49:642 (April 2023), LR 49:

§2323. Mathematics

A. ...

* * *

B. ...

C. AP Computer Science A may be used as either a math or elective credit for students graduating prior to the 2026-2027 school year.

D. For students graduating during or after the 2026-2027 school year, AP Computer Science A may be used as either a math, elective, or foreign language credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.1, and R.S. 44:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2354 (November 2003), amended LR 30:2776 (December 2004), LR 31:3086 (December 2005), LR 34:2101 (October 2008), LR 36:2849 (December 2010), LR 38:771 (March 2012), LR 39:1449 (June 2013), LR 40:1685 (September 2014), LR 40:2538 (December 2014), LR 42:1064 (July 2016), LR 49:642 (April 2023), LR 49:

Title 28 EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction Subchapter B. Academic Programs of Study

§2345. Foreign Languages

A. The foreign language course offerings shall be as follows.

Course Title(s)	Units
* * *	
Cambridge AICE—AS (Honors): Japanese	1
AP Computer Science A (effective for students graduating during or after 2026-2027)	1
Computer Science (effective for students graduating during or after 2026-2027)	1
Computer Coding as a Foreign Language I, II (effective for students graduating during or after 2026-2027)	1 each
* * *	

B. - B.6. ...

C. AP Computer Science A may be used as either an elective or math credit for students graduating prior to the 2026-2027 school year.

1. For students graduating during or after the 2026-2027 school year:

a. AP Computer Science A may be used as either a foreign language, elective, or math credit.

b. Computer Science and Computer Coding as a Foreign Language courses may be used as either a foreign language or elective credit.

D. - D.3....

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 273, and R.S. 17:284.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1295 (June 2005), amended LR 36:1996 (September 2010), LR 38:759 (March 2012), LR 38:2364 (September 2012), LR 39:2220 (August 2013), LR 40:998 (May 2014), LR 40:2527 (December 2014), LR 43:2133 (November 2017), LR 43:2484 (December 2017), LR 45:1455, (October 2019), LR 49:643 (April 2023), LR 49:

§2353. Mathematics

A. The mathematics course offerings for the college diploma shall be as follows.

* * *

1. AP Computer Science A may be used as either a math or elective credit for students graduating prior to the 2026-2027 school year.

2. For students graduating during or after the 2026-2027 school year, AP Computer Science A may be used as either a foreign language, math, or elective credit.

B. ...

* * *

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7 and 17:24.4

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1296 (June 2005), amended LR 33:2605 (December 2007), LR 34:1609 (August 2008), LR 35:2322 (November 2009), LR 36:1493 (July 2010), LR 38:760 (March 2012), LR 40:999 (May 2014), LR 40:2527 (December 2014), LR 42:1063 (July 2016), LR 43:2134 (November 2017), LR 44:1868 (October 2018), LR 49:643 (April 2023), LR 49:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, June 9, 2023, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Foreign Language and Math Credits**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated implementation costs or savings to state or local governmental units due to the proposed rule change. This change clarifies the school year during which certain computer science courses may be used to satisfy the TOPS foreign language requirement. The rule change clarifies

that AP Computer Science A, Computer Science, and Computer Coding as a Foreign Language may be used as a foreign language credit beginning with students graduating during or after the 2026-2027 school year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not have an effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No cost and/or economic benefit to directly affected persons, small business, or non-governmental groups is anticipated as a result of this rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not have an effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
2305#032

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Mentor Teacher Waiver (LAC 28:CXXXI.553)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education proposes to amend LAC 28:CXXXI in Bulletin 746—*Louisiana Standards for State Certification of School Personnel*. The aforementioned revision extends the mentor teacher waiver regarding the placement of undergraduate residents and post-baccalaureate candidates with credentialed mentor teachers for the 2023-2024 school year.

Title 28

EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

Chapter 5. Teaching Credentials, Licenses and Certifications

Subchapter C. Ancillary Teaching Certificates

§553. Mentor Teacher (MT) Ancillary Certificate

A. - F.2. ...

G. For the 2020-2021, 2021-2022, 2022-2023, and 2023-2024 school years, the requirement that all undergraduate residents and post-baccalaureate candidates be placed with mentor teachers holding the ancillary mentor teacher certificate, the ancillary provisional mentor teacher certificate, or the Supervisor of Student Teaching certificate, is waived with the following contingencies:

1. - 2.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:3902.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:230 (February 2019), LR 48:442 (March 2022), repromulgated LR 48:1046 (April 2022), LR 48:2099 (August 2022), LR:49

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on rules proposed for adoption,

repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word “poverty” means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, June 9, 2023, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Mentor Teacher Waiver

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no anticipated implementation costs or savings to state or local governmental units due to the proposed rule change to LAC 28:CXXXI in Bulletin 746—*Louisiana Standards for State Certification of School Personnel*. The proposed rule change extends the mentor teacher waiver for the 2023-2024 school year to address the ongoing lack of credentialed mentor teachers in specific content areas and geographic regions. Waivers are granted by the Department of Education (LDOE) on a case-by-case basis at the recommendation of the principal of the mentor teacher in order to provide professional guidance and supervision to undergraduate residents and post-baccalaureate candidates.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on revenue collections of local governmental units due to the proposed rule changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Mentor teachers receive a stipend of \$2,000 for serving as the assigned mentor of record, responsible for supporting an undergraduate or post-baccalaureate resident teacher in level 4 of the MFP formula. Teachers who may not otherwise qualify to serve as mentor teachers may be qualified to serve under the proposed revision, thereby resulting in eligibility to receive the mentor stipend. The extent to which additional mentors will be required is indeterminable. Currently, 2,679 credentialed mentors exist statewide, and while the 2022-2023 need for mentors is estimated at 1,209, availability based on grade level, subject area, and geographic location of the resident teachers is unknown, necessitating the continuation of the waiver.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not have an effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
2305#033

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs and Criminal Investigations Division

Incorporation by Reference of Certain Federal
Air Quality Regulations (LAC 33:III.3101)(AQ394ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.3101 (Log #AQ394ft).

This Rule is identical to federal regulations found in 40 CFR Part 62, Subpart OOO, which are applicable in Louisiana. For more information regarding the federal requirement, contact William Little at (225) 219-3985. No fiscal or economic impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:963.A(2) and (3).

The proposed Rule incorporates by reference (IBR) the corresponding federal regulations included in 40 CFR Part 62, Subpart OOO, May 21, 2021, into the Louisiana Administrative Code (LAC), Title 33, Part III, Air. Exceptions to the IBR are explicitly listed in the proposed Rule.

On May 21, 2021, the Environmental Protection Agency (EPA) issued 40 CFR Part 62, Subpart OOO - Federal Plan Requirements for Municipal Solid Waste Landfills that commenced construction on or before July 17, 2014 and have not been modified or reconstructed since July 17, 2014.

In order for Louisiana to maintain equivalency with federal regulations, the most current Code of Federal Regulations must be adopted into the Louisiana Administrative Code. This rulemaking is necessary to maintain delegation, authorization, etc. granted to Louisiana by the EPA. The basis and rationale for this proposed Rule are to mirror the federal regulations as they apply to Louisiana's affected sources. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:963(B)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 31. Incorporation of Federal Plans for Designated Facilities and Pollutants

Subchapter A. Incorporation by Reference

§3101. Incorporation by Reference of 40 CFR Part 62, Subpart OOO (Federal Plan Requirements for Municipal Solid Waste Landfills That Commenced Construction On or Before July 17, 2014 and Have Not Been Modified or Reconstructed Since July 17, 2014)

A. Federal plan requirements published in the *Code of Federal Regulations* at 40 CFR 62, Subpart OOO, May 21,

2021, are hereby incorporated by reference as they apply to sources in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 49:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

This Rule has no known impact on small business as described in R.S. 49:974.1 - 974.8.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Hearing

A public hearing will be held via Zoom on June 27, 2023, at 1:30 p.m. Interested persons are invited to attend and submit oral comments via PC, Mac, Linux, iOS, or Android at <https://deqlouisiana.zoom.us/j/87319253187?pwd=aUN6Vm9aQW5ndkRndWorM1pKdWxvQT09>, or telephone by dialing (636) 651-3182 using the conference code 725573. Should individuals with a disability need an accommodation in order to participate, contact William Little at the address given below, or (225) 219-3985.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ394ft. Such comments must be received no later than June 27, 2023, at 4:30 p.m., and should be sent to William Little, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, P.O. Box 4302, Baton Rouge, LA 70821-4302, fax (225) 219-4068, or by E-mail to DEQ.Reg.Dev.Comments@la.gov. Copies of these proposed regulations can be purchased by contacting the LDEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ394ft. These proposed regulations are available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Courtney J. Burdette
Executive Counsel

2305#025

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Legal Affairs and Criminal Investigations Division**

**Standards Governing Landfills (Type I and II)
(LAC 33:VII.711)(SW071)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Solid Waste regulations, LAC 33:VII.711 (SW071).

This Rule updates regulations governing leachate collection and removal systems for industrial and municipal landfills. These proposed regulations establish and clarify procedures, standards, requirements, and records for the measurement, collection, and control of leachate. This Rule requires record keeping of leachate systems and provides timelines to repair leachate collection systems and components in accordance with applicable regulations. The basis and rationale for this Rule are to ensure collection and treatment of leachate and to provide compliance timelines for a leachate collection system in accordance with applicable regulations. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:963.B(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 7. Solid Waste Standards

Subchapter A. Landfills, Surface Impoundments, and/or Landfarms

§711. Standards Governing Landfills (Type I and II)

A. - B.4.f.vii. ...

viii. The leachate head shall be maintained in a pumped-down condition such that not more than 1 foot of head shall exist above the lowest elevation of the leachate collection lines. Compliance with the 1 foot leachate head standard shall be achieved by compliance with LAC 33:VII.711.D.3.e. and f, and the provisions of the facility operational plan that address LAC 33:VII.711.D.2.g.-i.

B.4.f.ix. - C.2.c.xi. ...

xii. records on the leachate head, volume(s), and results of the leachate sampling;

xiii. - xv. ...

xvi. post-closure monitoring reports;

xvii. copies of all documents received from and submitted to the department;

xviii. records on leachate pump tests; and

xix. records of action(s) taken under LAC 33:VII.711.D.2.i.

C.3. - D.2.f. ...

g. the methods that will be used to ensure that the leachate collection/treatment system is functioning as designed including, but not limited to:

i. the testing and inspection of system components;

ii. the repair and/or replacement of system components; and

iii. the time frame for such repair and/or replacements;

h. the measuring protocol, frequency, and recordkeeping used to monitor leachate head and how the leachate will be removed and transported to the treatment facility; and

i. the actions to be taken when monitoring indicates leachate head exceeds the standard in LAC 33:VII.711.B.4.f.viii.

3. - 3.d....

e. Leachate Pumps

i. Leachate pumps shall be tested at least weekly, maintained, and operated to ensure compliance with LAC 33:VII.711.B.4.f.viii.

ii. Testing results shall be documented within 24 hours and maintained in accordance with LAC 33:VII.711.C.2.a-c.

iii. For nonfunctioning leachate pumps and/or not maintaining liquid head below the 1 foot leachate head standard set forth in LAC 33:VII.711.B.4.f.viii, action to repair and/or to replace pumps shall be initiated and completed within seven days, or as otherwise approved by the administrative authority.

iv. Any request for an extension under LAC 33:VIII.711.D.3.iii shall be submitted for approval to the Office of Environmental Services and shall at a minimum include:

(a). reason(s) for the extension; and

(b). estimated time for repair or replacement, including supporting documentation.

f. Leachate Head Monitoring

i. Leachate head shall be monitored and recorded:

(a). in accordance with the facility operational plan at least every normal operating day; or

(i). as otherwise approved by the administrative authority for cells without final cover; and

(b). at least every seven days for cells that have received final cover.

ii. If monitoring of leachate head shows an exceedance of more than 1 foot of head above the lowest elevation of the leachate collection lines under the facility operational plan, action shall be taken in accordance with LAC 33:VII.711.D.2.i.

D.4. - F.3.d. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), repromulgated LR 19:1316 (October 1993),

amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2523 (November 2000), repromulgated LR 27:704 (May 2001), amended LR 30:1676 (August 2004), amended by the Office of Environmental Assessment, LR 30:2024 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2492 (October 2005), LR 33:1047 (June 2007), LR 33:2145 (October 2007), LR 34:1901 (September 2008), LR 37:1564 (June 2011), LR 37:3248 (November 2011), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division LR 49:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

This Rule has no known impact on small business as described in R.S. 49:974.1 - 974.8.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by SW071. Such comments must be received no later than July 4, 2023, at 4:30 p.m., and should be sent to William Little, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, P.O. Box 4302, Baton Rouge, LA 70821-4302, fax (225) 219-4068, or by E-mail to DEQ.Reg.Dev.Comments@la.gov. Copies of these proposed regulations can be purchased by contacting the LDEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of SW071. These proposed regulations are available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held via Zoom on June 27, 2023, at 1:30 p.m. Interested persons are invited to attend and submit oral comments via PC, Mac, Linux, iOS, or Android at <https://deqlouisiana.zoom.us/j/87319253187?pwd=aUN6Vm9aQW5ndkRndWorM1pKdWxvQT09>, or telephone by dialing (636) 651-3182 using the conference code 725573. Should individuals with a disability need an accommodation in order to participate, contact William Little at the address given below, or (225) 219-3985.

These proposed regulations are available for inspection at the following LDEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Courtney J. Burdette
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Standards Governing Landfills

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs or savings to state or local governmental units as a result of the proposed rule change. The proposed rule change establishes and clarifies procedures, standards, requirements, and records for measuring, collecting, and controlling leachate. The proposed rule changes require record keeping of leachate systems and provides timelines to repair leachate collection systems and components in accordance with applicable regulations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units resulting from this proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change may cause additional burden to landfill operators to record and maintain leachate collection systems. The department anticipates the economic impact to landfill operators to be minimal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effects on competition are anticipated.

Courtney J. Burdette
Executive Counsel
2305#024

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Board of Dentistry**

Dentists; Continuing Education Requirements
(LAC 46:XXXIII.122, 301, 1509 and 1709)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760 (8), notice is hereby given that the Department of Health, Board of Dentistry intends to amend LAC 46:XXXIII.122, .301, .1509, and .1709.

LAC 46:XXXIII.122 provides a list of the specialties the board approves, but also has a catch all category that provides that any area of dentistry for which a dentist has completed a post-doctoral program consisting of at least two full-time years and which program is accredited by a dental accreditation agency that is recognized by the United States Department of Education will be recognized as a specialty field. The Board of Dentistry is amending LAC 46:XXXIII.122 to remove the list and simply have the catch all category as a definition for specialties.

LAC 46:XXXIII.301 provides a list of the specialties the board approves, but also has a catch all category that provides that any area of dentistry for which a dentist has completed a post-doctoral program consisting of at least two full-time years and which program is accredited by a dental accreditation agency that is recognized by the United States Department of Education will be recognized as a specialty field. The Board of Dentistry is amending LAC

46:XXXIII.301 to remove the list and simply have the catch all category as a definition for specialties.

The Board of Dentistry is amending LAC 46:XXXIII.1509 to clarify that any dentist with a sedation permit can provide sedation services to another dentist to the level allowed by the permit.

The Board of Dentistry is amending LAC 46:XXXIII.1709 to change the number of years that examination scores are valid for initial licensure from three years to five years following the candidate's successful completion of an accepted licensing examination.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Profession

Chapter 1. General Provisions

§122. Scopes of Practice

A. The board approves any specialty of dentistry for which a dentist has completed a post-doctoral program consisting of at least two full-time years and which program is accredited by a dental accreditation agency that is recognized by the United States Department of Education.

B. - C. ...

1. The board finds that terms implying that a dentist is a specialist in some field of dentistry are terms of art indicating that the dentist has completed an accredited postdoctoral educational program in that field of at least two years. Therefore, a licensed dentist seeking specialty recognition must have successfully completed a post-doctoral program in a specialty area of dentistry consisting of at least two full-time years and which is accredited by a dental accreditation agency that is recognized by the United States Department of Education.

2. The requirements of Paragraph C.1 of this Section shall not apply to otherwise qualified specialists who have announced their ADA approved specialty prior to the date of initial promulgation of this rule in 1998.

3. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1114 (June 1998), amended LR 28:1776 (August 2002), LR 28:2512 (December 2002), amended by the Department of Health, Board of Dentistry, LR 43:1963 (October 2017), LR 49:

Chapter 3. Dentists

§301. Advertising and Soliciting by Dentists

A. - B. ...

C. The board approves any specialty of dentistry for which a dentist has completed a post-doctoral program consisting of at least two full-time years and which program is accredited by a dental accreditation agency that is recognized by the United States Department of Education.

D. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Dentistry, December 1970, amended 1971, amended and promulgated LR 13:179 (March 1987), amended by Department of Health and Hospitals, Board of Dentistry, LR 15:966 (November 1989), LR 18:739 (July 1992), LR 20:657 (June 1994), LR 21:567 (June 1995), LR 22:23 (January 1996), LR 22:1215 (December 1996), repromulgated LR 23:199

(February 1997), amended LR 23:1524 (November 1997), LR 25:509 (March 1999), LR 25:1476 (August 1999), LR 26:690 (April 2000), LR 27:1890 (November 2001), LR 28:1776 (August 2002), LR 28:2512 (December 2002), LR 30:2305 (October 2004), LR 32:243 (February 2006), LR 37:2150 (July 2011), LR 42:872 (June 2016), amended by the Department of Health, Board of Dentistry, LR 43:1963 (October 2017), LR 49:

Chapter 15. Anesthesia/Analgesia Administration
§1509. Third-Party Sedation/Anesthesia

A. Sedation and/or general anesthesia may be performed in a dental office in conjunction with dental work when the dentist utilizes the services of a third-party Louisiana-licensed physician who specializes in anesthesiology, a third-party Louisiana-licensed certified registered nurse anesthetist, or a Louisiana-licensed dentist with an appropriate sedation permit for the level of anesthesia to be achieved provided that the third-party anesthetist must remain on the premises of the dental facility until any patient given sedation is recovered.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 42:54 (January 2016), amended by the Department of Health, Board of Dentistry, LR 43:48 (January 2017), LR 49:

Chapter 17. Licensure Examination
§1709. Examination of Dentists

A. - B.2. ...

C. Examination scores are valid for initial licensure for five years following the candidate's successful completion of an accepted licensing examination. The examinations accepted by the Board of Dentistry for initial licensure by examination are as follows:

C.1. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998), amended LR 28:2513 (December 2002), LR 33:2654 (December 2007), LR 37:1407 (May 2011), LR 37:2151 (July 2011), LR 37:3516 (December 2011), repromulgated LR 38:356 (February 2012), amended LR 38:1959 (August 2012), LR 39:86 (January 2013), LR 39:1282 (May 2013), LR 40:783 (April 2014), amended by the Board of Dentistry, LR 42:1622 (October 2016), amended by the Department of Health, Board of Dentistry, LR 44:48 (January 2018), LR 49:

Family Impact Statement

There will be no family impact in regard to issues set forth in R.S. 49:972.

Poverty Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;

5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed rulemaking should not have any know or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect of the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comment

Interested persons may submit written comments on these proposed rule changes to Arthur Hickham, Jr., Executive Director, Louisiana State Board of Dentistry, P.O. Box 5256, Baton Rouge, Louisiana, 70821. Written comments must be submitted to and received by the Board within 20 days of the date of the publication of this notice. A request pursuant to R.S. 49:953 (A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board within 20 days of the date of the publication of this notice.

Public Hearing

A request pursuant to R.S. 49:953 (A)(2) for oral presentation, argument, or public hearing must be in writing and received by the board within 20 days of the date of the publication of this notice.

Arthur Hickham, Jr.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Dentists; Continuing
Education Requirements**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will result in a one-time SGR expenditure of \$500 in FY 23 and \$300 in FY 24 for the LA State Board of Dentistry (LSBD) to publish the notice of intent and proposed rule revision in the Louisiana Register. The proposed rule change will not affect expenditures of local governmental units.

The proposed rule change increases the number of years that examination scores are valid for initial licensure from three years to five years following the candidate's successful completion of an accepted licensing examination. The proposed rule change also removes extraneous and redundant language.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Dentists who take a licensing examination immediately after graduation from dental school but do not apply for a license immediately because they are doing a residency may now avoid the possibility of having to retake the examination

after their residency because the licensing examination will now be valid for five years instead of just three.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not impact competition or employment.

Arthur Hickham, Jr.
Executive Director
2305#013

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Board of Optometry

Continuing Education (LAC 46:LI.301)

In accordance with the provisions of R.S. 37:1048 and the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Optometry Examiners proposes to amend current standards for continuing education. The proposed amendments to LAC 46:LI.301 is in response to the necessity of online learning options following the Covid-19 pandemic and advancements in technology, and in consideration of other public health emergencies, including the necessity to provide adequate access to optometry services. These amendments will broaden the options available to Optometrists licensed in Louisiana regarding the continuing education courses they are able to take to meet the requirements for licensure renewal.

These amendments to LAC 46:LI.301 will increase access to continuing education for licensed optometrists in Louisiana. These amendments add additional approved sources of continuing education that will increase the amount of approved continuing education providers and provide additional online learning options with advancements in technology and will help increase ADA accessibility.

The impact of this amendment will ultimately offer improved eye care to consumers based on increasing access to continuing education courses that licensed optometrists can take to meet the requirements for license renewal.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LI. Optometrists

Chapter 3. License

§301. Continuing Education

A. ...

1. Standard optometry license holders and diagnostic pharmaceutical certificate holders shall complete between January 1 and December 31 of each calendar year at least 12 hours of continuing education courses, of which a minimum of six hours must be obtained in a classroom setting, approved by the Louisiana State Board of Optometry Examiners or any course accredited by the Council on Optometric Practitioner Education; provided, however, a minimum of eight hours must be obtained in a classroom setting in the calendar year in which an optometrist holding a controlled dangerous substance license satisfies the one-time continuing education requirement for controlled dangerous substances set forth in §303.

2. License holders authorized to diagnose and treat pathology and use and prescribe therapeutic pharmaceutical agents shall complete between January 1 and December 31 of each calendar year at least 16 hours of continuing education courses, of which a minimum of eight hours must be obtained in a classroom setting (allowing eight hours to be obtained outside of the classroom setting and applied to the required non-therapeutic hours, including asynchronous and non-interactive courses, from an approved source), approved by the Louisiana State Board of Optometry Examiners or any course accredited by the Council on Optometric Practitioner Education of which at least eight therapeutic classroom hours shall consist of matters related to ocular and systemic pharmacology and current diagnosis and treatment of ocular disease; provided, however, a minimum of eight hours must be obtained in a classroom setting in the calendar year in which an optometrist holding a controlled dangerous substance license satisfies the one-time continuing education requirement for controlled dangerous substances set forth in §303. Such certificate holders will be entitled to their required annual continuing education, provided that such CPR continuing education shall not count toward the required eight classroom hours related to ocular and system pharmacology and current diagnosis and treatment of ocular diseases, and provided further that no more than two hours of CPR continuing education may be applied to the continuing education relating to ocular and systemic pharmacology and/or current diagnosis and treatment of ocular disease shall be obtained solely from the following:

- a. the American Optometric Association;
- b. any state optometric association affiliated with the American Optometric Association;
- c. Great Western Council of Optometry, North Central States Optometric Council, and Southern Council of Optometrists;
- d. the American Academy of Optometry;
- e. schools and colleges of optometry accredited by the American Optometric Association Accreditation Council on Optometric Education;
- f. any course accredited by the Council on Optometric Practitioner Education; or
- g. National Optometric Association.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:631 (April 2006), amended LR 35:1111 (June 2009), LR 38:1590 (July 2012), amended by the Department of Health, Board of Optometry Examiners, LR 44:1248 (July 2018), amended LR 46:23 (January 2020), LR 49:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has a positive impact on family functioning, stability, or autonomy as described in R.S. 49:972 by allowing additional approved sources and more online hours options with advancements in technology to increase ADA accessibility.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as

defined by R.S. 49:973.B. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits.

Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule.

This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Taggart Morton 1100 Poydras St. suite 2100 New Orleans LA 70163 Attention Mr. Herbert. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

Interested parties may submit a written request to conduct a public hearing to Louisiana State Board of Optometry Examiners attention Mr. Herbert via US mail to 1100 Poydras St. Suite 2100 New Orleans, Louisiana 70163. Request must receive no later than 3 p.m. on Friday, June 9, 2023. If the criteria set forth are met a public hearing on this proposed Rule is scheduled for 10 a.m. on June 27 at 1100 Poydras street New Orleans, LA 70163. At that time all interested persons will be afforded an opportunity to submit data, views, or arguments orally or in writing at said hearing.

David Heitmeier, O.D.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Continuing Education

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is expected to have no fiscal impact to state and local governmental units other than the cost of promulgation. The Board of Optometry will incur an estimated cost of \$426 in FY 23 for the publishing of the notice of intent and \$320 in FY 24 for the publishing of the final rule.

The proposed change allows licensed optometrists to complete an increased number of Continuing Education (CE) hours online. Additionally, the proposed change expands the number of available CE courses by allowing licensed optometrists to use courses approved by the Council on Optometric Practitioner Education (COPE) to satisfy their CE requirements.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is expected to have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will increase access to CE for licensed optometrists in Louisiana. This revision may also result in lower costs by providing additional options to optometrists for CE courses. This will ultimately benefit the public and eye care patients in Louisiana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will result in additional competition and oversight to optometric professional education by allowing all sources of accredited CE approved by the Council on Optometric Practitioner Education (COPE), as well as courses provided by the National Optometric Association and schools and colleges of optometry accredited by the American Optometric Association Accreditation Council on Optometric Education.

David Heitmeier, O.D.
Executive Director
2306#022

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Early and Periodic Screening, Diagnosis and Treatment
School-Based Health Services
(LAC 50:XV.Chapter 95)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XV.Chapter 95 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. The proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing school-based health services in the Early and Periodic, Screening and Diagnosis and Treatment (EPSDT) Program in order to reflect the current reimbursement methodology, include criteria for determining medical necessity, and modify service exclusion to match the 2019 program expansion provisions which will align the administrative rule with the corresponding State Plan amendment approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis and Treatment

Chapter 95. School-Based Health Services

Subchapter A. School-Based Health Service Program

Guidelines

§9501. General Provisions

A. EPSDT school-based medical services are provided pursuant to a written plan of care and provided by licensed medical providers within a local education agency (LEA) to Medicaid beneficiaries ages 3 to 21 with or suspected of having a disability. The goal of these services is to prevent or mitigate disease, enhance care coordination, and reduce costs by preventing the need for tertiary care. Providing these services in the school increases access to health care for children and youth resulting in a more efficient and effective delivery of care.

B. School-based medical services shall be covered for all beneficiaries in the school system who are eligible according to Subsection A above. Medical necessity criteria shall be determined according to the provisions of LAC 50:I.Chapter 11.

C. Medically necessary services are defined as those health care services that are in accordance with generally accepted evidence-based medical standards or that are considered by most physicians (or other independent licensed practitioners) within the community of their respective professional organizations to be the standard of care.

1. In order to be considered medically necessary, services must be:

a. deemed reasonably necessary to diagnose, correct, cure, alleviate, or prevent the worsening of a condition or conditions that endanger life, cause suffering or pain, or have resulted or will result in a handicap, physical deformity or malfunction; and

b. those for which no equally effective, more conservative and less costly course of treatment is available or suitable for the beneficiary.

2. Any such services must be individualized, specific and consistent with symptoms or confirmed diagnosis of the illness or injury under treatment, and neither more nor less than what the beneficiary requires at that specific point in time.

3. Although a service may be deemed medically necessary, it does not mean the service will be covered under the Medicaid Program. Services that are experimental, non-FDA approved, investigational or cosmetic are specifically excluded from Medicaid coverage and will be deemed not medically necessary.

4. The Medicaid director, in consultation with the Medicaid medical director, may consider authorizing services at his/her discretion on a case-by-case basis.

D. All service providers providing EPSDT school-based medical services are required to maintain an active license that is necessary for the applicable service within the state of Louisiana.

E. All participating LEAs are required to maintain an active status with Medicaid. Should an LEA's Medicaid provider number become inactive or one LEA from a group

that shares a tax identification becomes inactive, it may cause the entire cost report to be denied and the cost settlement forfeited.

F. Effective for the fiscal year ended June 30, 2021 cost report year, the individual cost settlement amounts for each program (therapy services, behavioral health services, nursing services, personal care services, and other medical direct services) will be combined into one cost settlement for the LEA. Settlement letters will be sent to the LEA with the individual final cost reports for its records. Medicaid administrative claiming (MAC) cost reports are derived by using the MAC-related time study results and cost related to each of the EPSDT programs. All costs will have been certified by the LEA with the EPSDT cost report, so no additional signatures or certifications are required for MAC. Therefore, MAC cost reports shall remain separate.

1. - 2. Repealed.

G. LEAs that terminate business must notify the Louisiana Medicaid fiscal intermediary, immediately. Instructions will need to be provided to Department of Health/Rate Setting and Audit and/or Department of Education as to the final disposition of cost settlements and previous dollars owed to or from Louisiana Medicaid.

1. For LEAs that transfer to new management companies and owe the department, the new owners shall assume all obligations of repayment for the new LEA. Overpayments will be recouped from future earnings of the new management company.

2. For separating LEAs that are owed reimbursements, the department will cut a supplemental check to the LEA or the new management company. However, failure to provide instructions to the department within 10 days of closure may result in forfeiture of payment.

3. Repealed.

H. Dollars owed will be assessed to all future cost settlements for the LEA and will be applied to the earliest cost report year with an overpayment. For example, if an LEA has an overpayment for nursing services and an amount due to them for therapy services, the payment for therapy services will be applied to the LEA's overpayment for the nursing services. The net balance from this offset will:

1. be used to offset overpayments in other periods (from oldest period moving forward to the current period);

2. create a net overpayment that will be carried forward and offset against future billings and/or payments; and

3. be remitted to the LEA.

I. Service Exclusion. Services are not covered if they are performed for educational purposes (e.g., academic testing) or determined not medically necessary. Medicaid does not reimburse for social or educational needs.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:2760 (October 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1298 (August 2016), LR 45:561 (April 2019), LR 47:738 (June 2021), LR 49:

§9503. Covered Services

A. The following medically necessary services provided by local education agencies (LEAs) are reimbursable when included on a beneficiary's individualized service plan (IEP), a section 504 accommodation plan, an individualized

health care plan, or a medical need based written plan of care:

1. medical and remedial behavioral health care including applied behavior analysis (ABA);
2. personal care services;
3. physical therapy;
4. occupational therapy;
5. speech therapy/pathology; and
6. audiology;

B. Medically necessary services shall be provided by local education agencies (LEAs) that correct or ameliorate a child's health condition.

C. Services must be performed by qualified providers as set forth in the State Plan following Louisiana scope of practice laws for the respective provider furnishing services.

1. Services rendered by certified school psychologists must be practicing under the supervision of a licensed psychologist consistent with R.S. 17:7.1.

2. Licensed master social workers or certified master licensed social worker must practice under the supervision of a licensed clinical social worker.

D. LEAs are responsible for proper medical documentation and record keeping. Services shall promote appropriate continuity of care.

E. The following services are covered for any EPSDT eligible beneficiary in schools.

1. EPSDT Program Periodicity Schedule for Screenings. Qualified individuals employed by a school district may perform any of these screens within their licensure. The results of these screens must be made available as part of the care coordination plan of the district. The screens shall be performed according to the periodicity schedule including any inter-periodic screens.

2. EPSDT Medical/Nursing Assessment/Evaluation Services. A licensed health care provider employed by a school district may perform services to protect the health status of children and correct health problems. These services may include health counseling and triage of childhood illnesses and conditions.

a. Consultations are to be face-to-face contact in one-on-one sessions. These are services for which a parent would otherwise seek medical attention at a physician or health care provider's office. Telemedicine/telehealth is not a covered service, but is an applicable service delivery method. When otherwise covered by Louisiana Medicaid, telemedicine/telehealth is allowed for all CPT codes located in Appendix P of the CPT manual. This service is available to all Medicaid individuals eligible for EPSDT.

F. Policy transmittals, State Plan amendments, regulations, provider bulletins, provider manuals, and fee schedules, issued by the department are the final authority regarding services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:2760 (October 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 45:562 (April 2019), LR 47:738 (June 2021), LR 49:

§9505. Reimbursement Methodology

A. Cost Reporting. Settlement payments for EPSDT school-based medical direct, therapy, behavioral health, and PCS services shall be based on the most recent school year's

actual costs as determined by desk review and/or audit for each LEA provider.

1. Each LEA shall determine cost annually by using LDH's cost report for medical service cost form based on the direct services cost report.

2. Direct costs shall be limited to the amount of total compensation (salaries, vendor payments and fringe benefits) of current medical service providers as allocated to medical services for Medicaid beneficiaries. There are no additional direct costs included in the rate.

3. ...

4. To determine the amount of EPSDT services costs that may be attributed to Medicaid; the ratio of total Medicaid students in the LEA is multiplied by total direct (direct plus indirect) cost. Cost data are subject to certification by each LEA. This serves as the basis for obtaining federal Medicaid funding.

B. Licensed master social workers practicing under the supervision of a licensed clinical social worker, and certified school psychologist practicing under the supervision of a licensed psychologist that has the authority to practice in the community/outside of schools will be required to show proof of verification when the cost report is monitored.

1. - 6. Repealed.

C. For the EPSDT services the participating LEA's actual cost of providing the services shall be claimed for Medicaid federal financial participation (FFP) based on the following methodology.

1. Develop Direct Cost—The Payroll Cost Base and Vendor Cost Base. The state shall gather actual expenditure information for each LEA through its employee payroll/benefits and vendor accounts payable system. Total annual salaries and benefits paid, as well as contracted (vendor) payments, shall be obtained initially from each LEA's payroll/benefits and accounts payable system. This data shall be reported on LDH's direct services cost report form for all direct service personnel (i.e., all personnel providing LEA medical services covered under the state plan).

2. Adjust the Payroll and Vendor Cost Base. The payroll and vendor cost base shall be reduced for amounts reimbursed by non-state and local funding sources (e.g., federal grants). The payroll and vendor cost base shall not include any amounts for staff whose compensation is 100 percent reimbursed by a funding source other than state/local funds. This application results in total adjusted employee salary and vendor cost.

3. Determine the Percentage of Time to Provide All EPSDT Services. A time study, which incorporates the CMS-approved Medicaid administrative claiming (MAC) methodology for direct service employees, shall be used to determine the percentage of time EPSDT service providers spend on EPSDT direct services and general and administrative (G and A) time. This time study will assure that there is no duplicate claiming. The G and A percentage shall be reallocated in a manner consistent with the CMS-approved Medicaid administrative claiming methodology. Total G and A time shall be allocated to all other activity codes based on the percentage of time spent on each respective activity. To reallocate G and A time to EPSDT services, the percentage of time spent on EPSDT services shall be divided by 100 percent minus the percentage of G

and A time. This shall result in a percentage that represents the EPSDT services with appropriate allocation of G and A. This percentage shall be multiplied by total adjusted salary cost as determined by the adjusted payroll cost base to allocate cost to school-based services. The product represents total direct cost.

a. A sufficient amount of EPSDT service providers' time shall be sampled to ensure results that will have a confidence level of at least 95 percent with a precision of plus or minus 5 percent overall.

b. Time study moments are to be completed and submitted by all participating LEA participants. Participants will have 48 hours (not counting weekends or holidays) from the time of the moment to complete each moment. Reminder emails will be sent to the participant and the Medicaid coordinator each morning until the moment expires. Once a time study moment has expired, it will no longer be able to be completed and will be deemed not returned. Any LEA that fails to return at least 85 percent of its moments from the time study for two quarters in a cost report year for any program, will be suspended from that program for the entire cost report year.

c. Unsupported Time Study Moments. LEAs will be penalized the lesser of \$1,000 times the number of unsupported moments or 50 percent of their cost report. This only applies to LEAs that cannot support at least 50 percent of the moments selected for testing.

d. The time study percentage used for cost reimbursement calculation is an average of the four quarterly statewide time study results for each school-based Medicaid program. LEAs must participate in all four time study quarters to be reimbursed all costs for the fiscal year. Any LEA that does not submit a cost report for any program for which any billings were submitted will be required to pay back any billing dollars received for that cost report year. This will be handled in the school based claiming cost settlement process.

e. Vendors are not subject to the time study process. Vendors are only at a school to provide the direct service enumerated in the contract. Vendors are not expected to perform G and A tasks and will be reimbursed based on a rate per service. This rate per service should include all direct and indirect costs. The rate per service should cover the time spent providing the direct service, administrative time and any other time related to tasks related to that service.

4. Determine Indirect Costs. Indirect costs shall be determined by multiplying each LEA's indirect unrestricted rate assigned by the cognizant agency (the Department of Education) by total adjusted direct cost. No additional indirect costs shall be recognized outside of the cognizant agency's indirect rate. The sum of direct costs and indirect costs shall be the total direct service cost for all students receiving EPSDT services.

D. Allocate Direct Service Costs to Medicaid. To determine the costs that may be attributed to Medicaid, total direct service cost (employee and vendor) shall be multiplied by the ratio of Medicaid enrolled students in the LEA to all students in the LEA. This results in total cost that may be certified as Medicaid's portion of school-based EPSDT services cost. The Medicaid enrolled student ratio is calculated one time in each cost report year. This calculation

is based on the statewide student count performed in October each year.

1. - 9. Repealed.

E. Reconciliation of LEA Certified Costs and Medicaid Management Information System (MMIS) Paid Claims. Each LEA shall complete applicable service cost report(s) and submit the cost report(s) no later than five months after the fiscal year period ends (June 30), and reconciliation should be completed within 12 months from the fiscal year end. All filed cost reports shall be subject to desk review by the department's audit contractor. The department shall reconcile the total expenditures (both state and federal share) for each LEA's therapy, behavioral health services, personal care services, nursing services, and other medical direct services. The Medicaid certified cost expenditures from the cost report(s) will be reconciled against the MMIS paid claims data and the department shall issue a notice of final settlement, after all reviews, that denotes the amount due to or from the LEA. This reconciliation is inclusive of all services provided by the LEA.

F. Interim Billing. The Centers for Medicare and Medicaid Services (CMS) requires each LEA to bill for all Medicaid services provided. CMS and the Office of Inspector General (OIG) rely on interim billing data for documentation of the number of services provided by each LEA and gives them a mechanism to compare the cost reimbursed to the number of services being provided. If there are no claim submissions within an 18 month period, Medicaid management information system (MMIS) automatically terminates eligibility of a provider number making the LEA Medicaid ineligible. Any LEA that is Medicaid ineligible will have all interim claims denied and its cost report for all programs in which the LEA participated will be rejected.

G. Cost Settlement Process. As part of its financial oversight responsibilities, the department shall develop a risk assessment and an audit plan to ensure cost reasonableness and accuracy in accordance with current CMS guidelines. Based on the audit plan, the department will develop agreed upon procedures to review and process all final settlements to LEAs. The agreed upon procedures will be performed to review cost reports submitted by LEAs.

1. The financial oversight of all LEAs shall include reviewing the costs reported on the EPSDT services cost report against the allowable costs, performing desk reviews and conducting limited reviews.

2. The department will make every effort to audit each LEA at least every four years. These activities shall be performed to ensure that audit and final settlement occurs no later than two years from the LEA's fiscal year end for the cost reporting period audited. LEAs may appeal audit findings in accordance with LDH appeal procedures.

3. The department shall adjust the affected LEA's payments no less than annually, when any reconciliation or final settlement results in significant underpayments or overpayments to any LEA. By performing the reconciliation and final settlement process, there shall be no instances where total Medicaid payments for services exceed 100 percent of actual, certified expenditures for providing LEA services for each LEA.

4. If the interim payments exceed the actual, certified costs of an LEA's Medicaid services, the department shall

recoup the overpayment from current and following years cost report settlement until the amount due is zero.

5. If the actual certified costs of an LEA's Medicaid services exceed interim Medicaid payments, the department will pay this difference to the LEA in accordance with the final actual certification agreement.

6. Type 1 and 3 charter schools in Orleans Parish will be required to submit acceptable documentation (board minutes, letter from the school board, etc.) that authorizes the charter to act as its own LEA, upon enrollment. Likewise, in order to receive a cost settlement, confirmation that the authorization is still in good standing with the school board will be required to accompany the submission of the cost report. Failure to provide this documentation at the time the cost report is filed may cause the cost report to be rejected and not be considered as timely filed.

H. Delinquent Cost Report Penalty. Cost reports must be submitted annually. In order to be eligible to submit a cost report, LEAs must participate in all four time study quarters for the fiscal year.

1. The due date for filing annual cost reports is November 30. There shall be no automatic extension of the due date for filing of cost reports. If an LEA experiences unavoidable difficulties in preparing its cost report by the prescribed due date, one 30-day extension may be permitted, upon written request submitted to the department or its designee prior to the due date. The request must explain in detail why the extension is necessary. Extensions beyond 30 days may be approved for situations beyond the LEA's control.

2. Delinquent cost reports that have not been received by November 30 and an extension was not received, will be deemed non-compliant and may be subject to a non-refundable reduction of 5 percent of the total cost settlement. This reduction may be increased an additional 5 percent each month until the completed cost report is submitted or the penalties total 100 percent. LEAs that have not filed their cost report by six months or more beyond the due date cannot bill for services until the cost report is filed.

I. State Monitoring. If the department becomes aware of potential instances of fraud, misuse or abuse of LEA services and Medicaid funds, it will perform timely audits and investigations to identify and take necessary actions to remedy and resolve the problem.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:2761 (October 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 45:562 (April 2019), LR 47:739 (June 2021), LR 49:

§9507. Local Education Agency Responsibilities

A. The LEA shall ensure that its licensed and unlicensed EPSDT service professionals are employed or contracted according to the requirement specified under the Individuals with Disabilities Education Act (IDEA).

B. LEAs shall ensure that individual professional requirements are in compliance with Medicaid qualifications, Department of Education Bulletin 746, and Louisiana Standards for State Certification of School Personnel prior to an LEA billing for any services of a clinician under Medicaid.

C. Anyone providing EPSDT services must operate within their scope of practice license or certification under the supervision of a licensed practitioner. Licensed practitioners assume professional liability for unlicensed/certified practitioners under their supervision and within their scope of practice. The provider shall create and maintain documents to substantiate that all requirements are met.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:

Subchapter B. School-Based EPSDT Transportation Services

§9511. General Provisions

A. A special transportation trip is only billable to Medicaid on the same day that a Medicaid-eligible child is receiving a Medicaid Service included in the child's individualized service plan (IEP). Transportation shall be provided on a specially adapted bus. The need for transportation must be documented in the child's IEP.

B. ...

C. Local education agency responsibilities shall be followed in accordance with §9507.

D. Service Exclusion. Transportation services are not covered if performed for educational purposes (e.g., academic testing) or, as the result of the assessment and evaluation, it is determined the service is not reflected in an IEP. Medicaid does not reimburse for social or educational needs.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:563 (April 2019), amended LR 47:740 (June 2021), LR 49:

§9515. Reimbursement Methodology

A. Medically necessary specialized transportation that is included on the student's IEP, provided by LEAs to beneficiaries under age 21 is reimbursed based on the most recent school year's actual cost as determined by desk review and/or audit for each LEA provider. Each LEA shall determine cost annually by using LDH's specialized transportation cost report form. There is no time study for the transportation program.

1. Direct cost shall be the cost of fuel, repairs and maintenance, rentals, contracted vehicle use cost and the amount of total compensation (salaries, vendor payments, and fringe benefits) of specialized transportation employees or contract cost for contract drivers, as allocated to special transportation services for Medicaid beneficiaries. There are no additional direct costs included in the rate.

2. Indirect cost is derived by multiplying the direct cost by the cognizant agency's unrestricted indirect cost rate assigned by the Department of Education to each LEA by the allowable costs. There are no additional indirect costs included.

B. The transportation cost report initially provides the total cost of all special transportation services provided, regardless of payer. To determine the amount of special transportation costs that may be attributed to Medicaid, total cost is multiplied by the ratio of one-way Medicaid eligible trips to one-way trips for all students transported via

specialized transportation. This results in total cost that may be certified as Medicaid's portion of school-based specialized transportation services cost. Trip data is derived from transportation logs maintained by drivers for each one-way trip. This ratio functions in lieu of the time study methodology and student ratio used for the direct services cost report. Cost data on the transportation cost report is subject to certification by each parish and serves as the basis for obtaining federal Medicaid funding.

C. The participating LEA's actual cost of providing specialized transportation services will be claimed for Medicaid federal financial participation (FFP) based on the methodology described in the steps below. The state will gather actual expenditure information for each LEA through the LEA's payroll/benefits and accounts payable system. These costs are also reflected in the annual financial report (AFR) that all LEAs are required to certify and submit to the Department of Education. All costs included in the amount of cost to be certified and used subsequently to determine the reconciliation and final settlement amounts as well as interim rates are identified on the CMS-approved transportation cost report and are allowed in OMB Circular A-87.

1. - 3. ...

4. Step 4—Total Cost. The sum of direct costs and indirect cost is the total specialized transportation direct cost for all students with an IEP indicating medical need.

5. Step 5—Allocate Specialized Transportation Cost to Medicaid. Special transportation drivers shall maintain logs of all students transported on each one-way trip. These logs shall be utilized to aggregate total annual one-way trips which will be reported by each LEA on the special transportation cost report. To determine the amount of special transportation cost that may be attributed to Medicaid, total cost is multiplied by the ratio of one-way trips by Medicaid students to one-way trips for all students transported via special transportation. This results in total cost that may be certified as Medicaid's portion of school based special transportation services cost.

D. Medicaid One-way Trip Ratios for Specialized Transportation

Calculation—Medicaid trip ratio times specialized transportation costs [(direct services) plus (direct services times indirect rate)].

Denominator—the total number of one-way trips for all children that ride a specialized transportation bus.

Numerator—the number of one-way trips for Medicaid enrolled children who received specialized transportation to and from the IEP service destination will be claimed as a Medicaid eligible trip when the child receives a Medicaid service included in an IEP on a particular day and specialized transportation is specifically listed in the IEP.

E. Reimbursement of LEA Certified Costs. Each LEA shall complete and submit the specialized transportation cost report no later than five months after the fiscal year end (June 30), and reconciliation should be completed within 12 months from the fiscal year end. All filed cost reports shall be subject to desk review or audit by the department's audit contractor. The financial oversight of all LEAs will include reviewing the costs reported on the specialized transportation cost reports against the allowable costs in accordance with 2 CFR 200, performing desk reviews and

conducting limited reviews. The department shall issue a notice of final reimbursement, after all reviews, which denotes the amount due to the LEA.

F. As part of financial oversight responsibilities, the department shall develop a risk assessment and audit plan to ensure cost reasonableness and accuracy in accordance with current CMS guidelines. Based on the audit plan, the department will develop agreed upon procedures to review and process all reimbursements to LEAs. The agreed upon procedures will be performed to review cost reports submitted by LEAs.

1. The financial oversight of all LEAs shall include reviewing the costs reported on the specialized transportation cost report against the allowable costs, performing desk reviews and conducting limited reviews.

2. The department shall make every effort to audit each LEA at least every four years. These activities shall be performed to ensure that audit and final reimbursement occurs no later than two years from the LEA's fiscal year end for the cost reporting period audited. LEAs may appeal audit findings in accordance with LDH appeal procedures.

G. Delinquent cost report penalty will be handled in accordance with §9505.H.

H. State monitoring will be handled in accordance with §9505.I.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:563 (April 2019), amended LR 49:

Subchapter C. School-Based Medicaid Personal Care Services

§9521. General Provisions

A. General provisions shall be followed in accordance with §9501.

B. Early and periodic screening, diagnosis and treatment personal care services must be prescribed by a licensed practitioner within the scope of their practice initially and every 180 days thereafter (or rolling six months) and when changes in the plan of care occur.

C. Local education agency responsibilities shall be followed in accordance with §9507.

D. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:564 (April 2019), amended LR 47:740 (June 2021), LR 49:

§9523. Covered Services

A. The following school-based personal care services shall be covered:

1. - 3. ...

4. accompanying, but not transporting, the beneficiary to and from his/her physician and/or medical facility for necessary medical services;

5. provides assistance with transfers, positioning and repositioning; and

6. provide positive behavior support strategies to assist students with prompting to perform services related to physical and/or behavioral health needs.

B. - C.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:565 (April 2019), amended LR 47:740 (June 2021), LR 49:

§9525. Reimbursement Methodology

A. Cost reporting will be handled in accordance with §9505.A.

1. - 4. Repealed.

B. For the personal care services, the participating LEAs' actual cost of providing the services shall be claimed for Medicaid federal financial participation (FFP) based on the following methodology for employees/vendors:

1. Develop Direct Cost-The Payroll Cost Base. Total annual salaries and benefits paid, as well as contracted (vendor) payments, shall be obtained initially from each LEA's payroll/benefits and accounts payable system. This data shall be reported on LDH's direct services cost report form for all personal care service employees or vendors (i.e., all personnel providing LEA personal care treatment services covered under the state plan).

2. Adjust the Payroll/Vendor Cost Base. The payroll cost base shall be reduced for amounts reimbursed by non-state and local funding sources (e.g., federal grants). The payroll/vendor cost base shall not include any amounts for staff whose compensation is 100 percent reimbursed by a funding source other than state/local funds. This application results in total adjusted salary cost.

3. Personal care providers will not be subject to a time study.

4. Determine Indirect Cost. Indirect cost shall be determined by multiplying each LEA's indirect unrestricted rate assigned by the cognizant agency (the Department of Education) by total adjusted direct cost. No additional indirect cost shall be recognized outside of the cognizant agency indirect rate. The sum of direct cost and indirect cost shall be the total direct service cost for all students receiving personal care services.

5. - 6. Repealed.

C. Allocate Direct Service Cost to Medicaid. To determine the amount of cost that may be attributed to Medicaid, total direct service cost (employee and vendor) shall be multiplied by the ratio of Medicaid students in the LEA to all students in the LEA. This results in total cost that may be certified as Medicaid's portion of school-based personal care services cost. The Medicaid enrolled student ratio is calculated one time in each cost report year. This calculation is based on the statewide student count performed in October each year.

D. Reconciliation of LEA Certified Cost and Medicaid Management Information System (MMIS) Paid Claims. Each LEA shall complete the personal care services cost report and submit the cost report(s) no later than five months after the fiscal year period ends (June 30), and reconciliation shall be completed within 12 months from the fiscal year end. All filed personal care services cost reports shall be subject to desk review by the department's audit contractor. The department shall reconcile the total expenditures (both state and federal share) for each LEA's services. The Medicaid certified cost expenditures from the personal care services cost report(s) will be reconciled against the MMIS paid claims data and the department shall issue a notice of final settlement, after all reviews, that denotes the amount due to or from the LEA. This reconciliation is inclusive of all services provided by the LEA.

1. - 5. Repealed.

E. Cost settlement process will be handled in accordance with §9505.G.

F. Delinquent cost report penalty will be handled in accordance with §9505.H.

G. State monitoring will be handled in accordance with §9505.I.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:565 (April 2019), amended LR 47:741 (June 2021), LR 49:

Subchapter D. School-Based Therapy Services

§9531. General Provisions

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:566 (April 2019), amended LR 46:343 (March 2020), LR 47:741 (June 2021), repealed LR 49:

§9533. Covered Services

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:566 (April 2019), amended by the Department of Health, Bureau of Health Services Financing, LR 46:343 (March 2020), LR 47:741 (June 2021), repealed, LR 49:

§9535. Reimbursement Methodology

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:567 (April 2019), amended by the Department of Health, Bureau of Health Services Financing, LR 46:343 (March 2020), LR 47:741 (June 2021), repealed LR 49:

Subchapter E. School-Based Applied Behavior Analysis-Based Services

§9541. General Provisions

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 46:185 (February 2020), amended LR 47:741 (June 2021), repealed LR 49:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or

family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider’s ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on June 29, 2023.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on June 9, 2023. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on June 29, 2023 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after June 9, 2023. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Early and Periodic Screening, Diagnosis and Treatment—School-Based Health Services

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 22-23. It is anticipated that \$3,672 (\$1,836 SGF and \$1,836 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed Rule will have increase federal revenue collections for \$1,836 FY 22-23. It is anticipated that \$1,836 will be collected in FY 22-23 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends the provisions governing school-based health services in the Early and Periodic, Screening and Diagnosis and Treatment (EPSDT) Program in order to reflect the current reimbursement methodology, include criteria for determining medical necessity, and modify service exclusion to match the 2019 program expansion provisions, which will align the administrative rule with the corresponding State Plan amendment approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS). Implementation of this proposed rule is not anticipated to have any costs to school-based services providers for FY 22-23, FY 23-24, and FY 24-25, but will be beneficial by ensuring that the current program requirements are accurately promulgated in the Louisiana Administrative Code.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Medicaid Executive Director
2305#050

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing**

**Home Health Program
Reimbursement Rate Increase
(LAC 50:XIII.701)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XIII.701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing reimbursement in the Home Health program to increase the rates for all home health services and base reimbursement on the Louisiana Medicaid fee schedule in order to align the reimbursement methodology with current practice (*Louisiana Register*, Volume 49, Number 4). This proposed Rule is being promulgated to continue the provisions of the April 3, 2023 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XIII. Home Health Program

Subpart 1. Home Health Services

Chapter 7. Reimbursement Methodology

§701. Nursing and Home Health Aide Services

A. - D. ...

E. Effective for dates of service on or after April 3, 2023, the reimbursement rates for all home health services shall be reimbursed based on the Louisiana Medicaid fee schedule. All rates in the fee schedule are published on the Medicaid provider website at www.lamedicaid.com.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:654 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2281 (October 2010), LR 37:2159 (July 2011), LR 39:1051 (April 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 as it should assist families in receiving all home health hours that are authorized because the more competitive rates should enable agencies to recruit more nurses.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have a positive impact on small businesses because it will increase reimbursement.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct and indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of service as described in HCR 170 since this proposed Rule increases payments to providers for the services they already render.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on June 29, 2023.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the

Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on June 9, 2023. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on June 29, 2023 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after June 9, 2023. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Home Health Program Reimbursement Rate Increase

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will result in increased state costs of approximately \$709,490 for FY 22-23, \$3,216,307 for FY 23-24, and \$3,308,669 for FY 24-25. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that this proposed rule will increase federal revenue collections by approximately \$1,849,563 for FY 22-23, \$7,017,745 for FY 23-24, and \$6,925,383 FY 24-25. It is anticipated that \$270 will be collected in FY 22-23 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule continues the provisions of the April 3, 2023 Emergency Rule, which amended the provisions governing reimbursement in the Home Health program to increase the rates for all home health services and base reimbursement on the Louisiana Medicaid fee schedule in order to align the reimbursement methodology with current practice. This proposed rule will assist Medicaid beneficiaries in receiving all home health hours that are authorized because the more competitive rates should enable agencies to recruit more nurses. Home health providers and small businesses will benefit from implementation of this proposed rule as it is anticipated to increase payments to these providers by approximately \$2,558,513 for FY 22-23, \$10,234,052 for FY 23-24, and \$10,234,052 for FY 24-25.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and may have a positive effect on employment as the more competitive rates should enable home health agencies to recruit more nurses.

Tara A. LeBlanc
Medicaid Executive Director
2305#051

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT
Department of Health
Bureau of Health Services Financing

Inpatient Hospital Services
 Well Baby and Transplant Payments
 (LAC 50:V.Chapter 9)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:V.Chapter 9 and repeal the following uncodified Rules in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act:

Register Date	Title	Register Volume, Number	Page Numbers
July 20, 1996	Transplant Services - Reimbursement	Volume 22, No. 07	584
September 20, 2001	Inpatient Hospital Services – Reimbursement Methodology – Well Baby Care	Volume 27, No. 09	1522
March 20, 2005	Hospital Program – Transplant Services	Volume 31, No. 03	667

This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:V.Chapter 9 to remove obsolete non-rural, non-state hospital provisions and to repeal the above listed inpatient hospital services rules governing Medicaid transplant services and well baby care reimbursement in order to promulgate these provisions in a codified format for inclusion in the *Louisiana Administrative Code*.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 1. Inpatient Hospitals Services
Chapter 9. Non-Rural, Non-State Hospitals
Subchapter A. General Provisions

§907. Well Baby Care

A. A separate prospective per diem rate shall be paid to qualifying hospitals for well baby care rendered to infants who are discharged at the same time that the mother is discharged.

B. Qualifying Criteria. Non-state, non-rural hospitals that perform more than 1,500 Medicaid deliveries per year shall be eligible for this payment. The department will verify that qualifying hospitals meet the 1,500 Medicaid delivery threshold each state fiscal year. Well baby payments shall be discontinued should a hospital no longer qualify.

C. Reimbursement Methodology. The per diem rate for well baby care shall be the same prospective rate that is paid for nursery boarder baby service.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:

Subchapter B. Reimbursement Methodology
§953. Acute Care Hospitals

A. - I.5. ...

J. Effective for dates of service on or after August 4, 2009, the prospective per diem rate paid to acute care hospitals shall be reduced by 6.3 percent of the per diem rate on file as of August 3, 2009.

1. Payments to small rural hospitals as defined in R.S. 40:1189.3 shall be exempt from this reduction.

2. Repealed.

K. Low Income and Needy Care Collaboration. Effective for dates of service on or after January 1, 2010, quarterly supplemental payments will be issued to qualifying non-rural, non-state acute care hospitals for inpatient services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state hospital must be affiliated with a state or local governmental entity through a low income and needy care collaboration agreement.

a. A non-state hospital is defined as a hospital which is owned or operated by a private entity.

b. A low-income and needy care collaboration agreement is defined as an agreement between a hospital and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

2. Each qualifying hospital shall receive quarterly supplemental payments for the inpatient services rendered during the quarter. Quarterly payment distribution shall be limited to one-fourth of the lesser of:

a. the difference between each qualifying hospital's inpatient Medicaid billed charges and Medicaid payments the hospital receives for covered inpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12 consecutive month period for claims data selected by the department; or

i. - ii. Repealed.

b. for hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) Program, the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period.

3. Effective for dates of service on or after January 1, 2011, all parties that participate in supplemental payments under this Section, either as a qualifying hospital by receipt of supplemental payments or as a state or local governmental entity funding supplemental payments, must meet the following conditions during the period of their participation.

a. Each participant must comply with the prospective conditions of participation in the Louisiana Private Hospital Upper Payment Limit Supplemental Reimbursement Program.

b. A participating hospital may not make a cash or in-kind transfer to their affiliated governmental entity that has a direct or indirect relationship to Medicaid payments and would violate federal law.

c. A participating governmental entity may not condition the amount it funds the Medicaid Program on a

specified or required minimum amount of low income and needy care.

d. A participating governmental entity may not assign any of its contractual or statutory obligations to an affiliated hospital.

e. A participating governmental entity may not recoup funds from an affiliated hospital that has not adequately performed under the low income and needy care collaboration agreement.

f. A participating hospital may not return any of the supplemental payments it receives under this Section to the governmental entity that provides the non-federal share of the supplemental payments.

g. A participating governmental entity may not receive any portion of the supplemental payments made to a participating hospital under this Section.

4. Each participant must certify that it complies with the requirements of §953.K.3. by executing the appropriate certification form designated by the department for this purpose. The completed form must be submitted to the Department of Health, Bureau of Health Services Financing.

5. Each qualifying hospital must submit a copy of its low income and needy care collaboration agreement to the department.

6. The supplemental payments authorized in this Section shall not be considered as interim Medicaid inpatient payments in the determination of cost settlement amounts for inpatient hospital services rendered by children's specialty hospitals.

L. Effective for dates of service on or after February 3, 2010, the inpatient per diem rate paid to acute care hospitals shall be reduced by 5 percent of the per diem rate on file as of February 2, 2010.

1. Payments to small rural hospitals as defined in R.S. 40:1189.3 shall be exempt from this reduction.

2. - 2.b.Repealed.

M. Effective for dates of service on or after August 1, 2010, the inpatient per diem rate paid to acute care hospitals shall be reduced by 4.6 percent of the per diem rate on file as of July 31, 2010.

1. Payments to small rural hospitals as defined in R.S. 40:1189.3 shall be exempt from this reduction.

N. Effective for dates of service on or after January 1, 2011, the inpatient per diem rate paid to acute care hospitals shall be reduced by 2 percent of the per diem rate on file as of December 31, 2010.

1. Payments to small rural hospitals as defined in R.S. 40:1189.3 shall be exempt from this reduction.

1.a. - 6.Repealed.

O. Effective for dates of service on or after August 1, 2012, the inpatient per diem rate paid to acute care hospitals shall be reduced by 3.7 percent of the per diem rate on file as of July 31, 2012.

1. Repealed.

P. Effective for dates of service on or after February 1, 2013, the inpatient per diem rate paid to acute care hospitals shall be reduced by 1 percent of the per diem rate on file as of July 31, 2013.

1. Repealed.

Q. Effective for dates of service on or after March 1, 2017, supplemental payments to non-rural, non-state acute care hospitals that qualify as a high Medicaid hospital shall be annual. The amount appropriated for annual supplemental payments shall be reduced to \$1,000. Each qualifying hospital's annual supplemental payment shall be calculated based on the pro rata share of the reduced appropriation.

1. Repealed.

R. Effective for dates of service on or after January 1, 2017, the inpatient per diem rate paid to acute care hospitals shall be increased by 7.03 percent of the per diem rate on file as of December 31, 2016.

1. Small rural hospitals as defined in R.S. 40:1189.3 and public-private partnership hospitals as defined in LAC 50:V.1701-1703 shall be exempt from this rate increase.

S. Effective for dates of service on or after January 1, 2018, the inpatient per diem rate paid to acute care hospitals shall be increased by indexing to 56 percent of the small rural hospital prospective per diem rate in effect on January 1, 2017.

1. Acute care hospitals whose per diem rates as of January 1, 2017, excluding the graduate medical education portion of the per diem, are greater than 56 percent of the January 1, 2017 small rural hospital rate shall not be increased.

2. Carve-out specialty units, nursery boarder, and well baby services are excluded from these rate increases.

T. Effective for dates of service on or after January 1, 2020, the inpatient per diem rate paid to acute care hospitals shall be increased by 3.2 percent of the per diem rate on file as of December 31, 2019.

1. Small rural hospitals as defined in R.S. 40:1189.3 and public-private partnership hospitals as defined in LAC 50:V.1701-1703 shall be exempt from this rate increase.

2. Carve-out specialty units, nursery boarder, and well baby services are included in these rate increases.

U. Effective for dates of service on or after January 1, 2021, the inpatient per diem rate paid to acute care hospitals shall be increased by 3.2 percent of the per diem rate on file as of December 31, 2020.

1. Small rural hospitals as defined in R.S. 40:1189.3 and public-private partnership hospitals as defined in LAC 50:V.1701-1703 shall be exempt from this rate increase.

2. Carve-out specialty units, nursery boarder, and well baby services are included in these rate increases.

V. - X.2. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895, 1896 (September 2009), repromulgated LR 35:2182 (October 2009), amended LR 36:1552 (July 2010), LR 36:2561 (November 2010), LR 37:2161 (July 2011), LR 39:3095 (November 2013), LR 39:3297 (December 2013), LR 40:312 (February 2014), repromulgated LR 40:1939, 1940 (October 2014), LR 41:133 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:963 (May 2017), LR 43:1389

(July 2017), repromulgated LR 43:1757 (September 2017), amended LR 43:2533 (December 2017), repromulgated LR 44:1445 (August 2018), amended LR 45:1770 (December 2019), LR 46:1683 (December 2020), LR 49:

§955. Long-Term Hospitals

A. - C. ...

D. Effective for dates of service on or after August 4, 2009, the prospective per diem rate paid to long term hospitals for inpatient services shall be reduced by 6.3 percent of the per diem rate on file as of August 3, 2009.

1. - 2. Repealed.

E. Effective for dates of service on or after February 3, 2010, the inpatient per diem rate paid to long term hospitals shall be reduced by 5 percent of the per diem rate on file as of February 2, 2010.

F. Effective for dates of service on or after August 1, 2010, the inpatient per diem rate paid to long term hospitals shall be reduced by 4.6 percent of the per diem rate on file as of July 31, 2010.

G. Effective for dates of service on or after January 1, 2011, the inpatient per diem rate paid to long term hospitals shall be reduced by 2 percent of the per diem rate on file as of December 31, 2010.

H. Effective for dates of service on or after August 1, 2012, the inpatient per diem rate paid to long term hospitals shall be reduced by 3.7 percent of the per diem rate on file as of July 31, 2012.

I. Effective for dates of service on or after February 1, 2013, the inpatient per diem rate paid to long term hospitals shall be reduced by 1 percent of the per diem rate on file as of January 31, 2013.

J. Effective for dates of service on or after January 1, 2017, the inpatient per diem rate paid to long term hospitals shall be increased by 7.03 percent of the per diem rate on file as of December 31, 2016.

K. Effective for dates of service on or after January 1, 2018, the inpatient per diem rate paid to long term hospitals shall be increased by indexing to 42 percent of the small rural hospital prospective per diem rate in effect on January 1, 2017. Long term hospitals whose per diem rates as of January 1, 2017, excluding the graduate medical education portion of the per diem, are greater than 42 percent of the January 1, 2017 small rural hospital rate shall not be increased.

L. Effective for dates of service on or after January 1, 2020, the inpatient per diem rate paid to long term acute hospitals shall be increased by indexing to 45 percent of the small rural hospital prospective per diem rate in effect on January 1, 2019. Long term hospitals whose per diem rates as of January 1, 2019, excluding the graduate medical education portion of the per diem, are greater than 45 percent of the January 1, 2019 small rural hospital rate shall not be increased.

M. Effective for dates of service on or after January 1, 2021, the inpatient per diem rate paid to long term acute hospitals shall be increased by 3.2 percent of the per diem rate on file as of December 31, 2020.

N. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR: 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:1554 (July 2010), LR 36:2562 (November 2010), LR 37:2162 (July 2011), LR 40:312 (February 2014), repromulgated LR 40:1940 (October 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:964 (May 2017), LR 43:2533 (December 2017), repromulgated LR 44:1445 (August 2018), amended LR 45:1770 (December 2019), LR 46:1683 (December 2020), LR 49:

§957. Hospital Intensive Neurological Rehabilitation Units

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), repealed by the Department of Health, Bureau of Health Services Financing, LR 49:

§959. Inpatient Psychiatric Hospital Services

A. - C. ...

D. Effective for dates of service on or after August 4, 2009, the prospective per diem rate paid to non-rural, non-state free-standing psychiatric hospitals shall be reduced by 5.8 percent of the rate on file as of August 3, 2009.

1. - 2.b.Repealed.

E. Effective for dates of service on or after August 4, 2009, the prospective per diem rate paid to non-rural, non-state distinct part psychiatric units shall be reduced by 6.3 percent of the rate on file as of August 3, 2009.

1. - 2.b.Repealed.

F. Effective for dates of service on or after February 3, 2010, the prospective per diem rate paid to non-rural, non-state free-standing psychiatric hospitals and distinct part psychiatric units within non-rural, non-state acute care hospitals shall be reduced by 5 percent of the per diem rate on file as of February 2, 2010.

G. Effective for dates of service on or after August 1, 2010, the prospective per diem rate paid to non-rural, non-state free-standing psychiatric hospitals and distinct part psychiatric units within non-rural, non-state acute care hospitals shall be reduced by 4.6 percent of the per diem rate on file as of July 31, 2010.

H. Effective for dates of service on or after January 1, 2011, the prospective per diem rate paid to non-rural, non-state free-standing psychiatric hospitals and distinct part psychiatric units within non-rural, non-state acute care hospitals shall be reduced by 2 percent of the per diem rate on file as of December 31, 2010.

I. Low Income and Needy Care Collaboration. Effective for dates of service on or after January 1, 2012, quarterly supplemental payments shall be issued to qualifying non-rural, non-state free-standing psychiatric hospitals for inpatient services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. **Qualifying Criteria.** In order to qualify for the supplemental payment, the non-state free-standing psychiatric hospital must be affiliated with a state or local governmental entity through a low income and needy care collaboration agreement.

a. A non-state free-standing psychiatric hospital is defined as a free-standing psychiatric hospital which is owned or operated by a private entity.

b. A low income and needy care collaboration agreement is defined as an agreement between a hospital and a state or local governmental entity to collaborate for the purposes of providing healthcare services to low income and needy patients.

2. Each qualifying hospital shall receive quarterly supplemental payments for the inpatient services rendered during the quarter. Quarterly payment distribution shall be limited to one-fourth of the lesser of:

a. the difference between each qualifying hospital's inpatient Medicaid billed charges and Medicaid payments the hospital receives for covered inpatient psychiatric services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12 consecutive month period for claims data selected by the department; or

b. for hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) program, the difference between the hospital's specific DSH limit and the hospital's DSH payment for the applicable payment period.

J. Effective for dates of service on or after February 10, 2012, a Medicaid-enrolled non-state acute care hospital that enters into a cooperative endeavor agreement (CEA) with the Department of Health, Office of Behavioral Health to provide inpatient psychiatric services to Medicaid and uninsured patients, and which also assumes the operation and management of formerly state-owned and operated psychiatric hospitals/visits, shall be paid a per diem rate of \$581.11 per day.

K. Effective for dates of service on or after January 1, 2017, the prospective per diem rate paid to non-rural, non-state free-standing psychiatric hospitals, and distinct part psychiatric units within non-rural, non-state acute care hospitals, shall be increased by 2 percent of the per diem rate on file as of December 31, 2016.

1. Inpatient hospital psychiatric services provided under a public-private partnership as defined in §959.J of this Chapter, LAC 50:V.1701 and LAC 50:V.2901 shall be exempt from this rate increase.

1.a. - 2.b. Repealed.

L. Effective for dates of service on or after January 1, 2018, the prospective per diem rate paid to non-rural, non-state free-standing psychiatric hospitals, and distinct part psychiatric units within non-rural, non-state acute care hospitals, shall be increased by indexing to 31 percent of the small rural hospital prospective per diem rate in effect on January 1, 2017.

1. Psychiatric hospitals and units whose per diem rates as of January 1, 2017, excluding the graduate medical education portion of the per diem, are greater than 31 percent of the January 1, 2017 small rural hospital rate shall not be increased.

2. Inpatient hospital psychiatric services provided under a public-private partnership as defined in §959.J of

this Chapter, LAC 50:V.1701 and LAC 50:V.2901 shall be exempt from this rate increase.

M. Effective for dates of service on or after January 1, 2020, the prospective per diem rate paid to non-rural, non-state free-standing psychiatric hospitals, and distinct part psychiatric units within non-rural, non-state acute care hospitals, shall be increased by 32 percent of the small rural hospital prospective per diem rate in effect on January 1, 2019.

1. Psychiatric hospitals and units whose per diem rates as of January 1, 2019, excluding the graduate medical portion of the per diem, are greater than 32 percent of the January 1, 2019 small rural hospital rate shall not be increased.

2. Inpatient hospital psychiatric services provided under a public-private partnership as defined in §959.J of this Chapter, LAC 50:V.1701 and LAC 50:V.2901 shall be exempt from this rate increase.

N. Effective for dates of service on or after January 1, 2021, the inpatient per diem rate paid to non-rural, non-state free-standing psychiatric hospitals, and distinct part psychiatric units within non-rural, non-state acute care hospitals, shall be increased by 3.2 percent of the per diem rate in on file as of December 31, 2020.

1. Inpatient hospital psychiatric services provided under a public-private partnership as defined in §959.J of this Chapter, LAC 50:V.1701 and LAC 50:V.2901 shall be exempt from this rate increase.

N.2. - P.1. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:1554 (July 2010), LR 36:2562 (November 2010), LR 37:2162 (July 2011), LR 39:94 (January 2013), LR 39:323 (February 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 43:964 (May 2017), LR 43:2533 (December 2017), LR 44:1446 (August 2018), LR 45:1771 (December 2019), LR 46:1683 (December 2020), LR 49:

§969. Transplant Services

A. **Qualifying Criteria.** The hospital must be a Medicare approved transplant center for each type of organ transplant to qualify for reimbursement of Medicaid transplant services. Bone marrow transplant, stem cell transplant, and certain autologous immunotherapies (such as CAR T-cell therapy) services shall only be allowable for payment to hospitals that are accredited by the Foundation for the Accreditation of Cellular Therapy (FACT).

B. **Reimbursement Methodology.** Reimbursement shall be limited to the lesser of allowable cost, net of capital and medical education cost, or the hospital-specific per diem limitation calculated for each type of transplant.

1. Allowable cost is defined as the ratio of cost to charges from the annual filed cost report multiplied by the covered charges, net of capital and medical education cost, for the specific transplant type.

2. The per diem limitation is calculated by deriving the hospital's per diem for the transplant type from the hospital's base period trended forward using the annual

Medicare target rate inflation percentage for prospective payment system (PPS)-exempt hospitals.

3. The base period is the cost report period for the hospital's fiscal year ending September 30, 1983 through August 31, 1984. The base period for types of transplants that were not performed in the base period shall be the first cost report filed subsequently that includes costs for that type of transplant.

4. Reasonable capital and medical education costs as calculated per the annual filed cost report shall be paid as a pass through cost and included in cost report settlement amounts.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on June 29, 2023.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on June 9, 2023. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on June 29, 2023 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after June 9, 2023. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Inpatient Hospital Services Well Baby and Transplant Payments

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 22-23. It is anticipated that \$2,484 (\$1,242 SGF and \$1,242 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 22-23. It is anticipated that \$1,242 will be collected in FY 22-23 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule amends LAC 50:V.Chapter 9 to remove obsolete non-rural, non-state hospital provisions and to repeal uncodified inpatient hospital services rules governing Medicaid transplant services and well baby care reimbursement in order to promulgate these provisions in a codified format for inclusion in the *Louisiana Administrative Code*. It is anticipated that implementation of this proposed rule will not result in costs to Medicaid providers or small businesses in FY 22-23, FY 23-24, and FY 24-25, but will be beneficial by ensuring that the provisions governing these services are accurately promulgated in the *Louisiana Administrative Code*.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Medicaid Executive Director
2305#052

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Medicaid Eligibility
Twelve-Month Continuous Eligibility
(LAC 50:III.2525)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:III.2525 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing eligibility for the Medical Assistance Program in order to align the exclusions to the 12-month continuous eligibility coverage period for children in the administrative Rule with the Medicaid and Children's Health Insurance Program (CHIP) State Plans approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Title 50

PUBLIC HEALTH—GENERAL

Part III. Eligibility

Subpart 3. Eligibility Groups and Factors

Chapter 25. Eligibility Factors

§2525. Twelve-Month Continuous Eligibility

A. - B. ...

C. A child's eligibility may not be terminated during a continuous eligibility period, regardless of any changes in circumstances, unless the child meets an exception set forth in 42 CFR 435.926(d) or 42 CFR 457.342.

1 - 6. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:253 (February 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 47:737 (June 2021), LR 49:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on June 29, 2023.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on June 9, 2023. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on June 29, 2023 in Room 173 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after June 9, 2023. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Medicaid Eligibility Twelve-Month Continuous Eligibility

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 22-23. It is anticipated that \$432 (\$216 SGF and \$216 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 22-23. It is anticipated that \$216 will be collected in FY 22-23 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends the provisions governing eligibility for the Medical Assistance Program in order to align the exclusions to the 12-month continuous eligibility coverage period for children in the administrative rule with the Medicaid and Children's Health Insurance Program (CHIP) State Plans approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS). The administrative rule currently includes exclusion categories that were submitted to CMS for approval in a State Plan amendment that was ultimately withdrawn after it was determined that the provisions did not align with the continuous eligibility federal regulations. This proposed rule removes the list of exceptions withdrawn from CMS consideration from the Louisiana Administrative Code (LAC). Implementation of this proposed rule is not anticipated to result in costs or benefits to providers or small businesses and will not result in a fiscal impact in FY 22-23, FY 23-24, and FY 24-25, since this is a technical revision to ensure that the language in the LAC does not conflict with federal regulations and the CMS-approved Medicaid and CHIP State Plans.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Medicaid Executive Director
2305#053

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing**

Pharmacy Benefits Management Program
Reimbursement for Clotting Factor
(LAC 50:XXIX.949)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XXIX.949 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) requires states to use reimbursement rates that meet actual acquisition costs. In compliance with CMS requirements, the Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing methods of payment in the Pharmacy Benefits Management Program in order to: 1) change the reimbursement methodology for clotting factor products to a state generated actual acquisition cost (AAC) ingredient cost and a unit based professional dispensing fee; and 2) limit clotting factor products to pharmacy claims only.

**Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE**

Part XXIX. Pharmacy

Chapter 9. Methods of Payment

Subchapter D. Maximum Allowable Costs

§949. Fee for Service Cost Limits

A. - I.2.b. ...

J. Clotting Factor. Pharmacy claims for clotting factor will be reimbursed using a state generated actual acquisition cost (AAC) ingredient cost and a unit based professional dispensing fee reimbursement methodology.

K. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1065 (June 2006), amended LR 34:88 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1561 (July 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1185 (June 2017), LR 43:1554 (August 2017), LR 44:1020 (June 2018), LR 45:571 (April 2019), LR 45:665 (May 2019), LR 46:35 (January 2020), LR 49:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule may have an adverse impact on small businesses, as described in the Act if the reimbursement methodology change reduces payments to these providers. With the resources available to the department, a regulatory flexibility analysis has been prepared in order to consider methods to minimize the potential adverse impact on small businesses. The department has determined that there is no less intrusive or less costly alternative method of achieving the intended purpose since the changes are a result of CMS requirements.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has

been considered. It is anticipated this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may increase direct or indirect cost to the provider to provide the same level of service due to the decrease in Medicaid reimbursement for clotting factor products. This proposed Rule may also have a negative impact on the provider's ability to provide the same level of service as described in HCR 170 if the reduction in payments adversely impacts the provider's financial standing.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on June 29, 2023.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on June 9, 2023. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on June 29, 2023 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after June 9, 2023. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Pharmacy Benefits Management Program—Reimbursement for Clotting Factor

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will increase state costs by approximately \$270 for FY 22-23 and reduce state costs by approximately \$1,486,885 for FY 23-24 and \$1,240,878 for FY 24-25. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will reduce revenue collections of statutory dedicated revenue from the Medical Assistance Trust Fund by approximately \$193,646 for FY 23-24 and \$464,750 for FY 24-25. In addition, this proposed rule will increase federal revenue collections by approximately \$270 for FY 22-23 and reduce federal revenue collections by approximately \$6,819,469 for FY 23-24 and \$6,794,372 for FY 24-25. It is anticipated that \$270 will be collected in FY 22-23 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends the provisions governing the methods of payment in the Pharmacy Benefits Management Program in order to: 1) change the reimbursement methodology for clotting factor products to a state generated actual acquisition cost (AAC) ingredient cost and a unit based professional dispensing fee; and 2) limit clotting factor products to pharmacy claims only, in compliance with U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) requirements. Implementation of this proposed rule is anticipated to result in decreased Medicaid reimbursement for clotting factor products and may have an adverse impact on pharmacy providers and small businesses if the reimbursement methodology change reduces payments to these providers. It is anticipated that this proposed rule will decrease expenditures in the Medicaid program by approximately \$8,500,000 for FY 23-24 and \$8,500,000 for FY 24-25.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Medicaid Executive Director
2305#054

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Office of Public Health

Bureau of Emergency Medical Services and

Emergency Medical Services Certification Commission

Emergency Medical Services Professionals
(LAC 46:XXXVIII.Chapters 1-5)

Editor's Note: This Notice of Intent is being repromulgated to correct references and citations. The original Notice of Intent may be viewed in the April 20, 2023 *Louisiana Register* on pages 755-769.

The Department of Health, Office of Public Health, Bureau of Emergency Medical Services (LDH-OPH-Bureau of EMS) and the Emergency Medical Services Certification Commission (EMSCC) proposed to amend LAC 46:XXXVIII.Chapters 1-5 regarding emergency medical services professionals as authorized by R.S. 40:1131-1133.16 and R.S. 40:1141. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, 4.2. 49:950, et seq.

In compliance with Act 31 of the 2020 2nd Extraordinary Session of the Louisiana Legislature, the LDH-OPH-BEMS and the EMSCC propose to amend the regulations governing the professional and occupational standards for emergency medical services professionals in order to: 1) clarify and align these provisions with the corresponding legislative authorities governing emergency medical services; 2) ensure that the provisions are consistent with the standard language used in other healthcare licensing regulations; and, 3) promulgate the provisions clearly and concisely in the Louisiana Administrative Code.

Part XXXVIII is proposed to be substantively rearranged as regards to the location of the bulk of the text content which exists in some particular Sections of the current rule housed within Title 46 of the Louisiana Administrative Code (LAC) but which is now proposed to be moved into another Section of the proposed Rule. The text content of each Section which has been moved does contain one or more amendments within the proposed new location. In addition, currently existing headings labeled as a particular Subpart, a particular Chapter and a particular Subchapter are proposed to be repealed. For this reason, the table below summarizes the proposed rearrangement of the text content and which specific items are proposed to be repealed.

This proposed Rule shall be effective upon publication as a final Rule.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part XXXVIII. Emergency Medical
Services Professionals

Subpart 1. Rules of Procedure

Chapter 1. General

§101. Statement of Purpose/General Definitions

A. Purpose. The Louisiana Emergency Medical Services Certification Commission is a legally created administrative commission acting within the governmental structure of the state and possessing legal power. To safeguard life and health of the citizens of Louisiana, the law governing the practice of Nationally Certified and State Licensed Emergency Medical Services professionals, Louisiana Revised Statutes of 1950, R.S. 40:1131 et seq., as re-enacted and amended, delegates to this commission the responsibility to establish and publish standards of out-of-hospital practice; to regulate the scope of practice of emergency medical services practitioners, to discipline and regulate the practice of Emergency Medical Services professionals and to establish standards for educational programs preparing individuals for out of hospital practice.

B. General Definitions. The following words and terms shall have general applicability to their usage within the entirety of this Part.

Bureau—unless otherwise specified, the Bureau of Emergency medical Services within the Office of Public Health of the Louisiana Department of Health.

Bureau Director—the duly appointed administrator who oversees the Bureau.

Certified Ambulance Operator—an individual who is certified by the Bureau of EMS as a certified ambulance operator. Documentation and requirements outlined in statute must be submitted and approved before certification is received.

Chair—the chairperson of the Louisiana Emergency Medical Services Certification Commission.

Commission—the Louisiana Emergency Medical Services Certification Commission as created under the Louisiana Department of Health pursuant to R.S. 40:1133.3.

Emergency Medical Services—a system that represents the combined efforts of various professionals and agencies to provide out-of-hospital emergency care to the sick and injured.

EMS Medical Director—a physician (MD or DO) licensed by the Louisiana State Board of Medical Examiners who has responsibility and authority to ensure the quality of care and provide guidance for all out-of-hospital medical care provided by EMS ambulance services and EMS Practitioners.

EMS Practitioner—an individual who is a licensed emergency medical responder, licensed emergency medical technician, licensed advanced emergency medical technician or a licensed paramedic.

EMS—emergency medical services.

Public Safety Agency—a functional division of a public or private agency which provides firefighting, police, medical, or other emergency services.

Public Safety Telecommunicator—an individual answering 911 emergency medical condition calls on behalf of a public safety agency who has authority, based on a protocol adopted by the agency, to provide T-CPR instructions to a caller before arrival or medical assistance by an individual with CPR training.

T-CPR—telephone cardiopulmonary resuscitation

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1133.1 (A), R.S. 40:1133.4(A)(8), R.S. 40:1133.5.(9)(10) and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1821 (September 2003), amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services and Emergency Medical Services Certification Commission, LR 49:

§103. Duties of EMS Practitioners

A. A licensed emergency medical services practitioner may perform any of the following functions while caring for a patient at the scene of a medical or other emergency, or during the transport of a patient where voice contact is established with a physician and under the physician's order, or under the protocol that has been approved by the local parish medical society or the emergency medical services practitioner's medical director:

1. services, treatment, and procedures consistent with the national EMS education standards, as amended by the NHYTSA in 2021, that have been approved and adopted by the bureau, to the extent that he or she has been trained to perform such services, treatment or procedures;

2. administration of other drugs or procedures for which the licensed emergency medical services practitioner has received training, license, and approval by the commission and which may be considered necessary by the ordering physician;

3. determine, based on approved protocols, whether it is appropriate for a person to be transported by ground ambulance to an alternative destination when the individual condition does not meet the definition of emergency medical conditions, however:

a. no person shall be transported to an alternative destination unless he or she consents to being transported to that destination; and

b. no emergency medical services practitioner shall transport a person to an alternative destination in which the practitioner or practitioner's employer has a financial interest.

B. An emergency medical services practitioner student, while he or she is enrolled in good standing in a state-approved educational program, and under the direct supervision of a physician, registered nurse, paramedic or other preceptor recognized by the bureau, may:

1. perform services, treatments, and procedures consistent with national EMS education standards that have been approved and adopted by the bureau, and to the extent that he or she has been trained to perform such services, treatment, and procedures.

C. In case of a life-threatening situation as determined by a licensed emergency medical services practitioner, when voice contact with a physician is delayed, not possible, or when the delay in treatment could endanger the life of the patient, the emergency medical services practitioner may provide treatment to the patient in accordance with:

1. a protocol approved by the EMS medical director who is a board-certified or a board-eligible emergency medicine physician; or

2. a protocol established by the emergency medical services committee or the executive committee of the parish or component medical society or its designee.

a. In the event that there is no organized or functional local medical society within a parish of the state at the time that an EMS practitioner responds to a life-threatening situation therein under the conditions outlined in Subsection C of this Section, the protocol established by the EMS medical director may be applied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1133.5(9), and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services and Emergency Medical Services Certification Commission, LR 49:

§105. Public Safety Telecommunicator

A. No person shall act as a public safety telecommunicator unless he has received a certificate of completion of an approved training course in T-CPR conducted by an entity or individual approved by the Bureau to conduct such T-CPR course. A public safety telecommunicator must possess and maintain a current certificate of completion of the T-CPR training required under this Section.

B. The bureau shall give approval to a T-CPR training course if the course and the entity or individual proposing it meets the minimum standards for course approval set by the bureau, including standards concerning instruction, training and examination. Such standards shall mandate training every two years that meets or exceed nationally recognized emergency cardiovascular care guidelines adopted by the bureau and shall incorporate recognition protocols for out-of-hospital cardiac arrest and compression-only CPR instructions for callers. An approved entity or individual shall comply with the course approval criteria set by the bureau, and may be removed by the bureau from the roster of approved T-CPR trainers for failure to comply.

C. Each public safety agency employing public safety telecommunicators shall, for each individual so employed, upload the certificate of completion of the T-CPR training required by this Section, and any renewals thereof, to the Bureau's Information Management System (IMS). This requirement shall not apply with respect to any individual so

employed who has already uploaded such certificates to the IMS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1131.1(E), R.S. 40:1133.1(A), R.S. 40:1133.5(9), R.S. 40:1133.16(D), and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services and Emergency Medical Services Certification Commission, LR 49:

Chapter 3. Licensure and Certification

§301. State Licensure and National Certification

A. State licensure by the bureau of emergency medical services is mandatory for practicing as a licensed emergency medical responder.

B. National certification and state licensure are mandatory for practicing as a licensed emergency medical technician, advanced emergency medical technician, and paramedic.

C. State licensure as a licensed Emergency Medical Services practitioner shall be issued only to an applicant who qualifies by examination or endorsement in accordance with R.S. 40:1131.1, et seq. All applicants shall meet the same standards.

D. The commission shall render an opinion to the Bureau of Emergency Medical Services on whether the applicant meets the requirements of certification in all questionable cases.

E. Reciprocity shall be granted to an applicant who submits evidence of licensing or certification in good standing from another state, territory, or country or has received military training and certification or licensure as an emergency medical services practitioner as defined in §101.B of this Part, and meets all other applicable requirements set forth in this Part.

1. The Recognition of Emergency Medical Services Personnel Licensure Interstate Compact (REPLICA) has been enacted into state law under Act 31 of the 2020 Secondary Extraordinary Session of the Louisiana Legislature and may be found under R.S. 40:1141.

F. A Louisiana EMS Practitioner license must be renewed every two years, and shall be if the licensee/applicant completes the appropriate renewal application and meets the requirements for renewal set forth in this part and R.S. 40:1133.1 et seq. prior to the expiration date on his or her current license.

1. An individual whose license expires by his or her failure to timely renew may be reinstated within 30 days of expiration provided the applicant submits a completed application and meets any additional requirements adopted by the bureau.

G. The commission shall render an opinion to the bureau on whether the applicant meets the requirements of licensure in all questionable cases.

H. Each license holder and each applicant for licensure must provide both a valid current mailing and email address at which the licensee or applicant can receive correspondence and official notices from the bureau. A licensee or applicant shall update either such address via the EMS information management system portal within five calendar days of any change thereto.

I. Whenever any provision of law or of this Part requires or authorizes service or delivery of a letter, notice, order, summons, or other document to be made upon a

licensee or applicant, then, in addition to any other method authorized by law or this Part for such service or delivery, the following shall constitute good and valid service or delivery for all purposes related to this Part:

1. service made in any manner authorized by the Louisiana Code of Civil Procedure or the Louisiana Revised Statutes of 1950;

2. service made by U.S. Postal Service certified mail, return receipt requested, addressed to the mailing address provided to the bureau in accordance with Subsection F of this Section; or

3. service by email sent to the email address provided to the department in accordance with Subsection F of this Section, even if returned as undeliverable. A document served by email must be in printable document format (PDF) and may be either attached, in which case the entire email with the attachment cannot exceed 20 megabytes (MB), or linked within the body of the email to a file sharing or similar site from which it can be viewed or downloaded.

J. Whenever service or delivery by certified mail is authorized by this Section or any other provision of law or this Part, if a certified mail receipt shows that service has been refused or unclaimed, then service shall nevertheless be deemed complete and valid.

K. A certified mailing sent in accordance with this Section shall be deemed good and valid service if a signed receipt is returned to the bureau, regardless of whether the licensee/applicant to whom the mailing was addressed personally signed the return receipt.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1131.2(E), R.S. 40:1131.1(A), R.S. 40:1133.5(9), R.S. 40:1133.6, R.S. 40:1141, R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1821 (September 2003), amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services and Emergency Medical Services Certification Commission, LR 49:

§303. Denial of Licensure, Reinstatement, or the Right to Practice EMS as a Student

A. Applicants for licensure, reinstatement, or the right to practice as an EMS student may be denied approval for licensure, reinstatement, receipt of a temporary permit, eligibility to continue in or enter into an education program (didactic, clinical, or field internship aspects) if the applicant:

1. knowingly falsifies any documents submitted to the bureau, commission or the EMS educational facility;

2. is unfit or incompetent by reason of negligence, habit, or other cause;

3. has pled guilty, nolo contendere, or been convicted of, or any crime that directly related to the EMS profession generally or the specific type of EMS license type, permit, or eligibility sought.

B. For purposes of this Section, a pardon, suspension of imposition of sentence, expungement, or pretrial diversion or similar programs shall not negate or diminish the requirements of this Section.

C. Applicants who are denied licensure, reinstatement, or the right to practice EMS as a student shall not be eligible to submit a new application, until a combination of the following conditions are met:

1. a minimum of two years has passed since the denial was issued; or

2. the applicant presents evidence that the cause for the denial no longer exists; and

3. a hearing or conference is held before the commission to review the evidence, to afford the applicant the opportunity to prove that the cause for the denial no longer exists, and to provide an opportunity for the commission to evaluate changes in the person or conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1131.1(E), R.S. 40:1133.1(A)and(E), R.S. 40:1133.5(9), R.S. 40:1133.7(1)and(2), R.S. 40:1133.4, and 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1821 (September 2003), amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services and Emergency Medical Services Certification Commission, LR 49:

§305. Delay of Licensure, Reinstatement, or the Right to Practice EMS as a Student

A. Applicants for licensure, reinstatement, and for practice as a EMS student shall have approval delayed for licensure, for reinstatement, to receive a temporary working permit, to be eligible for the national registry exam, or to enter or progress into any clinical EMS course, if the applicant:

1. has any pending disciplinary action or any restrictions of any form by any licensing/certifying entity in any state; or

2. has a pending criminal charge for any crime that directly related to the EMS profession generally or the specific type of EMS license type, permit, or eligibility sought; or

3. has pled guilty, nolo contendere, been convicted of or committed a crime that directly related to the EMS profession generally or the specific type of EMS license type, permit, or eligibility sought, and the conditions of the court have not been met, or is currently serving a court ordered probation or parole.

B. For purposes of this Section, a pardon, suspension of imposition of sentence, expungement, or pretrial diversion or similar programs shall not negate or diminish the requirements of this Section.

C. Applicants who are delayed licensure, reinstatement, or the right to practice EMS, as a student shall not be eligible to submit a new application until the following conditions are met:

1. the applicant presents sufficient evidence that the cause for the delay no longer exists; and

2. a hearing or conference is held before the commission to review the evidence, to afford the applicant the opportunity to prove that the cause for the delay no longer exists, and to provide an opportunity for the commission to evaluate changes in the person or conditions.

AUTHORITY NOTE: Promulgated in accordance with 40:1131.1(E), R.S. 40:1133.2(A) and (E), R.S. 40:1133.5(9), R.S. 40:1133.7(1)and(2), and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1822 (September 2003) amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services and Emergency Medical Services Certification Commission, LR 49:

§306. Pre-Application Eligibility Determination

A. An individual convicted of a crime may request at any time, including before obtaining any required education or training, a determination as to whether the individual's criminal conviction(s) disqualify the individual from licensure or certification by the bureau.

1. The individual making the request shall provide to the bureau all pertinent information and documents pertaining to the conviction(s), including any information relevant to the factors provided in R.S. 37:2950. Any such request shall list and include all of the individual's convictions, regardless of jurisdiction and regardless of subsequent pardon or expungement, through the date of the request. After initial receipt of the request, the bureau may require that the individual submit additional pertinent information or documents.

2. In addition to any available facility for uploading such a request through a user account created on the BEMS website (URL: <https://ldh.la.gov/subhome/28>), the request may be made in writing and mailed to BEMS at 7273 Florida Blvd., Baton Rouge, LA 70806..

3. The individual making the request shall also provide to the bureau the individual's pertinent identifying information, including date of birth, social security number, and driver's license number.

4. The individual making the request shall provide a valid email address to which the bureau may send correspondence related to the request, including the determination as to whether the individual is disqualified.

5. Within 45 days after receipt of the request and all pertinent information and documents, including additional information or documents requested by the bureau pursuant to Paragraph A.1. of this Section, or within 45 days of receipt by the bureau of any criminal background check provided or requested by the individual, whichever is later, the bureau shall send notification to the individual concerning whether, based on the criminal information submitted, the individual is disqualified from receiving or possessing a license from the bureau. This determination, which may be disseminated to the requesting individual by email, shall be one of the following:

a. The conviction(s) do not make the individual ineligible to be licensed ("not ineligible"). Such determinations include instances where licensing may be necessarily accompanied by concurrent initial probation, or Commission Review Panel, unless a requested hearing before the commission determines otherwise.

b. The conviction(s) make the individual presumptively ineligible to be licensed, in which case the following information shall be provided to the individual:

- i. specific conviction(s) that constitute the basis for the presumptive ineligibility;
- ii. reasons the conviction(s) are directly related to the license, using the factors set forth in La. R.S. 37:2950;
- iii. right to submit within 60 days additional documentation or evidence relevant to each of the factors listed in R.S. 37:2950 concerning the conviction(s) upon which the presumptive ineligibility is based; and
- iv. date of eligibility to apply or reapply for a license.

5. An individual who is informed that the conviction(s) at issue make him presumptively ineligible is entitled to a hearing ("appeal") before the commission concerning such determination.

a. Such individual shall be placed on the agenda for a formal hearing at the next regularly scheduled meeting of the commission, but may decline such a hearing if s/he does not wish to proceed. If the 60 day period for providing additional documentation or evidence, as provided in Subsection A.4.b.iii of this Section, expires after the next scheduled meeting, the individual may request that the hearing be postponed until the subsequent regularly scheduled meeting.

6. A determination of "not ineligible" made pursuant to this Section is binding upon the bureau unless the individual is convicted of a subsequent crime between the inquiry period and the time of license application, has pending criminal charges at the time of license application, or has undisclosed criminal convictions not revealed at the time of inquiry.

B. When determining whether a conviction directly relates to the EMS profession, the commission shall consider:

1. the nature and seriousness of the offense;
2. the nature of the specific duties and responsibilities of licensed EMTs, Advanced EMTs, paramedics, and emergency medical responders.
3. the amount of time since the conviction;
4. facts relevant to the circumstances of the underlying offense, including any aggravating or mitigating circumstances, or social conditions surrounding the commission of the offense; and
5. evidence of rehabilitation or treatment undertaken by the applicant since the conviction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1131.1(E), R.S. 40:1133.1(A), R.S. 40:1133.5(9), R.S. 40:1133.16(D), and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services and Emergency Medical Services Certification Commission, LR 49:

§307. Application Eligibility Determination; Criminal Convictions; Right to hearing

A. When determining whether an applicant's criminal conviction directly relates to the EMS profession generally or the specific type of EMS license type, permit, or eligibility sought, the commission shall consider the factors set forth in §306.C of this Part.

B. The bureau may utilize any "deferred decision matrix" or similar document setting forth guidelines adopted by the commission in making an initial presumptive determination concerning whether an applicant's criminal conviction directly relates to the EMS profession generally or the specific type of EMS license type, permit, or eligibility sought.

C. Any applicant who is determined by the bureau to be presumptively ineligible, based upon the bureau's application of a deferred decision matrix (or similar guidance document approved by the commission) or otherwise, shall be entitled to a hearing ("appeal") before the

commission concerning such determination, at which the applicant may present testimony, documentation, or evidence relevant to each of the factors set forth in §306.C of this Part concerning the conviction upon which the presumptive ineligibility is based.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1131.1(E), R.S. 40:1133.1(A), R.S. 40:1133.5(9), R.S. 40:1133.16(D), and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services and Emergency Medical Services Certification Commission, LR 49:

§308. Criminal History Record and Identification

A. The bureau is entitled to and shall require submission of the criminal history record and identification files of the Louisiana Bureau of Criminal Identification and Information, located within the Louisiana Department of Public Safety and Corrections, of any person who is seeking an initial license as an emergency medical technician, advanced emergency medical technician or paramedic; and any person who answers affirmatively to any of the criminal background questions on a license renewal application. In such situations, fingerprints and other identifying information of the applicant shall be required and submitted to the Louisiana Bureau of Criminal Identification and Information for qualification and registry.

1. The criminal history records must be not more than two years old.

B. The Louisiana Bureau of Criminal Identification and Information shall, after receipt of such fingerprint card and other identifying information from the applicant, make available to the bureau all arrest and conviction information contained in the Louisiana Bureau of Criminal Identification and Information's criminal history record and identification files which pertain to the applicant for licensure. In addition, the fingerprints shall be forwarded by the Louisiana Bureau of Criminal Identification and Information to the Federal Bureau of Investigation for a national criminal history record check.

C. The applicant shall pay the appropriate fees to the Louisiana Bureau of Criminal Identification and Information for furnishing information contained in the Louisiana Bureau of Criminal Identification and Information's criminal history record and identification files, including any additional cost of providing the national criminal history records check, which pertains to the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1131.1(E), R.S. 40:1133.(A)and(C), R.S. 40:1133.5(9), R.S.40:1133.7(1)and(2), and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health, Emergency Medical Services Certification Commission, LR 29:1821 (September 2003), amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services and Emergency Medical Services Certification Commission, LR 49:

Chapter 5. Disciplinary Proceedings; Alternative to Disciplinary Proceedings

§501. Definition of Terms Applying to EMS Practice as Used in This Chapter

A. As they apply to EMS practice and/or to the exercise of the commission's disciplinary authority, the following words and terms are hereby defined as used within this Chapter.

Accountability—being answerable for one's actions or inactions. The licensed EMS practitioner answers to self, patient, agency, medical director, profession and society for the effectiveness and quality of EMS care rendered. It is the personal responsibility for each individual to maintain competency in practice. If the assigned EMS practitioner does not possess the specialized EMS knowledge, skills and abilities required to provide the required care, said professional shall notify the appropriate supervisory EMS personnel.

Additional Acts—activities beyond those taught in state approved EMS education programs. Additional acts are authorized by the commission through rules and regulations or declaratory statements interpreting the legal definition of EMS. Licensed EMS practitioner are accountable for attaining and maintaining competency when performing approved additional acts.

Aiding and Abetting—to intentionally assist anyone by condoning, or to apply positive or negative force to assist anyone in violating Parts I-III of Chapter 5-C of Title 40 of the Revised Statutes or the rules and regulations of the commission or bureau.

Assessment—identifying human responses, which indicate existing, or potential abnormal condition through the patient history, physical examination or observation, in accordance with the standards of EMS practice.

Assignment—designating EMS activities to be performed by an individual consistent with his or her scope of practice.

Carrying Out the Medical Orders of a Physician Licensed in Louisiana—

a. licensed EMS practitioners may, based on their individual judgment of each situation, accept verbal orders initiated by a licensed physician, provided the order is related to the said practitioner's scope of practice;

b. licensed EMS practitioners may execute standing orders of a licensed physician.

Collaborating – a process involving two or more health care professionals working together, though not necessarily in each other's presence, each contributing one's respective area of expertise to provide more comprehensive care than one alone can offer.

Delegating EMS Interventions—committing or entrusting the performance of selected EMS tasks by the licensed EMS practitioner to other competent EMS personnel in selected situations. The licensed EMS practitioner retains the accountability for the total EMS care of the individual.

Deny—to refuse for cause.

EMS Services—activities designed to resolve, diminish, or prevent the needs that are inferred from the individual's problem; includes the planning, implementation and evaluation of said activities in accordance with the standards of EMS practice.

Expanded Scope of Practice—those functions, procedures and activities which are currently not part of the approved National EMS curriculum, but have been approved by the EMS Certification Commission as appropriate for the various levels of EMS practitioners.

Field Diagnosis—out-of-hospital evaluation of the patient's condition and its causes.

Habit—a mode of behavior, which an individual acquires over a period of time.

Limit—to confine within certain bounds.

Maintaining EMS Care Rendered Directly or Indirectly—preserving the continuity of safe and effective EMS care, including the delegated EMS activities.

Managing and Supervising the Practice of EMS—those activities which serve to fulfill the accountability of the licensed EMS practitioner for the total EMS care of the individual when tasks in the EMS care are delegated to other EMS personnel. These activities include:

- a. judging the priority of EMS needs of the individual(s);
- b. determining actions required to meet the needs;
- c. assigning personnel, including self, qualified to implement the prescribed EMS care components of that care;
- d. providing information needed by personnel for the implementation of the assigned EMS care and ascertaining the assimilation of same information;
- e. directing the EMS care and evaluating the outcomes of the care; and
- f. determining and initiating changes in EMS care or in assignment of EMS personnel.

Medical Diagnosis—the conclusion reached in identification of the patient's disease, especially the art of distinguishing among several possibilities with the intent of prescribing relevant treatment.

Medical Interventions—all functions, activities, medications and medical treatments of therapeutic or corrective nature approved by the Bureau of EMS and the EMS Certification Commission.

Mentally Incompetent—a court judgment of legal insanity or incompetence or a medical diagnosis indicating insanity or incompetence.

Moral Turpitude—an act of baseness, vileness, or depravity in the duties which one person owes to another, or to society in general, which is contrary to the usual, accepted, and customary rule of right and duty which a person should follow.

Negligence—a breach of duty of care owed to an individual.

Other Causes—includes, but is not limited to:

- a. failure to practice EMS in accordance with the standards of EMS practice;
- b. possessing a physical impairment or mental impairment, which interferes with the judgment, skills or abilities required for the practice of EMS;
- c. failure to utilize appropriate judgment;
- d. failure to exercise technical competence in carrying out EMS care;
- e. violating the confidentiality of information or knowledge concerning the patient;
- f. performing procedures beyond the authorized scope of EMS or any specialty thereof;
- g. performing duties and assuming responsibilities within the scope of the definition of EMS practice when competency has not been achieved or maintained, or where competency has not been achieved or maintained in a particular specialty:

h. improper use of drugs, medical supplies or equipment, patient's records, or other items;

i. misappropriating items of an individual, agency or entity;

j. falsifying records or documents, including patient records or any records or documents provided to the commission, the bureau, or any other any governmental or regulatory agency;

k. failure to act, or negligently or willfully committing any act that adversely affects the physical or psychosocial welfare of the patient;

l. delegating or assigning EMS care, functions, tasks, or responsibilities to others contrary to regulations or failing to adequately supervise EMS tasks assigned to others during the course of providing EMS care;

m. leaving a EMS assignment where there was a duty to act without properly notifying appropriate personnel;

n. failing to report, or self-report, to the bureau, through the proper channels, facts known regarding the incompetent, unethical, or illegal practice or conduct, including criminal conduct, arrest, or conviction, of any EMS practitioner, including any practice or conduct that violates any provision, requirements, or prohibition contained in this Part or R.S. 40:1131-1141;

o. has violated a rule or an order adopted by the commission or the bureau, or a state or federal law relating to the practice of professional EMS, or a state or federal narcotics or controlled substance law;

p. inappropriate, incomplete, or improper documentation;

q. use of or being under the influence of alcoholic beverages, illegal drugs, or drugs which impair judgement while on duty;

r. failure to cooperate with the commission or bureau by:

i. not furnishing in writing a full and complete explanation covering a matter requested in writing by the commission or bureau; or

ii. not responding to subpoenas issued by the commission in connection with any investigation or hearing;

s. exceeds professional boundaries, including but not limited to sexual misconduct; and

t. use of any advertisement or solicitation which is false, misleading, or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed.

Preventive Instruction—those EMS measures that provide health information and explanation to the public to reduce the incident of death and injury.

Probate—to stay a sentence of certification suspension during good behavior and placing under supervision of Bureau of a period of time. License is marked "probated" and specific requirements are identified.

Professional Boundaries—the limits of the professional relationship that allow for a safe therapeutic connection between the practitioner and the patient.

Reasonable Skill and Safety—practicing EMS in accordance with the standards of EMS practice.

Reprimand—written communication to the individual stating the commission's concerns, and public notification of the individual's name and reasons for the reprimand.

Restrict—to limit or restrain EMS practice by settings, types of patients, or other means.

Revoke—to annul or make void by calling back. Revocation of certification or licensure shall be indefinite as to the practice of EMS in Louisiana.

Scope of Practice—the range of duties and skill EMS professionals are expected to perform.

Sexual Misconduct—an extreme boundary violation which involves the use of power, influence and/or knowledge inherent in one's profession in order to obtain sexual gratification, romantic partners and/or sexual deviant outlet. Any behavior that is seductive, sexually demeaning, harassing or reasonable interpreted by a patient as sexually inappropriate, is a violation of the EMS professional's fiduciary responsibility to the patient.

Specialized Knowledge and Skills—required for the practice of EMS means the current theory and practice taught in state approved EMS education programs preparing persons for EMS practitioner licensure as well as information in the biological, physical and behavior sciences.

Specialty Care Transport Paramedic—those individuals who have met the requirements as approved by the EMS Certification Commission.

Student EMS Practitioner—a person who is engaged in learning experiences in a program of study leading to the candidacy for licensure to practice as a licensed EMS practitioners. The term applied only when the person is participating in an integral part of the program of study.

Suspend—to hold certification to practice as a certified EMS professional in abeyance for a definite or an indefinite period of time.

Teaching of EMS—instructing EMS practitioner student and providing continuing EMS education to licensed EMS practitioners.

Unfit or Incompetent—unsuitable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1133.4(A)(8) and R.S. 1133.5(9) and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Services Certification Commission, LR 29:1822 (September 2003), amended by the Department of Health, Office of Public Health, Emergency Medical Services Certification Commission and the Bureau of Emergency Medical Services, LR 49:

§503. Disciplinary Proceedings before the Commission

A. The commission has the responsibility to consider and determine the action necessary upon all charges of conduct that allegedly fails to conform to R.S. 40:1131.1, et seq., as re-enacted and amended, or to the requirements and provision of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1133.4(A)(8) and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1822 (September 2003), amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services and Emergency Medical Services Certification Commission, LR 49:

§505. Proceedings against Licensed EMS Practitioner, Certification Ambulance Operators, Certification EMS Practitioner Applicants or Ambulance Operator Applicants

A. The commission may direct the bureau to deny, revoke, suspend, probate, limit, reprimand, fine or restrict any certification or license to practice as a licensed EMS practitioner or certified ambulance operator; or otherwise discipline an individual in accordance with R.S. 40:1133.7 and R.S. 40:1133.18.

1. In accordance with R.S. 40:1133.9, the commission, through the bureau, may obtain an injunction without bond forbidding any person from violating or continuing to violate any of the applicable provisions of Part II of Chapter 5-C of Title 40 of the Revised Statutes. This injunction shall not be subject to release upon bond.

B. Every individual subjected to disciplinary proceedings shall be afforded an opportunity for a hearing before the commission or its duly appointed hearing officer or committee.

C. A complaint that an individual has engaged in, or is engaging in, any conduct proscribed by R.S. 40:1133.7, 40:1133.10, 40:1133.18, or this Part, may be made by any person, staff, agency or the commission. Such complaints shall be in writing, and on a form prescribed by the commission or affixed to the form prescribed by the commission. However, nothing shall prohibit the bureau or commission from acting upon an allegation or licenses wrongdoing learned of or submitted by other means.

D. Grounds for disciplinary proceedings against a person, individual or licensed EMS practitioner, as applicable, are specified in R.S. 40:1133.7 including, but not limited to, the following:

1. selling or attempting to sell, falsely obtain or furnish a person a licensed EMS practitioner document;
2. providing emergency medical services without due regard for the health and safety of clients or patients;
3. has pled guilty, nolo contendere, been convicted of or committed a crime that directly relates to the EMS profession generally or the specific type of EMS license type, permit, or eligibility sought;
4. exhibiting incompetency or unfitness by reason of negligence, habit or other cause;
5. exhibiting habitual intemperance in the use of or abuses alcohol or habit-forming drugs;
6. aiding or abetting another person in the violation of this Part;
7. exhibiting mental incompetence;
8. deceiving or defrauding the public;
9. exhibiting professional or medical incompetence;
10. exhibiting unprofessional conduct;
11. continuing or recurring practices which fail to meet the standards of EMS care in this state;
12. abandoning a patient;
13. has had a certification or license to practice as an emergency medical services practitioner or to practice as

another health care provide denied, revokes, suspended or otherwise restricted;

14. being guilty of moral turpitude;

15. violating or failing to conform to any requirement or provision of this Part; or

16. intentionally falsifying any document related to license, emergency medical services education, or related to the care of the patient;

17. aiding or abetting another person in the violation of any conduct proscribed under Paragraphs 1, 2, 3, 4, or 5 of this Subsection.

E. Grounds for disciplinary proceedings against a certified ambulance driver are specified in R.S. 40:1133.18 including, but not limited to, the following:

1. fraud or any misstatement of fact in the procurement of any certification or in any other statement or representation to the bureau or its representatives;

2. has pled guilty, nolo contendere, been convicted of or committed a crime that directly relates to the EMS profession generally or the specific type of EMS license type, permit, or eligibility sought;

3. is unfit or incompetent by reason of negligence, habit, or other cause;

4. is mentally incompetent;

5. is habitually intemperate in the use of or abuses alcohol or habit-forming drugs;

6. is guilty of aiding or abetting another person in violating any provision of this Part;

7. continuing or recurring practices which fail to meet the standards of ambulance operators in this state;

8. endeavors to deceive or defraud the public;

9. is guilty of moral turpitude;

10. has violated any rules and regulations of the commission or the bureau or any provision of this Part;

11. intentional falsification of any document related to the procurement of any certification or license;

12. operating any vehicle in violation of state or local traffic laws;

13. revocation, suspension, or any restriction of the ambulance operator's driver's license;

14. failure to maintain all current ambulance operator training standards as required by the bureau; or

15. has had a certification or license to practice as an ambulance operator denied, revoked, suspended, or otherwise restricted in Louisiana or any other state or territory of the United States.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1133.4(A)(8), R.S. 40:1133.5(9), R.S. 40:1133.9, R.S. 40:1133.10, and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1823 (September 2003), amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services and Emergency Medical Services Certification Commission, LR 49:

§507. Proceedings Involving Students Enrolled in EMS Education Programs

A. The commission may direct the bureau to deny, revoke, suspend, probate, limit, reprimand, fine, or restrict any student enrolled in EMS education programs, or otherwise discipline a student enrolled in EMS education programs or attempting to enroll in EMS education programs as part of its duties and responsibilities in

regulating the practice of EMS in Louisiana and in overseeing the administration of the curriculum and operation of EMS education programs in the state of Louisiana.

B. Every student enrolled or attempting to enroll in EMS education programs subjected to the proceedings set forth in this Section, shall be afforded an opportunity for a hearing before the commission or its duly appointed hearing officer or committee.

C. Information obtained by the commission that an EMS student enrolled or attempting to enroll in EMS education programs is or has engaged in any conduct proscribed by R.S. 40:1133.7, shall be received in the form adopted by the commission. However, nothing shall, prohibit the bureau or commission from acting upon an allegation of wrongdoing learned of or submitted by other means. This information may be furnished by any person, staff, agency, or by the commission.

D. Grounds for proceedings against a student enrolled or attempting to enroll in EMS education programs are:

1. all of the grounds for disciplinary proceedings against a person, individual or licensed EMS practitioner, as applicable, listed in Subsection D of § 505 of this Chapter; or

2. has been denied a request to enroll in EMS education programs or has been denied a license to practice in any healthcare field or had such privileges revoked, suspended, or otherwise restricted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1133.4(A)(8), R.S. 40:1133.5(9), R.S. 37:33, and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1823 (September 2003), amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services and Emergency Medical Services Certification Commission, LR 49:

§509. Disciplinary Process and Procedures

A. The provisions of the Administrative Procedure Act shall govern proceedings on questions of violation of R.S. 40:1131.1 et seq., as re-enacted and amended.

1. A disciplinary proceeding, including the formal hearing, is less formal than a judicial proceeding. It is not subject to strict rules and technicalities, but must be conducted in accordance with considerations of fair play and constitutional requirements of due process.

2. The purpose of a disciplinary proceeding is to determine contested issues of law and fact; whether the individual did certain acts and, if he or she did, whether those acts violated the provisions or requirements of this Part; and to determine the appropriate disciplinary action.

3. Any disciplinary action shall also be forwarded to all applicable licensing agencies and/or required reporting entities.

B. Investigation

1. The process of a disciplinary proceeding shall include certain steps and may include other steps as follows.

a. The bureau or commission receives information alleging that an individual has acted in violation of the provisions or requirements of this Part. Communications from the informant shall be privileged and shall not be revealed to any person unless such documents will be offered for evidence in a disciplinary review panel,

settlement, informal or formal hearing, or unless those documents are subpoenaed by a court, or requested by other regulatory or law enforcement agencies.

b. The information is investigated by the bureau's staff to determine if there is sufficient evidence to warrant disciplinary proceedings. The commission chair or designee may issue a subpoena prior to the filing of charges if, in the opinion of the chair, such a subpoena is necessary to investigate any potential violation or lack of compliance with the provisions or requirements of this Part. The subpoena may be to compel the attendance of any person to appear for the purposes of giving sworn testimony and/or to compel the production of books, records, papers, or other objects.

2. An agreement worked out between the complainant and the individual does not preclude disciplinary action by the commission. The nature of the offense alleged and the evidence before the commission must be considered.

C. Informal Disposition of with No Disciplinary Action

1. Some allegations may be settled informally by the commission and the individual, without formal disciplinary action. The following types of informal dispositions may be utilized.

a. Disposition by Correspondence

i. For less serious allegations, the chair, or a designee of the commission, may write to the individual explaining the nature of the information received. The individual's subsequent response may satisfactorily explain that no violation of the provisions or requirements of this Part occurred, or that the matter does not rise to the level requiring formal disposition at this time, and the matter may be dropped. If the situation is not satisfactorily explained, it shall be investigated and disposed of through another informal means or brought before the commission for a formal hearing.

b. Informal Conference

i. The chair, or a designee of the chair, and another member of the commission may hold a conference with the individual, in lieu of, or in addition to correspondence, in cases of less serious allegations. If the respondent can satisfactorily explain that no violation of the provisions or requirements of this Part occurred, or that the matter does not rise to the level requiring formal disposition at this time, then the matter may be dismissed.

ii. The individual shall be given adequate notice of the fact that information brought out at the conference may later be used in a formal hearing.

iii. Referral to an alternative to the disciplinary process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1133.4(A)(8), R.S. 40:1133.5(9), and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1824 (September 2003) amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services and Emergency Medical Services Certification Commission, LR 49:

§510. Disciplinary Process and Procedure Limitations on Disciplinary Proceedings by the Commission

A. Unless a special law is applicable, no disciplinary proceeding of any kind may be initiated by the bureau or commission as follows.

1. If the nature of the complaint is based on negligence or gross negligence, no proceeding may be initiated after two years from discovery by the complainant. However, under no circumstances shall such a proceeding be initiated more than five years from the date of the act of omission.

2. If the nature of the complaint is based on an intentional act or omission, no proceeding may be initiated after two years from discovery by the complainant. However, under no circumstances shall such a proceeding be initiated more than five years from the date of the act or omission.

3. If the nature of the complaint is based on fraud, no proceeding may be initiated after two years from discovery by the complainant.

4. If the nature of the complaint is based on a license or rules violation, no proceeding may be initiated after five years from the date of the act or omission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:21(A)and(C).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1824 (September 2003) amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services and Emergency Medical Services Certification Commission, LR 49:

§511. Formal Disciplinary Action

A. A decision to initiate formal disciplinary proceedings is made if one or more of the following conditions exist:

1. the complaint is sufficiently serious;
2. the individual fails to respond to the commission's correspondence concerning the complaint;
3. the individual's response to the commission's letter or investigative demand is not convincing that no action is necessary;
4. an informal approach is used, but fails to resolve all of the issues.

B. Informal Procedures

1. The matter may be resolved without a formal administrative hearing by either a voluntary surrender of license, consent order, or settlement order. These actions shall constitute disciplinary action and shall be a public record of the commission. The commission shall publish the individual's name, a brief description of the violation, and the disciplinary action.

C. Voluntary Surrender of License. An individual who is under investigation for violation of the provisions or requirements of the Part may voluntarily surrender his or her license or certification to the bureau. The voluntary surrender invalidates the license or certification at the time of its relinquishment. An individual practicing as a licensed EMS practitioner or a surrender is considered an illegal practitioner and is subject to the penalties provided by this chapter and RS 40:1131 et seq.

1. Any license surrender shall not be deemed to be an admission of the alleged facts of any pending investigation or complaint. The fact of license surrender shall be deemed a disciplinary action and shall be reported and distributed in the same manner as final decisions of the commission.

2. Surrender or non-renewal of license shall not preclude the commission from investigating or completing a

disciplinary proceeding based upon the individual's conduct prior to or subsequent to the surrender of license.

3. Individuals who surrender their license are not eligible for a reinstatement of their license for a minimum of two years following such surrender and, in addition, not until meeting the requirements for reinstatement of license as described in this Chapter.

D. Consent Order

1. An order involving some type of disciplinary action may be made by the commission with the consent of the individual.

2. The chair is authorized to offer the individual the choice of a consent order in lieu of an administrative hearing.

3. A consent order signed by an individual is an irrevocable offer by the individual until approved, or rejected, by the commission chair or designee.

4. A consent order requires formal approval of a quorum of the commission. All actions of the bureau shall be reported to the commission at its next regularly scheduled meeting.

5. A consent order is not the result of the commission's deliberation; it is the commission's formal approval of an agreement reached between the commission and the individual. The order is issued by the commission to carry out the parties' agreement.

a. Should the commission require evidence before arriving at a decision, the individual shall be notified and given an opportunity for a hearing.

b. Should the commission revise the terms of the agreement, said revised agreement shall be presented for the individual's acceptance. The commission may formulate its order contingent upon the individual's acceptance.

c. The commission shall have the right to refer any case directly to an administrative hearing without first offering a consent agreement.

E. Settlement Order

1. Disciplinary settlement committee, consisting of the chair, or a designee of the chair, and another member of the commission, is delegated the authority to render a final decision regarding settlement of a contested administrative matter by offering a settlement order in lieu of an administrative hearing. The settlement order shall be deemed an order of the commission, effective immediately upon signature of all parties to the agreement.

a. The disciplinary settlement shall be submitted to the commission for review at the next regularly scheduled disciplinary hearing.

b. Should the disciplinary settlement committee be unable to successfully resolve a case, or should the committee believe that the public would be better protected by a decision rendered by the entire commission, the matter will be forwarded to the commission for a formal hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1133.4(A)(8), R.S. 40:1133.5(9), and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1825 (September 2003), amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services and Emergency Medical Services Certification Commission, LR 49:

§513. Formal Hearing

A. The commission has the authority, granted by R.S. 40:1133.4, to bring administrative proceedings against licensed EMS practitioners, applicants for licensure, individuals seeking enrollment or progression in an approved EMS education program, certified ambulance operators and individuals practicing EMS without licensure or certification. The commission and the individual are the parties to the proceeding. The individual has the right to appear and be heard, either in person or by counsel; the right of notice, a statement of what accusations have been made; the right to present evidence and to cross-examine; and the right to have witnesses subpoenaed.

B. Notice and Service

1. The chair or a designee fixes a time and place for a hearing.

2. At least 30 days prior to the date set for the hearing, a copy of the charges and a notice of the time and place of the hearing, shall be sent to the individual respondent by any means authorized for such purpose by this Part.

3. At least 20 working days prior to the scheduled hearing date, the individual shall respond in writing as to his or her intention to appear or not appear at the scheduled hearing. At least 20 working days prior to the scheduled hearing date, the individual shall also file with the commission a written response to the specific allegations contained in the notice of charges. Allegations not specifically answered shall be deemed admitted.

4. If the individual does not appear, in person or through counsel, after proper notice has been given, the individual has waived these rights and the commission may proceed with the hearing without the presence of the individual.

5. An individual who fails without a valid continuance to appear at two consecutive meetings after being validly served with a notice to appear, as set forth in Subsection B of this Section, at each may be summarily suspended for such reason. Any such suspension shall continue until the individual appears for a hearing before the commission, opportunity for which shall be afforded at the next regularly scheduled meeting thereof.

C. Motions for Continuance

1. The commission shall not postpone cases that have been scheduled for hearing absent good cause. A written motion by a licensed EMS practitioner, applicant, or student for a continuance shall be filed with the commission five working days prior to the time set for the hearing, except for extreme emergencies. The motion shall contain the reason for the request, which reason must be based upon good cause and have relevance for due process. Requests for continuances may be approved or denied by the chair or designee. No more than three requests for continuance shall be granted.

D. Subpoenas

1. The chair, or a designee of the commission, issues subpoenas for the commission for disciplinary proceedings, and when requested to do so, may issue subpoenas for the other party. Subpoenas include:

a. a subpoena requiring a person to appear and give testimony;

b. a subpoena duces tecum, which requires that a person produce books, records, correspondence, or other materials over which he has control.

E. Hearing

1. The hearing is held, at which time the commission's primary role is to hear evidence and argument, and to reach a decision. Any commission member, who because of bias or interest is unable to assure a fair hearing, shall be recused from that particular proceeding. The reasons for the recusal are made part of the record. Should the majority of the commission members be recused for a particular proceeding, the governor shall be requested to appoint a sufficient number of pro tem members to obtain a quorum for the proceeding.

2. The commission shall be represented by a Louisiana Department of Health's attorney. Evidence is presented that disciplinary action should be taken against the individual. The individual may present evidence personally or through an attorney, and witnesses may testify on behalf of the individual.

3. Evidence includes the following:

a. oral testimony given by witnesses at the hearing, except that, for good cause, testimony may be taken by deposition (cost of the deposition is borne by requesting party) and/or by sworn affidavits;

b. documentary evidence, i.e., written or printed materials including public, business or institutional records, books and reports; such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference, if the incorporated materials are available for examination by the parties before being received into evidence;

c. visual, physical and illustrative evidence;

d. admissions, which are written or oral statements of a party made either before or during the hearing;

e. facts officially noted into the record, usually readily determined facts making proof of such unnecessary;

f. all testimony is given under oath. If the witness objects to swearing, the word "affirm" may be substituted.

4. The chair of the commission presides and the customary order of proceedings at a hearing is as follows.

a. The director of the Bureau of EMS or their designee, or an attorney therefore, presents the case against the individual.

b. The individual, or his attorney, makes an opening statement, explaining why he believes that the charges against him are not legally founded.

c. The individual commission members ask relevant questions.

d. The individual, or his attorney, may make any statements.

e. The director of the Bureau of EMS or their designee or an attorney therefore, makes the final statement.

f. The commission may impose reasonable time limits on all sides in a hearing, provided that limits will not unduly prejudice the rights of the parties.

g. The commission may exclude incompetent, irrelevant, immaterial, or unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record.

h. 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.

i. Motions may be made before, during, or after a hearing. All motions shall be made at an appropriate time, according to the nature of the request. Motions made before or after the hearing shall be in writing. Those made during the course of the hearing may be made orally since they become part of the transcript of the proceeding.

5. The records of the hearing shall include:

a. all papers filed and served in the proceeding;

b. all documents and other materials accepted as evidence at the hearing;

c. statements of matters officially noticed;

d. notices required by the statutes or rules, including notice of the hearing;

e. affidavits of service or receipts for mailing or process or other evidence of service;

f. stipulations, settlement agreements or consent orders, if any;

g. records of matters agreed upon at a pre-hearing conference;

h. orders of the commission and its final decision;

i. actions taken subsequent to the decision, including requests for reconsideration and rehearing;

j. a transcript of the proceedings, if one has been made, or a tape recording or stenographic record;

k. the record of the proceeding shall be retained until the time for any appeal has expired, or until the appeal has been concluded. The record is not transcribed unless a party to the proceeding so requests, and the requesting party pays for the cost of the transcript. A party who appeals a decision of the commission shall pay all of the costs incurred by the Louisiana Department of Health for preparation of the original and any certified copy of the record of the proceeding that is required to be transmitted to the reviewing court.

6. The decision of the commission shall be reached according to the following process:

a. determine the facts in the issue on the basis of the evidence submitted at the hearing;

b. determine whether the facts in the case support the charges brought against the individual;

c. determine whether charges brought are a violation of the provisions or requirements of this Part.

7. The vote of the commission shall be recorded. Minority views may be made part of the record.

8. Sanctions against the individual who is party to the proceeding are based upon the findings of fact and conclusions of law determined by the hearing. The party is notified by certified mail of the decision of the commission.

F. Disciplinary Sanctions

1. The type of disciplinary sanctions and length of time specified for the sanctions shall be determined on an individual basis, considering all facts pertinent to the case.

2. The commission may set forth guidelines with ranges of disciplinary sanctions from which disciplinary penalties may be imposed. These guidelines are intended to serve only as a guide for staff and commission members when considering penalties, which could be imposed for

specific violations of the provisions or requirements of this Part. Guidelines are in no way binding on the commission when dealing with disciplinary matters. The commission may order license certification sanctions.

3. The disciplinary guidelines are based upon a single count violation. Multiple counts of violations of the same action, or other unrelated violations contained in the same complaint will be grounds for enhancement of penalties. Each day of a continuum of violations may be treated as a separate violation.

4. In determining sanctions, consideration may be given to aggravating or mitigating circumstances identified by the commission in addition to any other factors. The list of aggravating and mitigating circumstances in the guidelines is not to be considered an exclusive list of circumstances.

a. Aggravating circumstances may result in the commission issuing maximum sanctions, or they may justify enhancement of a penalty beyond the maximum guidelines.

b. Mitigating or extenuating circumstances may justify lessening of the sanctions below the minimum guidelines. License suspensions may be stayed with stipulated probations in some extenuating circumstances.

5. The order may stipulate remedial education, specific evaluation and therapy, and other sanctions as deemed necessary and appropriate to the case.

G. Reconsideration or Rehearing

1. The commission shall reconsider a matter when ordered to do so by a higher administrative authority or when the case is remanded for reconsideration or rehearing by a court to which the commission's decision has been appealed.

2. The commission may reconsider a matter which it has decided. This may involve rehearing the case, or it may involve reconsidering the case on the basis of the record. Such reconsideration may occur when a party files a petition requesting that the decision be reconsidered by the commission and specifies the particular grounds therefore.

3. A petition by a party for reconsideration or rehearing must be in proper form and filed within 20 days from the date of entry of the decision. A decision is deemed to be entered when it is signed by the chair or designee and sent by certified mail to the individual's address of record. The petition shall set forth the grounds for the rehearing, which include one or more of the following:

a. the commission's decision is clearly contrary to the law and the evidence;

b. there is newly discovered evidence, which was not available to the individual at the time of the hearing and which may be sufficient to reverse the commission's action;

c. previously considered ought to be examined in order to dispose of the case properly;

d. it would be in the public interest to further consider the issues and the evidence;

e. upon the commission's receipt of a petition for rehearing or reconsideration, the commission may affirm or modify the decision or grant a rehearing to all or any of the parties and on all or part of the issues for any of the above stated reasons. An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.

H. Emergency Action

1. If the commission finds that public health, safety, and welfare requires emergency action and a finding to that effect is incorporated in its order, summary suspension of a license or certification may be ordered by the chair or designee pending proceedings for revocation or other action. Such proceedings shall be promptly instituted and determined at the next regularly scheduled commission meeting.

I. Disciplinary Proceedings in Another Licensing Jurisdiction

1. When a licensed EMS practitioner has his or her license revoked, suspended, denied or sanctioned in other ways for disciplinary reasons by the original certification/licensing jurisdiction or by a subsequent certification/licensing authority, that licensed or certified EMS practitioner shall be notified that his or her Louisiana license or certification is automatically suspended, except for the following:

a. nonpayment of fees;

b. a person in a recovery program for chemical dependency receives permission of the state of origin to transfer to another state;

c. the licensed EMS practitioner is issued a reprimand and the licensed EMS practitioner agrees to having his or her Louisiana License reprimanded identically to, or in excess of, the said jurisdiction's reprimand; or

d. the license is encumbered with a reprimand with stipulations and the licensed EMS practitioner agrees to having his or her Louisiana license probated with stipulations that are identical to, or exceed, the stipulations in said jurisdiction.

2. The licensed EMS practitioner may have his or her license reinstated provided that the licensed EMS practitioner:

a. provides evidence of an unencumbered license by the involved certification/licensing authority and

b. meets requirements for reinstatement of license as described in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 1133.4(A)(8), R.S. 40:1133.5(9), and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1825 (September 2003), amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services and Emergency Medical Services Certification Commission, LR 49:

§515. Appeal from Commission Decision

A. Any person whose license has been revoked, suspended, denied, or otherwise disciplined by the commission shall have the right to have the proceedings of the commission reviewed by the court having jurisdiction over the commission, provided that such appeal is made within 30 days after the date indicated on the registered mail receipt of the written notice of the commission's decision. The commission's decision is enforceable in the interim unless the court orders a stay.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1133.4(A)(8), R.S. 40:1133.5(9), and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1827 (September 2003), amended by the Department of Health, Office of Public Health, Bureau of

Emergency Medical Services and Emergency Medical Services Certification Commission, LR 49:

§517. Reinstatement of License

A. Application for reinstatement of a suspended or surrendered license shall be in writing.

B. The application for reinstatement of a suspended license certification does not require the satisfaction of all of the requirements for initial licensure. However, the requirements of this Part, as determined by the commission or bureau shall be met.

C. Prior to reinstatement of a license previously suspended (except for nonpayment of fees), a hearing or conference is held before the commission to afford the applicant with the opportunity to present evidence that the cause for the revocation or suspension no longer exists and to provide an opportunity for the commission to evaluate changes in the person or conditions. In certain situations, the license may be reinstated by consent order or settlement order. The burden of proof is on the applicant to prove that conditions that led to the suspension no longer exist and/or no longer affect the applicant's ability to practice safely. If reinstatement is granted, a period of probation with stipulations may be imposed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1133.4(A)(8), R.S. 40:1133.5(9), and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1828 (September 2003), amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services and Emergency Medical Services Certification Commission, LR 49:

Family Impact Statement

The proposed Rule should not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

In accordance with Sections 978.1 through 978.8 of the Small Business Protection Act of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis/small business analysis on the rule proposed for adoption, amendment or repeal.

The impact of the proposed rule on small businesses as defined in the Small Business Protection Act has been considered. The Office of Public Health's Bureau of Emergency Medical Services and the Louisiana Emergency Medical Services Certification Commission do not expect that adoption of the proposed amendments will have an adverse economic impact on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments on the proposed rule. Such comments must be received no later than Wednesday, May 10, 2023 at COB, 4:30 p.m., and should be addressed to Susan Bailey, Director of the Bureau of Emergency Medical Services, 7273 Florida Blvd., Baton Rouge, LA 70806.

Public Hearing

Interested persons may submit a written request to conduct a public hearing either by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on Wednesday, May 10, 2023. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 2:00 p.m. on Thursday, May 25, 2023 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after Wednesday, May 10, 2023. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to the Bienville Building's front security desk.

Steve Russo
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Emergency Medical Services
Professionals**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule change is anticipated to increase LDH expenditures by approximately \$40,000 in federal funds in FY 23 and \$12,000 each year thereafter associated with updates to and maintenance fees for the Bureau of EMS Information Management System.

In compliance with Act 31 of the 2020 2nd Extraordinary Session of the Louisiana Legislature, the LDH proposes to amend LAC 46:XXXVIII Chapters 1-5 regarding emergency medical services professionals. Specifically, the rule defines "Certified Ambulance Operator;" outlines the duties of an EMS Practitioner; replaces the term "certified" with "licensed" to align with statute; defines "reciprocity;" provides terms for Recognition of Emergency Medical Services Personnel Licensure Interstate Compact (REPLICA); outlines pre-application eligibility determination; clarifies the process to obtain a criminal history record and identification for REPLICA; provides definitions of terms applying to EMS practice; outlines the authority of the EMS Certification Commission; outlines disciplinary processes; and procedure limitations on disciplinary proceedings by the Commission.

The department indicates any workload increases related to Certified Ambulance Operator eligibility determinations and disciplinary proceedings will be absorbed with existing resources.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

This rule creates a new class of EMS professionals called Ambulance Operators, which requires certification. The cost is \$10 per certification. Depending on the number of ambulance operator applications, there will be an increase in self-generated revenue for the department. LDH anticipates there will be less than 100 applications per year, for a maximum of \$1,000 in increased revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Individuals seeking to become a certified ambulance operator will incur a fee of \$10 associated with the certification.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This rule creates a new class of EMS practitioners, Certified Ambulance Operators, which may result in more employment opportunities and competition in the EMS field.

Doris Gray, Brown
Assistant Secretary
2304#066

Evan Braseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Office of Public Health**

Commission for the Deaf
(LAC 67:VII.Chapter 3)

Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the state health officer, acting through the Department of Health, Office of

Public Health (LDH-OPH), intends to reenact and amend certain sections of Chapter 3 (Commission for the Deaf) of Title 67, Social Services, of the Louisiana Administrative Code. This proposed Rule repeals §§311-333 of Chapter 3 of Title 67 and adopts and amends §§302-309.

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 3. Commission for the Deaf

§302. Construction of Regulations; Severability

A. Nothing contained in this Chapter shall be construed as to conflict with any provision of the Act 128 or any other applicable statute. If any provision of any rule is held invalid by any state or federal court in Louisiana, such provision shall be deemed severed from the Rule and court's finding shall not be construed to invalidate any of the other provisions of this Chapter.

AUTHORITY NOTE: Promulgated pursuant to the authority in R.S. 46:2352(A) and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 49:

§303. Definitions

A. As used in this Chapter the following definitions apply:

Board of Commissioners—the group of individuals named or appointed to inform and support the work of the Louisiana Commission for the Deaf

Commission—the Louisiana Commission for the Deaf, an organizational unit within the Louisiana Department of Health

Deaf—a condition of or person with some or complete absence of auditory sensitivity, regardless of when the hearing loss occurred, and is most often represented with a lowercase letter "d." Methods of communication may include American Sign Language or spoken English. The term "Deaf," when written or expressed with an uppercase letter "D," specifically refers to a group of deaf individuals who identify as a cultural and linguistic minority with specific languages, namely visual or tactile methods of communication, and social mores.

DeafBlind—a condition of or person with noncomitant visual and auditory sensitivity to the extent that it causes extreme difficulty in gaining independence in daily life activities, achieving psychosocial adjustments, or obtaining vocation

Department—the Louisiana Department of Health

Hard of Hearing—a condition of or person with total or partial inability to hear sound, but not to the extent that the person must rely primarily on visual communication

Hearing—any person who has average to above hearing levels

Interpreter—an individual involved in the process of interpreting or transliterating between the English language and American Sign Language or any communication modes used by d/Deaf, DeafBlind, or hard of hearing persons. Communication modes may include, but are not limited to, cued speech and tactile sign

Secretary—the secretary of the Louisiana Department of Health

AUTHORITY NOTE: Promulgated pursuant to the authority in R.S. 46:2352 (A) and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, Commission for

the Deaf, LR 13:93 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995), amended by the Department of Health, Office of Public Health, LR 49:

§304. Mission of the Commission

A. To engage, empower, and enrich the lives and opportunities of Louisiana's Deaf, DeafBlind, and hard of hearing people.

B. The minimum commission requirements are as follows:

1. establish initiatives and programs to identify and address the needs of the d/Deaf, DeafBlind, and hard of hearing communities;

2. develop strategic plan to guide the work and priorities of the commission, in collaboration with the board of commissioners and other constituencies affected by the plan, published no less frequently than every five years; and

3. publish guidelines for all services to the public including descriptions of the services, eligibility, and requirements of service providers no less frequently than every five years.

AUTHORITY NOTE: Promulgated pursuant to the authority in La. R.S. 46:2353 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Commission for the Deaf, LR 13:94 (February 1987), amended by the Department of Social Services, Office of Rehabilitation Services, Commission for the Deaf, LR 17:388 (April 1991), LR 21:589 (June 1995), LR 24:494 (March 1998), LR 28:2373 (November 2002), amended by the Department of Health, Office of Public Health, LR 49:

§305. Telecommunications Assistance Program

A. Role and Function. The commission serves as the statewide coordinator for the distribution of telecommunications devices and related assistive technology devices for d/Deaf, DeafBlind, and hard of hearing people.

B. The eligibility requirements for the telecommunications assistance program are as follows:

1. Louisiana resident with proof of residency;

2. Social Security number;

3. documentation of hearing-related diagnosis or combined hearing and vision-related diagnosis;

4. age of 18 years or older or parent/guardian available to receive the equipment on behalf of those under 18 years of age; and

5. limit of one unique type of equipment per household. Exceptions may be granted on an individual basis.

C. Accessing Services. Provision of services requires a completed application with one of the commission's regional services center.

1. The application shall require identifying information and the necessary documentation required to demonstrate eligibility.

D. Consultation. The commission shall consult with the following entities for advisement with and assessment of this program:

1. the board of commissioners;

2. the Louisiana Relay Administration Board; and

3. the national Telecommunications Equipment Distribution Association.

AUTHORITY NOTE: Promulgated pursuant to the authority in La. R.S. 46:2353 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, Commission for the Deaf, LR 13:94 (February 1987), amended LR 17:388 (April

1991), LR 21:589 (June 1995), LR 24:495 (March 1998), amended by the Department of Health, Office of Public Health, LR 49:

§306. Support Service Provider Program

A. Role and Function. The commission serves as the statewide coordinator of the Support Service Provider (SSP) Program to promote the availability of one-to-one support for DeafBlind individuals to understand their environment, facilitate communication, and promote autonomous living.

B. The eligibility requirements for the support service provider program are as follows:

1. Louisiana resident with proof of residency;

2. Social Security number;

3. documentation of combined hearing and vision-related diagnosis;

4. central visual acuity of 20/20 or less in their better eye with corrected lenses or a visual field defect no greater than 20 degrees, or a progressive visual loss having a diagnosis leading to one or both of these conditions;

5. chronic or progressive hearing loss so severe that most speech cannot be understood even with amplification; and

6. extreme difficulty in doing daily life activities, participating in social activities, or gaining meaningful employment.

7. If an individual cannot have their hearing and vision properly measured, but they have severe hearing and visual disabilities that make it extremely difficult to be independent, they may still be eligible for the program.

C. Provider Requirements

1. Organization Requirements:

a. organization(s) engaged to provide SSP services must have demonstrated the ability to effectively serve DeafBlind individuals and their families; and

b. organization(s) engaged to provide the SSP services must have the ability to train, supervise, and manage the SSP workforce, including rigorous systems to monitor service quality and integrity.

2. SSP Requirements:

a. be at least 18 years of age;

b. able to accommodate a consumer's communication preference. This includes sign language, tactile communication, speech, print, Braille, technology, etc.;

c. pass a background check (no criminal record);

d. have a valid driver's license; and

e. have current car insurance that includes liability insurance (this only applies to those who will drive consumers as part of their SSP role).

D. Accessing Services. Provision of services requires a completed application with the commission's designated SSP organization.

1. The application shall require identifying information and information concerning the applicant's diagnosis and evaluation of need.

E. Consultation. The commission shall consult with the following entities for advisement with and assessment of this program;

1. the board of commissioners;

2. the DeafBlind Advisory Council; and

3. the Helen Keller National Center for DeafBlind Youths and Adults.

AUTHORITY NOTE: Promulgated pursuant to the authority in La. R.S. 46:2353 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 49:

§307. Hearing Aid Program

A. Role and Function. The commission serves as the statewide distributor of amplification devices.

B. The eligibility requirements for the hearing aid program are as follows:

1. Louisiana resident with proof of residency;
2. Social Security number;
3. age 50 or older;
4. documentation of hearing-related diagnosis.

Hearing loss Pure Tone Average of 40 dB or greater in either ear, which is documented by an evaluation and audiogram performed by a commission approved audiologist and/or hearing aid instruments specialist selected by the consumer from a pre-approved commission vendor list;

5. meet an economic need factor of 250 percent of federal poverty guidelines;

6. individuals may not be eligible for any other state or federal program providing assistance with hearing aid purchases;

7. consumers may be eligible for replacement of aids every five years, with possible exceptions made by LCD office for extenuating circumstances; and

8. younger individuals who meet all other eligibility requirements may be considered on an individual basis according to funding availability.

C. Provider Requirements. To be eligible to dispense hearing aids for the LCD Hearing Aid Program, vendors must be one of the following:

1. licensed by the Louisiana Board of Hearing Aid Dealers;

2. licensed by the Louisiana Board of Examiners for Speech-Language Pathology and Audiology; or

3. a physician licensed under the Louisiana State Medical Practices Act and be listed on LCD's approved hearing aid vendor list.

D. The required services for the hearing aid program are as follows:

1. official hearing assessment and determination;

2. recommendation and fitting of hearing aid(s), if applicable; and

3. follow-up appointment according to program policies.

E. Consultation. The commission shall consult with the following entities for advisement with and assessment of this program:

1. the board of commissioners;
2. registered hearing aid vendors/audiologists; and
3. the Louisiana Board of Hearing Aid Dealers.

AUTHORITY NOTE: Promulgated pursuant to the authority in La. R.S. 46:2353 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, Commission for the Deaf, LR 13:95 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995), amended by the Department of Health, Office of Public Health, LR 49:

§308. Interpreting Program

A. Role and function of the interpreting program is to:

1. promote the understanding and implementation of the Americans with Disability Act (ADA) through education and informing businesses and organizations responsible under the ADA of their obligation in providing auxiliary aids

and services when needed to communicate effectively with people who are d/Deaf, DeafBlind, or hard of hearing.

2. promote the development of the state's interpreter workforce through the support of interpreter training programs and continuing education;

3. develop and maintain the criteria for standardizing the qualifications and practices of the interpreter workforce which advance best practices related to the needs of the state's interpreting workforce and d/Deaf, DeafBlind, and hard of hearing communities; and

4. maintain a statewide, public-facing registry of interpreters which is accessible via the commission's website.

B. The eligibility requirements for the interpreting program are as follow:

1. the commission may provide limited funding for American Sign Language (ASL) interpreting services or other auxiliary aids to individuals or entities to ensure access to public and private services when resources are unavailable or the ADA is not applicable. The commission may seek reimbursement for costs incurred on behalf of ADA covered entities.

a. Situations which may be approved include, but are not limited to:

i. state and local government services when access is essential to the public and not otherwise covered under the ADA;

ii. emergency medical services;

iii. urgent situations which may critically impact a person's physical or mental health;

iv. interim occupations needs such as job interviews; and

v. public/community/civil service meetings crucial to public awareness such as during a disaster or weather related events.

b. Funding may not be used for interpreting services related to religious services or settings, education-related activities under the supervision of the Louisiana Department of Education or other higher education institutions, or personal circumstances.

c. Special determinations may be considered for DeafBlind individuals.

C. Consultation. The commission will consult with the following entities for advisement with the assessment of this program:

1. the board of commissioners;

2. the Louisiana Registry of Interpreters for the Deaf board; and

3. professional interpreters representative of the state of Louisiana.

AUTHORITY NOTE: Promulgated pursuant to the authority in La. R.S. 46:2353 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 49:

§309. Louisiana Commission for the Deaf Board of Commissioners

A. Name. The name shall be the Louisiana Commission for the Deaf board of commissioners, hereinafter referred to as the "board of commissioners."

B. The role and function of the Louisiana Commission for the Deaf board of commissioners are as follows:

1. to support the work of the commission by making recommendations to the commission regarding its programs,

policies, procedures, regulations, rules and criteria on behalf of d/Deaf, DeafBlind, and hard of hearing communities and their families; and

2. to advocate for the general welfare, needs, and rights of d/Deaf, DeafBlind, and hard of hearing individuals in this state through education, advising, informing, and promoting relevant laws, policies, and practices which support the eradication of barriers and discrimination affecting individuals who are d/Deaf, DeafBlind, and hard of hearing.

AUTHORITY NOTE: Promulgated pursuant to the authority in R.S. 46:2352(B).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, Commission for the Deaf, LR 13:93 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995); amended by the Department of Health, Office of Public Health, LR 49:

§311. Replacements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, Commission for the Deaf, LR 13:95 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995), repealed LR 49:

§313. Privileges of Membership

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, Commission for the Deaf, LR 13:95 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995), repealed LR 49:

§315. Liability

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, Commission for the Deaf, LR 13:96 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995), LR 49:

§317. Compensation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, Commission for the Deaf, LR 13:96 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995), LR 49:

§319. Designees

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, Commission for the Deaf, LR 13:94 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995), LR 49:

§321. Officers of the Commission

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, Commission for the Deaf, LR 13:94 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995), repealed LR 49:

§323. Officers Resignations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, Commission for the Deaf, LR 13:94 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995), repealed LR 49:

§325. Termination of Office

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, Commission for the Deaf, LR 13:95 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995), repealed LR 49:

§327. Meeting Protocol

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, Commission for the Deaf, LR 13:95 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995), repealed LR 49:

§329. Committees, Boards and Task Forces

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, Commission for the Deaf, LR 13:96 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995), LR 24:495 (March 1998), repealed LR 49:

§331. Executive Director

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, Commission for the Deaf, LR 13:95 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995), LR 24:495 (March 1998), repealed LR 49:

§333. Amendments

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, Commission for the Deaf, LR 13:96 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995), repealed LR 49:

Family Impact Statement

The proposed Rule should not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable negative effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

The proposed Rule is to clarify the roles and duties of the Louisiana Commission for the Deaf board of commissioners may result in an indirect positive impact on these outcomes for people who are d/Deaf, DeafBlind and/or hard of hearing by having a public body that is distinct and separate from the Louisiana Department of Health to represent and advocate for their needs in the ways specified in the proposed Rule.

Small Business Analysis

The proposed Rule should have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments on the proposed Rule. Such comments must be received no later than Thursday, June 8, 2023 at COB, 4:30 p.m., and should be addressed to Susan Bailey, Director of the Bureau of Emergency Medical Services, 7273 Florida Blvd., Baton Rouge, LA 70806.

Public Hearing

Interested persons may submit a written request to conduct a public hearing either by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on Thursday, June 8, 2023. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 2:00 p.m. on Monday, June 26, 2023 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after Thursday, June 8, 2023. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Commission for the Deaf

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is anticipated to increase LDH expenditures by approximately \$1,065 SGF in FY 23 associated with publication costs.

In compliance with Act 128 of the 2022 RLS, the LDH proposes to amend LAC 67:VII Chapter 3 regarding the Commission for the Deaf. Specifically, the rule (1) provides that the commission shall function as a program of the state and serve as the principal agency of the state providing leadership to promote the general welfare of hard of hearing individuals (2) provides that the commission shall be governed by a board and updates the membership, and (3) provides for and updates the duties and powers of the commission and the governing board.

Proposed rule clarifies or rephrases many duties pertaining to the commission, though these updates do not materially call for the expansion of the commission's objectives or duties.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated costs or economic benefits to directly affected persons, small businesses, or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment.

Casey Tingle
Director
2305#039

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Office of Public Health

Participant Eligibility (LAC 48:V.Chapter 41)

Under the authority of R.S. 46:972, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the secretary, acting through the Department of Health, Office of Public Health (LDH/OPH), intends to amend parts of Chapter 41 of Title 48, Public Health—General, and to amend those rules to comply with the requirements of the Child and Nutrition and WIC Reauthorization Act of 2010 and applicable WIC federal regulations of the United States Department of Agriculture.

This rulemaking proposes to amend §§4101-4103 of Chapter 41, §§4303-4309 of Chapter 43 and §§44511 of Chapter 45, all within Part V of Title 48, Public Health—General, of the Louisiana Administrative Code (LAC). These amendments are necessary to ensure the State of Louisiana remains in compliance with applicable WIC federal regulations of the USDA at 7 CFR 246.

Title 48

PUBLIC HEALTH—GENERAL

Part V. Preventive Health Services

Subpart 15. Special Supplemental Nutrition Program for Women, Infants and Children (WIC)

Chapter 41. General Provisions

§4101. Purpose and Scope

A. ...

B. The Special Supplemental Nutrition Program for Women, Infants and Children (WIC), also hereinafter known as “The Louisiana WIC Program or LA WIC”, provides supplemental foods and nutrition education, including breastfeeding promotion and support, for women, infants and children. It is federally funded through the U.S. Department of Agriculture (USDA) via cash grants to state agencies which administer the program. The Louisiana Department of Health, Office of Public Health, Center for Community and Preventive Health, Bureau of Nutrition Services, shall be responsible for the administration of the program in Louisiana. Extensive regulations have been published by the Food and Nutrition Service (FNS) of the U.S. Department of Agriculture (USDA) in 7 CFR Part 246. Federal regulations stipulate participation requirements, length of certifications, certification processes, certification standards, WIC participant responsibilities, WIC participant grievance rights, and retail food delivery systems. If there is a conflict with any portion of LAC 48:V.Subpart 15 and 7 CFR Part 246 and/or if there is a regulatory waiver issued by USDA to LA WIC, the provisions of 7 CFR Part 246 and/or the regulatory waiver shall supersede the provisions of LAC 48:V.Subpart 15.

C. The annual LA WIC state plan, including a comprehensive policy manual, is available for review by any interested party at both of the Bureau of Nutrition Services offices in Louisiana, as follows: 628 North Fourth Street, Baton Rouge, LA 70802 and 1450 Poydras Street, New Orleans, LA 70112.

D. As described in 7 CFR part 246, LA WIC is to provide supplemental foods and nutrition education, including breastfeeding promotion and support, to categorically eligible WIC participants who are income eligible and found to be at nutritional risk. LA WIC shall serve as an adjunct to good health care during critical times of growth and development, in order to prevent the occurrence of health problems, including drug and other harmful substance abuse, and to improve the health status of these persons. LA WIC is responsible for providing services to as many eligible WIC participants as funding allows.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR part 246, P. L. 95-627, and 41 USC 1786. Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:330 (February 2017), LR 49:

§4103. Definitions

A. The following words and terms are defined for the purposes of this Subpart and for all contracts, guidelines, instructions, forms and other documents related hereto.

Abbreviated Administrative Review—a procedure by which a vendor may appeal specified adverse actions by LA WIC to an independent reviewer.

Above-50-Percent (A-50) Vendors—vendors that derive more than 50 percent of their annual food sales revenue from WIC approved food items, and new vendor applicants expected to meet this criterion under guidelines approved by the Food and Nutrition Service (FNS) of USDA.

Abuse—diversion of resources away from necessary LA WIC services benefits

Adjustment—price adjustment.

Administrative Review—Repealed.

Authorized Supplemental Foods/WIC-Approved Foods—Repealed.

Authorized WIC Vendor—a store owned by a sole proprietorship, partnership, cooperative association, corporation, limited liability company, or other business entity that is authorized by LA WIC to provide WIC-approved food items to WIC participants under a retail food delivery system. Each store must have a single, fixed location and must be authorized separately from other stores owned by the business entity.

Civil Money Penalty (CMP)—a monetary penalty imposed in lieu of disqualification as a sanction applied due to inadequate participant access.

Cash Value Benefit—Cash value voucher.

Cash Value Voucher—a fixed-dollar amount used by a participant to obtain authorized fruits and vegetables

Change of Location—Repealed.

Change of Ownership—Repealed.

Competitive Price Criteria (CPC)—the prices a vendor or vendor applicant charges for a selection of WIC approved food items as compared to the prices charged by other vendors within the same vendor peer group.

Compliance Buy—a covert, on-site investigation in which a representative of the program poses as a WIC participant, parent, or caretaker of an infant or child participant, or proxy, conducts one or more WIC transactions, and does not reveal during the visit that he or she is a program representative.

Compliance Investigation—compliance buys and/or inventory audits.

Confidential Participant Information—confidential applicant and WIC participant information is any information about an applicant or WIC participant whether it is obtained from the applicant or WIC participant, another source, or generated as a result of WIC application, certification, or participation, that individually identifies an applicant or WIC participant and/or family member(s). Applicant or WIC participant information is confidential, regardless of the original source.

Confidentiality—Repealed.

Confidentiality Vendor Information—any information about a vendor (whether it is obtained from the vendor or any other source) that individually identifies the vendor except for vendor’s name, address, telephone number, web site/email address, store type, and authorization status.

Corrective Action Plan (CAP)—a plan submitted by a vendor to take remedial action(s) to correct a violation(s) of LA WIC vendor rules and regulations.

Courtesies—LA WIC requires vendors to offer WIC participants the same services that are offered to other customers, such as, but not limited to, helping the customer to obtain an item from a shelf or from behind a counter, bagging food for the customer, and assisting with loading the food into a vehicle.

Deficiency—inventory audit deficiency.

Disqualification—the act of ending the program participation of a WIC participant, vendor or authorized state or local agency.

Documentation—the presentation of written documents which substantiate statements made by an applicant, WIC participant, person applying on behalf of an applicant, vendor, and/or vendor applicant.

Dual Participation—simultaneous participation in LA WIC in more than one WIC clinic.

Electronic Benefit Transfer (EBT)—a method that permits electronic access to WIC benefits using a card or other access device approved by the Secretary of USDA.

Electronic Benefit Transfer (EBT) Capable—demonstration by a vendor or vendor applicant that its cash register system or payment device can accurately and securely obtain WIC food balances associated with an EBT card, maintain the necessary files such as the authorized product list, hot card file and claim file and successfully complete WIC EBT purchases.

Equitable Treatment—vendors will offer WIC participants the same courtesies that are offered to other (non-WIC) customers.

Food Delivery System—the method used by state and local agencies to provide WIC-approved foods items to WIC participants.

Food Instrument (FI)—Repeal.

Food Package—WIC-eligible food items designed to meet the special nutritional needs of the WIC participant and issued in designated quantities and types.

Fraud—regarding any and all LA WIC matters, a misrepresentation or a suppression of the truth made with the intention either to obtain an unjust advantage for a party or to cause a loss or inconvenience to the other

Full Administrative Review—a procedure by which a vendor may appeal specified adverse actions by LA WIC to the Division of Administrative Law of the Louisiana Department of the State Civil Service.

Full Line Grocery Store—Repealed.

Incentive Items/Incentives—an item or service provided by a vendor to attract customers or encourage customer loyalty.

Infant Formula—a food that meets the definition of an infant formula in section 201(z) of the Federal Food, Drug, and Cosmetic Act of 1938 (21 U.S.C. 321(z)), and that meets the requirements for an infant formula under section 412 of the federal Food, Drug, and Cosmetic Act of 1938 (21 U.S.C. 350a), as amended, and the regulations at 21 CFR parts 106 and 107 published on April 1, 2021.

Inventory Audit—the examination of food invoices or other proofs of purchase to determine whether a vendor has purchased sufficient quantities of supplemental food(s) to provide WIC participants with the quantity of supplemental food(s) redeemed during a given period of time.

Inventory Audit Deficiency—the monetary value of a vendor's claimed reimbursement for the sale of supplemental food(s) that exceeds the store's documented inventory of supplemental food(s) for a specific period of time.

Judicial Review—the procedure by which a vendor may appeal a decision rendered at an administrative review, or a WIC participant may appeal a decision rendered at a fair hearing.

LA WIC—the Louisiana WIC Program.

Maximum Allowable Reimbursement Level (MARL)—the highest reimbursement amount for WIC approved food items for each peer group.

Monitoring—routine monitoring.

Monitoring Review—routine monitoring.

Non-A50 Vendors—Repealed.

Participant Access—the ability of a WIC participant to adequately access WIC approved food items from vendors for which LA WIC has established participant access criteria in accordance with federal regulations at 7 CFR part 246.

Participant Violation—any intentional action of a WIC participant, caregiver or a proxy that violates federal or state statutes, regulations, policies or procedures governing the program.

Participants—pregnant women, breastfeeding women, postpartum women, infants and children who are receiving WIC approved food items or cash-value vouchers under the program, and the breastfed infants of WIC participant breastfeeding women.

Participation—the sum of the number of:

a. persons who received WIC approved food items or cash-value vouchers during the reporting period;

b. infants who did not receive WIC approved food items or cash-value vouchers but whose breastfeeding mother received WIC approved food items or cash-value vouchers during the report period; and

c. breastfeeding women who did not receive WIC approved food items or cash-value vouchers but whose infant received WIC approved food items or cash-value vouchers during the report period.

Peer Group—a group of vendors that is based on common characteristics or criteria that affect food prices. Vendors are grouped for management and cost containment purposes.

Postpartum Women—usually, women up to six months after termination of pregnancy.

Price Adjustment—changes made to the reimbursement amount by LA WIC, in accordance with the vendor agreement, to ensure that the payment to the vendor complies with LA WIC's price limitations.

Program—the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) authorized by section 17 of the Child Nutrition Act of 1966, as amended (unless the context in which this word is used in this Subpart clearly indicates otherwise).

Proxy—any person designated by a WIC participant, or by a parent or caretaker of an infant or child participant, to obtain and transact WIC benefits and/or to obtain WIC approved food items on behalf of a WIC participant. The proxy shall be designated consistent with LA WIC's procedures established pursuant to 7 CFR §246.12(r)(1). Parents or caretakers applying on behalf of a child or infant WIC participants are not proxies.

Regular Vendors (Non-A-50)—vendors that do not meet the vendor selection criterion for above-50-percent (A-50) vendors.

Reimbursement—the payment from LA WIC to a vendor for WIC transactions in accordance with the vendor agreement.

Routine Monitoring—an overt, on-site monitoring visit during which program representatives identify themselves to vendor personnel.

Sanctions—adverse actions including, but not limited to, termination of the vendor agreement, and/or disqualification or civil money penalties (CMPs), taken by LA WIC against a vendor after a vendor fails to comply with vendor rules and regulations. The sanction schedule appears in the vendor guide and policy manual.

Secretary—the Secretary of Agriculture.

Sign or Signature—a handwritten signature on paper or an electronic signature. If LA WIC chooses to use electronic signatures, LA WIC shall ensure the reliability and integrity of the technology used and the security and confidentiality of electronic signatures collected in accordance with sound management practices, and applicable federal law and policy, and the confidentiality provisions at 7 CFR §246.26.

* * *

State Agency—the state of Louisiana, Louisiana Department of Health, Office of Public Health, Center for Community and Preventive Health, Bureau of Nutrition Services.

State Plan—a plan of program operation and administration that describes the manner in which LA WIC intends to implement and operate all aspects of program administration within its jurisdiction in accordance with 7 CFR §246.4.

Supplemental Foods—those foods containing nutrients determined by nutritional research to be lacking in the diets of pregnant, breastfeeding and postpartum women, infants, and children, and foods that promote the health of the population served by LA WIC as indicated by relevant nutrition science, public health concerns, and cultural eating patterns, as prescribed by the Secretary in 7 CFR §246.10.

Supplemental Nutrition Assistance Program (SNAP)—the program authorized by the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.), in which eligible households receive benefits that can be used to purchase food items from authorized retail stores and farmers' markets.

Unauthorized Food Item—allowing the purchase of any food item that is not a WIC approved food item, the purchase of any WIC approved food item that is not

prescribed for a particular WIC participant, or the purchase of any WIC approved food item in excess of available WIC benefits.

* * *

Vendor—authorized WIC vendor.

Vendor Agreement—a contract between an authorized WIC vendor and LA WIC.

Vendor Authorization—the process by which LA WIC assesses, selects, and enters into agreements with stores that apply or subsequently reapply to be an authorized WIC vendors.

Vendor ID—vendor identification number.

Vendor Identification Number—a distinctive number assigned to each authorized WIC vendor that is confidential.

Vendor Limiting Criteria—criteria established by LA WIC to determine the maximum number and distribution of vendors it authorizes pursuant to 7 CFR §246.12(g)(2).

Vendor Number—Repealed.

Vendor Overcharge—intentionally or unintentionally charging LA WIC more for a WIC-approved food item than is permitted under the vendor agreement, such as a vendor charging more for a WIC approved food item in the WIC transaction than the shelf price of the item. WIC transactions submitted by the vendor for redemption that are adjusted by LA WIC to meet cost containment measures are not considered vendor overcharges.

Vendor Portal—Repealed.

Vendor Rules and Regulations—provisions that control vendor participation within LA WIC including, but not limited to, affirmations made in the vendor application and the vendor agreement, and federal and state rules, regulations, guidance and policy governing LA WIC as well as the vendor guide, memorandums and policy manual.

Vendor Selection Criteria—the criteria established by LA WIC to select individual vendors for WIC authorization consistent with the requirements in 7 CFR §246.12(g)(3) and (g)(4) and found in the vendor rules and regulations.

Vendor Termination—the dissolution of a vendor agreement.

Vendor Violation—any intentional or unintentional action of a vendor's current owners, officers, managers, agents, or employees (with or without the knowledge of management) that violates the vendor agreement or federal or state statutes, regulations, policies, or procedures governing LA WIC.

WIC—the Special Supplemental Nutrition Program for Women, Infants and Children authorized by section 17 of the Child Nutrition Act of 1966, 42 U.S.C. 1786.

WIC Approved Food Items—those supplemental foods authorized by LA WIC for issuance to WIC participants.

WIC Benefit—a supplemental food benefit issued to WIC participants in the form of a cash value voucher (CVV) or EBT card.

WIC Federal Regulations—the regulations contained within part 246 of title 7 of the Code of Federal Regulations (7 CFR 246) published on January 1, 2021 and titled the Special Supplemental Nutrition Program for Women, Infants and Children.

WIC Program—Repealed.

WIC Transaction—an electronic benefit transfer (EBT) of a WIC benefit.

WIC Transaction for Food Not Received—occurs when LA WIC reimburses a vendor for a WIC approved food item(s) not received by the WIC participant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of Public Health, LR12:869 (December 1988), amended by the Department of Health, Office of Public Health, LR 43:331 (February 2017);, amended LR 49:

Chapter 43. Participant Eligibility

§4301. Integration with Health Services

A. Whenever possible, (LA WIC) intake procedures shall be combined with intake procedures from other health programs and/or services administered by state and local agencies. Such merging may include verification procedures, certification interviews, and income computations.

1. A list of local counseling and treatment resources for drug and other harmful substance abuse shall be made available to all pregnant, postpartum, and breastfeeding women, and to parents and caretakers of infants and children, any of whom are applying for and participating in LA WIC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:334 (February 2017), LR 49:

§4303. Eligibility Criteria

A. To be certified as eligible for LA WIC, applicants shall:

1. - 2. ...

3. meet nutritional risk criteria as described in Subparagraph d (Priority IV) of Paragraph 4 of Subsection C of this Section and in the state plan.

B. Income Criteria and Income Eligibility Determination

1. Income criteria for the program is established annually at 185 percent of poverty level (U.S. Department of Health and Human Services) as issued annually by the USDA's FNS. This shall have an annual effective date of no later than July 1.

2. LA WIC will determine income through the use of a clear and simple application form. Routine verification on a random selection of WIC participants to verify income is, and shall remain, at the discretion of LA WIC. Applicants are adjunctively income eligible for LA WIC when proof of enrollment in Louisiana Medicaid, Supplemental Nutrition Assistance Program (SNAP) or Temporary Assistance for Needy Families (TANF) is provided.

C. Nutritional Risk

1. A competent professional authority shall determine if a WIC participant is at nutritional risk through a medical and/or nutritional assessment. This determination may be based on referral data by an applicant or WIC participant's medical provider.

2. At minimum, height (or length) and weight of the WIC participant shall be measured, and a hematological test for anemia (such as a hemoglobin, hematocrit or free erythrocyte protoporphyrin test) shall be performed. Such hematological tests are not required, but are permitted, for

infants under nine months of age. All infants nine months of age and older (who have not already had a hematological test performed or obtained between the ages of and six and nine months), shall have a hematological test performed between nine and 12 months of age or obtained from referral sources.

3. Appropriate nutritional risk codes, as specified in the current state plan and as summarized in Paragraph 4 of this Subsection, shall be documented at each certification/recertification visit.

4. In the event that statewide participation has reached the maximum level, LA WIC shall fill vacancies according to the federally mandated priority system. In the event a priority level must be partially closed, subpriorities are described in the state plan as approved by USDA. Priority levels are identified as follows.

a. Priority I—pregnant women, breastfeeding women and infants at nutritional risk as demonstrated by hematological or anthropometric measurements, or other documented nutritionally related medical conditions which demonstrate the need for WIC approved food items .

b. Priority II—

i. infants (except those infants who qualify for Priority I) up to 6 months of age born of women who participated in LA WIC during pregnancy; and

ii. infants (except those infants who qualify for Priority I) up to 6 months of age born of women who were not WIC participants during pregnancy but whose medical records document that they were at nutritional risk during pregnancy due to nutritional conditions detectable by biochemical or anthropometric measurements or other documented nutritionally related medical conditions which demonstrated the person's need for WIC approved food items.

c. Priority III—children at nutritional risk as demonstrated by hematological or anthropometric measurements or other documented medical conditions which demonstrate the child's need for WIC approved food items.

d. Priority IV—pregnant women, breastfeeding women, and infants at nutritional risk because of an inadequate dietary pattern.

e. Priority V—children at nutritional risk because of an inadequate dietary pattern.

f. Priority VI—postpartum women at nutritional risk.

g. Priority VII—individuals certified for LA WIC solely due to homelessness or migrancy and, at state agency option, previously certified WIC participants who might regress in nutritional status without continued provision of WIC approved food items.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of Public Health, LR 12:869 (December 1988), amended by the Department of Health, Office of Public Health, LR 43:335 (February 2017), LR 49:

§4305. Timeframes for Processing Applicants

A. When LA WIC is not serving its maximum caseload, LA WIC may accept applications, and make eligibility determinations. Applicants shall be notified of the decisions

made, and if enrolled, will be issued WIC benefits. These actions shall be accomplished within the timeframes set forth below.

1. The processing timeframes shall begin when an individual visits the WIC clinic during clinic office hours to make an oral or written request for WIC benefits.

2. Special nutritional risk applicants shall be notified of their eligibility or ineligibility within 10 days of the date of the first request for WIC benefits. LA WIC may provide an extension of the notification period to a maximum of 15 days for the WIC clinics which make written request, including a justification of the need for an extension. LA WIC shall establish criteria for identifying categories of persons at special nutritional risk who require expedited services. At a minimum, however, these categories shall include pregnant women eligible as Priority I WIC participants, and migrant farm workers and their family members who soon plan to leave the jurisdiction of the local agency.

3. All other applicants shall be notified of their eligibility or ineligibility within 20 days of the first date of the request for WIC benefits.

4. The WIC clinic or local agency using a retail purchase system shall issue WIC benefits benefits to the WIC Participant at the same time as notification of certification. The WIC benefits benefits issued should be valid for the current month and shall be redeemable immediately upon receipt by the WIC Participant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:335 (February 2017), LR 49:

§4307. Certification Periods

A. WIC benefits shall be based upon certifications established in accordance with the following timeframes.

1. - 4. ...

5. Children shall be certified at intervals of approximately one year and ending with the end of the month in which a child reaches its fifth birthday. WIC clinic staff shall ensure children certified for a year shall be offered a mid-certification assessment, which includes a health and nutrition assessment (review of anthropometrics, blood work, and a brief update of the health and dietary assessment), immunizations screening, nutrition education, and referrals to other health and social services, within a certification period. Food benefits shall not be denied to parents/guardians who refuse to obtain the mid-certification assessment for their children.

B. Upon request, WIC participants shall receive verification of certification (VOC) when transferring to another WIC program out of state.

C. ...

D. WIC participants receiving program benefits may be disqualified during a certification period for the following reasons:

1. WIC participant violation including, but not limited to, intentionally making false or misleading statements or intentionally misrepresenting, concealing, or withholding facts to obtain WIC benefits; exchanging WIC benefits for

cash, credit, non-food items, or unauthorized food items, including WIC approved food items in excess of those listed on the participant's WIC benefit; threatening to harm or physically harming vendor staff; or making a written, electronic, or verbal offer to sell WIC benefits, including WIC approved food items, and/or WIC EBT cards, or allowing someone else to do so.

2. If LA WIC experiences funding shortages, it may be necessary to discontinue program benefits to a number of certified and participating WIC participants. LA WIC shall not enroll new participants during the period when currently participating WIC participants, those who have received WIC benefits during a current certification, are denied remaining WIC benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:336 (February 2017), LR 49:

§4309. WIC Participant Rights and Responsibilities/Notification/Fair Hearing

A. WIC Participant Rights and Responsibilities. All applicants shall read or have read to them the programs' rights and responsibilities statement, including the restriction of dual participation in the program. After reviewing the statement, all applicants shall sign attesting to have reviewed the statement.

B. Notification of Ineligibility. WIC participants found ineligible during a certification period shall be advised in writing of the ineligibility, the reasons for the ineligibility and of the right to a fair hearing.

C. Notification of Disqualification. WIC participants who are about to be disqualified from program participation during a certification period shall be advised in writing not less than 15 days before the effective date of disqualification, of the reasons for the disqualification and the right to a fair hearing.

D. Fair Hearing Procedures for WIC participants. LA WIC provides a hearing procedure through which any individual may appeal, within sixty days of the date of notification by LA WIC, an action which results in the denial of participation or the disqualification from LA WIC.

1. The hearing process is governed by the procedures set forth in the Administrative Procedure Act, R.S. 49:950 et seq., and as mandated by WIC federal regulations, 7 CFR part 246.

2. LA WIC shall not summarily deny or dismiss an appeal unless:

a. - c. ...

3. LA WIC shall continue WIC benefits for a WIC participant whose participation has been terminated during a certification period if a request for an appeal is received within the 15 days of advance notification of disqualification. WIC benefits shall continue until the hearing officer reaches a decision or the certification period expires, whichever occurs first. Applicants who are denied WIC benefits at initial certification or because of the expiration of their certification may appeal the denial, but shall not receive WIC benefits while pending the hearing and decision of the hearing officer.

4. A WIC participant or representative may appeal the fair hearing decision through judicial review as provided for in the Louisiana Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:336 (February 2017), LR 49:

Chapter 45. Vendor Selection, Participation and Sanctions

§4503. Vendor Selection Criteria

A. As outlined in 7 CFR part 246, LA WIC has the responsibility to maximize the use of available funds by providing WIC-approved food items to WIC participants at the most reasonable prices and to have an agreement with enough vendors to ensure adequate participant access. LA WIC reserves the right to implement limiting criteria on vendors statewide in order to meet this responsibility. If LA WIC elects to implement such limiting criteria, the criteria shall be made available and applied consistently.

B. WIC federal regulations at 7 CFR §246.12 mandate that state WIC agencies must develop and implement selection criteria to select only qualified vendors to provide WIC-approved food items to WIC participants. Specific vendor selection criteria must be addressed while allowing WIC state agencies to identify additional vendor selection criteria to further enhance services to WIC participants.

C. LA WIC has established vendor selection criteria in conjunction with and with approval from the USDA. The vendor selection criteria are published within this Subpart and in the vendor rules and regulations.

D. In order to be eligible to participate in LA WIC, the vendor applicant, including any of the vendor applicant's current owners, officers, or managers and/or vendors shall:

1. stock and maintain sufficient quantities and varieties of all WIC approved food items in accordance with LA WIC's minimum stock requirements (MSR). See 7 CFR §246.12(g)(3)(i);

2. not have been convicted of or had a civil judgment entered against them for any activity indicating a lack of business integrity during the last six years. Activities indicating a lack of business integrity include fraud, antitrust violations, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, and obstruction of justice [see 7 CFR §246.12(g)(3)(ii)];

3. not be currently disqualified from SNAP or have been assessed a SNAP Civil Money Penalty (CMP) for hardship and the disqualification period that would have otherwise been imposed has not expired. [see 7 CFR §246.12(g)(3)(iii)];

4. have prices that are competitive with other vendors in LA WIC's designated peer group, as determined by the LA WIC's competitive price criteria (CPC). All vendors are subject to CPC at all times to ensure cost containment. Applying vendors, whose prices are higher than the CPC applicable to their peer groups, shall be informed and given one opportunity to lower their prices to meet the CPC. [see 7 CFR §246.12(g)(4)];

5. purchase infant formula only from vendors included on LA WIC's list of infant formula manufacturers registered with the Food and Drug Administration (FDA) that provide infant formula, and licensed infant formula wholesalers, distributors, and retailers. This list can be found on the LA WIC website at ldh.la.gov/wicvendor;

6. not derive or expect to derive more than 50 percent of annual food sales revenue from WIC transactions. [see 7 CFR §246.12(g)(4)(i).];

7. agree to be placed in a vendor peer group with other above-50-percent (A-50) vendors when deriving or expecting to derive more than 50 percent of their annual food sales revenue from WIC transactions. Vendors within this peer group shall maintain WIC approved food item prices at a level such that the average payments for A-50 vendors does not exceed average payments to regular vendors; [see 7 CFR §246.12(g)(4)(i)(A).];

8. agree to neither provide nor advertise nor indicate an intent to provide customers with any incentive items, when deriving or expecting to derive more than 50 percent of their annual food sales revenue from WIC transactions. LA WIC shall make a determination on what constitutes a violation of the meaning of the previous sentence; however, incentive items definitively prohibited include, but are not necessary limited to:

a. goods and services which result in a conflict of interest or the appearance of such conflict for the A-50 vendor, such as assistance with applying for WIC;

b. lottery tickets at no charge or below face value;

c. cash gifts in any amount for any reason;

d. anything made available in a public area as a complimentary gift which may be consumed or taken without charge;

e. an allowable incentive item provided more than once per customer per shopping visit, regardless of the number of customers or WIC benefits involved, unless the incentive items have been obtained by the vendor at no cost or the total value of multiple incentive items provided during one shopping visit would not be exceed the less-than-\$2 nominal limit;

f. food, merchandise or services of greater than less-than-\$2 nominal value provided to the customer;

g. food, merchandise sold to customers below cost, or services purchased by customers below fair market value;

h. any kind of incentive item which incurs a liability for the WIC program; and

i. any kind of prohibited incentive item which violates any federal, state, or local law or regulations.

9. have EBT capability; and

10. in addition to the above, shall adhere to any and all vendor selection criteria within the vendor rules and regulations and any changes thereto. [see 7 CFR §246.12(g)(3)].

E. WIC federal regulations at 7 CFR §246.12(g)(3) mandate that LA WIC shall not authorize a vendor applicant if LA WIC determines the store has been sold by its previous owner in an attempt to circumvent a WIC sanction.

F. After WIC authorization, all vendors shall continue to meet the criteria of this Section and vendor rules and regulations, and any changes thereto, at all times. A vendor

found to be out of compliance with vendor rules and regulations any time during the authorization period is subject to termination of WIC authorization and the vendor agreement and possible disqualification.

G. WIC federal regulations at 7 CFR §246.12(g)(8) allow LA WIC to establish timeframes for accepting and processing the vendor application, outside of which LA WIC may deny authorization. Such timeframes are stated in the vendor guide and policy manual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:337 (February 2017), LR 49:

§4505. Agreement

A. LA WIC must enter into written agreements with all vendors. The agreements must be for a period not to exceed three years. By signing the agreement, a vendor understands and agrees to the conditions enumerated and/or referenced in the vendor rules and regulations.

B. A vendor shall allow authorized personnel to monitor the vendor through announced and unannounced monitoring and/or compliance investigations to determine compliance with LA WIC and WIC vendor rules and regulations. A vendor shall provide access to any items, documentation, and records requested by authorized personnel, including but not limited to, inventory and invoices for purchase of WIC approved food items.

C. Recordkeeping. The vendor must maintain inventory records used for federal tax reporting purposes and other records LA WIC may require for the period of time specified by LA WIC in the vendor agreement. Upon request, the vendor must make available to representatives of LA WIC, the USDA, and the comptroller general of the United States, at any reasonable time and place for inspection and audit, all program-related records. Vendors are required to keep confidential the customer's eligibility for and receipt of WIC benefits.

D. LA WIC may make adjustments to a vendor's submission for reimbursement for WIC approved food item(s) to ensure that the payments do not exceed the maximum allowable reimbursement level (MARL) for the vendor's assigned peer group and pay vendors' claims for reimbursement for WIC transactions accordingly. No claim for reimbursement for WIC approved food items submitted by the vendor shall be paid by LA WIC unless the claim is in accordance with the terms of the vendor rules and regulations. LA WIC shall recoup any and all payments for WIC transactions made to the vendor in error.

E. The termination of a vendor agreement will be effective fifteen days after the date of the notice of adverse action, with the exception of LAC §48:V.4505.G.2, G.3, H.3, and H.4.

F. LA WIC will recoup payments for any and all WIC transactions conducted after the termination of the vendor agreement.

G. LA WIC must terminate a vendor agreement based on any of the following:

1. When LA WIC disqualifies a vendor.

2. When LA WIC permanently disqualifies a vendor. The termination of the vendor agreement for permanent disqualification is effective on the date of receipt of the notice of adverse action.

3. When LA WIC determines that the vendor has provided false information in connection with its application for WIC authorization. The termination of the vendor agreement for providing false information is effective on the date of receipt of the notice of adverse action.

H. LA WIC may also terminate a vendor agreement based on any of the following:

1. When a vendor is non-compliant with its terms and vendor rules and regulations.

2. When a vendor fails to meet vendor selection criteria at any time. The length of termination due to failure to meet vendor selection criteria will be effective for the time period provided in the vendor guide and policy manual.

3. When a vendor experiences a change of ownership, the vendor agreement shall automatically become null and void and terminates immediately as of the date the change of ownership occurred. Neither the previous owner nor the new owner will be authorized to conduct WIC transactions. Any WIC transactions conducted after the vendor agreement becomes null and void will be subject to recoupment by LA WIC. LA WIC shall hold the previous owner and new owner solidarily liable for any monies owed.

4. When a vendor experiences a change in availability or location. A vendor must provide advance written notice of a period of no less than 15 days of a change in availability or location. The vendor agreement shall automatically become null and void and shall immediately terminate as of the date the change in availability or location occurred.

5. When a conflict of interest between a vendor and LA WIC exists.

6. When either LA WIC or a vendor elects not to renew the vendor agreement. The vendor agreement may be terminated after 15 days written notice by either party or by the mutual agreement of both parties to terminate.

7. When a vendor is no longer authorized by SNAP, except for adverse actions by SNAP.

- I. LA WIC will not permit a voluntary withdrawal of a vendor and/or a non-renewal of the vendor agreement as an alternative to an LA WIC termination or disqualification.

- J. Participation as a vendor in LA WIC is a privilege. WIC authorization does not constitute a license or property interest. ([See 7 CFR §246.12(h)(3)(xxi)]). A vendor cannot claim and is not entitled to money for loss of WIC sales during the pendency of an appeal of an adverse action. If the vendor is reinstated following a successful administrative review of an adverse action taken by LA WIC, the vendor cannot claim and is not entitled to retroactive payments and/or compensation for revenues lost for the period of time the vendor was not in the program.

- K. A vendor that has been disqualified and/or had its vendor agreement terminated by LA WIC and who seeks Authorization shall reapply and meet all current requirements for WIC Authorization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public

Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:338 (February 2017), LR 49:

§4507. WIC Transaction Processing and Reimbursement and Claims by LA WIC

A. Only authorized WIC vendors may transact WIC benefits.

B. LA WIC will establish a vendor peer group system, place vendors into peer groups, and set allowable reimbursement levels for each peer group for the purpose of cost containment. If an above-50-percent (A-50) vendor is needed for participant access, LA WIC will place the A-50 vendor into a peer group for vendors designated as A-50.

C. A vendor shall process WIC transactions as outlined in the vendor guide and policy manual. LA WIC shall reimburse a vendor in accordance with its peer group, making adjustments as required by WIC federal regulations.

D. A vendor shall maintain and operate its WIC EBT system in compliance with the USDA/FNS's WIC operating rules for EBT, the technical implementation guide, the vendor rules and regulations and any changes thereto.

E. If a vendor submitted a claim for reimbursement that was rejected or the payment amount for the claim for reimbursement was adjusted by the LA WIC-contracted EBT processor or bank with which the vendor disagrees, the vendor may submit its dispute of the rejection of (or adjustment to) the reimbursement according to the process outlined in the vendor guide and policy manual. Any dispute submitted untimely shall be denied. Disputes that exceed the federal monetary threshold are subject to USDA approval. Vendors shall be notified of adverse reimbursement decisions.

F. LA WIC shall establish a claim against the vendor for any amounts owed to the program (e.g., overcharges, unauthorized items, excess WIC approved food items, excess payments, deficiencies identified during an inventory audit, and adjustment to the vendor's claim for reimbursement). Disqualification and/or termination of the vendor agreement or payment of a civil money penalty (CMP) does not relieve the vendor of the obligation to repay any monies claimed by and owed to LA WIC. LA WIC may refer debts to the Louisiana Department of Revenue, Office of Debt Recovery and/or commence action in the 19th Judicial District Court to recover the outstanding claim amount and/or pursue any other remedies allowed to LA WIC by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972 and R.S. 47:1676.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:338 (February 2017), LR 49:

§4509. Vendor Sanctions for Violations

A. Pattern of Incidences.

1. WIC federal regulations at 7 CFR §246.12(I)(2)(i) mandate that state agency sanction(s) must be based on a pattern of violative incidences.

2. Federal guidance from the USDA WIC Vendor Management and Food Delivery Handbook (Sept. 2017, section 9.1.2., pg. 35) mandates that LA WIC must develop a

definition of a pattern of violations. Some federal mandatory vendor sanctions and all state agency vendor sanctions must be based on a pattern of violations (See 7 CFR §246.12(I)(1) and 7 CFR §246.12(I)(2)(i)). The definition of a pattern of violations may be different for different types of violations (e.g., to account for severity). The definition of a pattern of violations is stated in the vendor rules and regulations.

3. WIC federal regulations at 7 CFR §246.12(h)(3)(xix) mandate that LA WIC must notify a vendor in writing when an investigation reveals an initial incidence of a violation for which a pattern of incidences must be established in order to impose a sanction, before another such incidence is documented, unless LA WIC determines, in its discretion, on a case-by-case basis, that notifying the vendor would compromise an investigation. Notification shall not be provided for a pattern of claiming reimbursement for the sale of an amount of a WIC approved food item at the category level that exceeds documented inventory. See 7 CFR §246.12(I)(3).

4. Unaddressed violations will carry from one agreement period to the next.

B. Federal Mandatory Vendor Sanctions. LA WIC shall impose sanctions for federal mandatory vendor sanction violations. The federal mandatory sanction violations are found in the vendor guide and policy manual. Federal mandatory vendor sanctions shall include disqualification and/or civil money penalties (CMP) assessed in lieu of disqualification. WIC federal regulations mandate that when, during the course of a single investigation, LA WIC determines a vendor has committed multiple violations (which may include violations subject to state agency sanctions), LA WIC must disqualify the vendor for the period corresponding to the most serious (i.e., longest) federal mandatory sanction violation. LA WIC must include all violations in the notice of adverse action and enter all such violations into the vendor record. LA WIC shall impose any sanctions that are not overturned in an (abbreviated or full) administrative review. The federal mandatory vendor sanction violations are as follows:

1. LA WIC shall permanently disqualify a vendor convicted of trafficking in WIC benefits or selling firearms, ammunition, explosives, or controlled substances (as defined in section 102 of the Controlled Substances Act of 1970 (21 U.S.C. 802), as amended) in exchange for WIC benefits.

2. LA WIC shall disqualify a vendor for six years for:

a. one incidence of buying or selling WIC benefits for cash (trafficking);

b. one incidence of selling firearms, ammunition, explosives, or controlled substances as defined in 21 U.S.C. 802, as amended, in exchange for WIC benefits.

3. LA WIC shall disqualify a vendor for three years for:

a. one incidence of the sale of alcohol, alcoholic beverages, or tobacco products in exchange for WIC benefits;

b. a pattern of claiming reimbursement for the sale of an amount of a specific WIC approved food item that exceeds the store's documented inventory of that WIC approved food item at the WIC approved food category level for a specific period of time;

- c. a pattern of vendor overcharges;
- d. a pattern of receiving, transacting and/or redeeming WIC benefits outside of authorized channels, including the use of an unauthorized vendor and/or an unauthorized person;
- e. a pattern of charging for WIC approved food items not received by the WIC participant (WIC transaction for food not received);
- f. a pattern of providing credit or non-food items (not including alcohol, alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives, or controlled substances as defined in 21 U.S.C. 802, as amended) in exchange for WIC benefits.

4. LA WIC shall disqualify a vendor for one year for:

- a. a pattern of providing unauthorized food items in exchange for WIC benefits, including charging for WIC approved food items provided in excess of those issued to a WIC EBT card;
- b. a pattern of an above-50-percent (A-50) vendor providing prohibited incentive items to customers as set forth in WIC federal regulations at 7 CFR 246.12 (I)(1)(iv)(B).

C. Second Federal Mandatory Vendor Sanction - CMP. When a vendor that has previously been assessed a CMP for any of the federal mandatory vendor sanctions receives a second CMP for any of the federal mandatory vendor sanctions, LA WIC shall double the second CMP. The total amount assessed in CMPs for a second sanction may not exceed the maximum limits allowed under WIC federal regulations.

D. Third or Subsequent Federal Mandatory Vendor Sanction—CMP. When a vendor who previously has been assessed two or more CMPs as a result of any of the federal mandatory vendor sanctions receives another CMP as a result of any of the federal mandatory vendor sanctions, LA WIC shall double the third CMP and all subsequent sanctions. LA WIC may not impose a CMP in lieu of disqualification for third or subsequent sanctions for federal mandatory vendor sanctions.

E. State Agency Vendor Sanction Violations. WIC federal regulations allow LA WIC to impose sanctions for non-federally mandated (State) vendor violations based on a pattern of violative incidences as long as such vendor violations and sanctions are included in the federally-required state agency sanction schedule. The LA WIC sanction schedule appears in the vendor guide and policy manual. State agency vendor sanctions will include disqualification and/or CMP assessed in lieu of disqualification. LA WIC will disqualify a vendor for the period of time specified in the LA WIC sanction schedule or issue a CMP for a pattern of any of the following state agency sanction violations:

- 1. failing to comply with WIC transaction procedures outlined in the vendor guide and policy manual;
- 2. failing to maintain or provide LA WIC or authorized parties with requested records and/or information by the due date identified;
- 3. failing to provide WIC participants or proxies the same courtesies as offered to other customers;

4. any other violation of the vendor rules and regulations except for the federal mandatory vendor sanctions, for which a longer disqualification period is required.

F. Selection Criteria. LA WIC shall develop and implement vendor selection criteria for WIC authorization, which must include, at a minimum, the federally-required categories and requirements, and may include criteria developed by LA WIC. The vendor selection criteria are found in the vendor guide and policy manual. LA WIC may reassess any vendor at any time during the agreement period for compliance with vendor selection criteria. A pattern is not required to establish a vendor's failure to meet selection criteria. One incidence of a failure to meet vendor selection criteria may warrant termination of the vendor agreement. A vendor that fails to meet vendor selection criteria may be terminated from LA WIC for up to one year.

G. Corrective Action Plan (CAP). At any time, LA WIC may require that a vendor implement a CAP.

H. Participant Access Determination(s). LA WIC shall develop participant access criteria and consider the availability of other authorized vendors and any geographic barriers to using such vendors when making participant access determinations. Participant access is determined at the sole discretion of LA WIC and the validity or appropriateness of LA WIC's participant access criteria and determinations are not subject to administrative review. Prior to disqualifying a vendor for certain federal mandatory vendor sanctions and/or state agency vendor sanctions, LA WIC may conduct a participant access determination. If LA WIC determines in its sole discretion that disqualification of a vendor would result in inadequate participant access, LA WIC shall impose a civil money penalty in lieu of disqualification. All vendors, including vendors determined necessary for participant access, are subject to reassessment at all times throughout the authorization period.

I. Civil Money Penalty (CMP). Except where prohibited by federal regulation or in those cases of permanent vendor disqualification, if LA WIC determines, in its sole discretion, that disqualification of the vendor would result in inadequate participant access, LA WIC shall impose a CMP in lieu of disqualification. Such CMP will be calculated in accordance with regulations for federal mandatory sanction violation(s) and/or in accordance with LA WIC vendor rules and regulations for state agency vendor sanction violation(s). If a vendor does not pay the CMP, only partially pays the CMP, or fails to make timely payment of the CMP, LA WIC shall disqualify the vendor for the length of the disqualification corresponding to the violation for which the CMP was assessed. Disqualification and/or termination of the vendor agreement or payment of a CMP does not relieve the vendor of the obligation to repay any monies claimed by and owed to LA WIC.

J. Notifications to FNS. LA WIC must notify FNS that it has either disqualified or imposed a CMP in lieu of disqualification for any of the federal mandatory sanction violations listed in LAC 48:V.4509.B. Disqualification from WIC may result in disqualification from the Supplemental Nutrition Assistance Program (SNAP) and such SNAP

disqualification is not subject to administrative or judicial review under the SNAP.

K. Actions by SNAP.

1. **SNAP Disqualification.** LA WIC shall disqualify from the WIC program a vendor who is disqualified from SNAP. The disqualification shall be for the same length of time as SNAP disqualification, may begin at a later date than SNAP disqualification, and is not subject to administrative or judicial review under LA WIC. However, if LA WIC determines that disqualification of the vendor would result in inadequate participant access, LA WIC must impose a CMP in lieu of disqualification.

2. **SNAP CMP.** LA WIC shall disqualify a vendor who receives a CMP for hardship by SNAP. The length of such disqualification shall correspond to the period for which the vendor would otherwise have been disqualified in SNAP. However, if LA WIC determines that disqualification of the vendor would result in inadequate participant access, LA WIC may not disqualify the vendor or impose a CMP in lieu of disqualification.

L. Mandatory Sanction by another WIC State Agency. LA WIC shall disqualify a vendor that has been disqualified or assessed a CMP in lieu of disqualification by another WIC state agency for a federal mandatory vendor sanction under the provisions of §4509 of this Subpart.

1. **Disqualification by another WIC State agency.** The length of the disqualification from LA WIC shall be for the same length of time as the disqualification by the other WIC state agency. The disqualification may begin at a later date than the sanction imposed by the other WIC state agency. If LA WIC determines that the vendor is needed for participant access, LA WIC will issue a CMP in lieu of disqualification.

2. **CMP by another WIC State agency.** If the other WIC state agency has assessed a CMP in lieu of disqualification, the length of the disqualification from LA WIC shall be for the same length of time for which the vendor would otherwise have been disqualified. The disqualification may begin at a later date than the sanction imposed by the other WIC state agency. If LA WIC determines the vendor is needed for participant access, LA WIC will not disqualify or issue a CMP to the vendor.

M. Legal Remedies Not Precluded by Sanction. A vendor that commits fraud and/or abuse of LA WIC is liable to prosecution under applicable federal, state or local laws. LA WIC shall, where appropriate, refer a vendor that LA WIC suspects has committed fraud and/or abuse to federal, state and/or local authorities and/or another WIC state agency for prosecution. Disqualification and/or termination from LA WIC does not preclude criminal and/or civil legal actions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:338 (February 2017), LR 49:

§4511. Administrative Review of Adverse Actions

A. Some adverse actions taken by LA WIC that affect vendors or vendor applicants may be subject to administrative review, if appealed.

B. LA WIC shall provide written notification of the adverse action, the procedures to follow to request an administrative review (full or abbreviated), if applicable, and

the cause(s) for and the effective date of the action. If the vendor is disqualified due in whole or in part to federal mandatory vendor sanction violations of §4509 of this Subpart, such notification shall include the following statement: "This disqualification from WIC may result in disqualification as a retailer in SNAP. Such disqualification is not subject to administrative or judicial review under SNAP."

C. If the vendor or vendor applicant wishes to appeal the decision, and the adverse action is appealable, the vendor or vendor applicant shall submit a request for appeal stating the permissible reason(s) for appeal. The request shall be submitted to LA WIC within 15 days after the date of the notice of the adverse action.

D. Effective Date of Adverse Actions Against Vendors. Denials of WIC authorization and permanent disqualifications imposed under §4509 of this Subpart are effective on the date of receipt of the notice of adverse action. All other adverse actions are effective 15 days after the date of the notice of the adverse action.

E. Adverse Actions Subject to Full Administrative Review:

1. The following adverse actions are subject to full administrative review.

a. denial of WIC authorization based on the application of the vendor selection criteria of failure to stock and maintain sufficient quantities and varieties of all WIC approved food items in accordance with LA WIC's minimum stock requirements;

b. denial of WIC authorization based on a determination that the vendor is attempting to circumvent a sanction;

c. termination of an agreement for cause, which does not include termination of an agreement because of a change in ownership or location, or cessation of operations, or expiration of an agreement;

d. disqualification,; or

e. imposition of a fine or a civil money penalty (CMP) in lieu of disqualification.

2. **Full Administrative Review Procedures.** A vendor or vendor applicant who files a timely and proper appeal request for those actions subject to full administrative review shall be provided:

a. adequate advance notice of the time and place of the administrative review to provide all parties involved sufficient time to prepare for the review.;

b. the opportunity to present its case and at least one opportunity to reschedule the administrative review date upon specific request. LA WIC may set standards on how many review dates can be scheduled, provided that a minimum of two review dates is allowed.;

c. the opportunity to cross examine adverse witnesses. When necessary to protect the identity of WIC program investigators, such examination may be conducted behind a protective screen or other device.;

d. the opportunity to be represented by counsel.;

e. the opportunity to examine prior to the review the evidence upon which LA WIC's action is based.;

f. an impartial decision-maker, whose determination is based solely on whether LA WIC has correctly applied Federal and State statutes, regulations, policies, and procedures governing LA WIC, according to

the evidence presented at the review. LA WIC may appoint a reviewing official, such as chief hearing officer or judicial officer, to review appeal decisions to ensure that they conform to approved policies and procedures.; and

g. written notification of the review decision, including the basis for the decision, within 90 days from the date of receipt of the request for an administrative review from a vendor. This timeframe is only an administrative requirement for LA WIC and does not provide a basis for overturning LA WIC's adverse action if a decision is not made within the specified timeframe.

F. Adverse Actions Subject to Abbreviated Administrative Review.

1. The following adverse actions are subject to abbreviated administrative review

- a. denial of WIC authorization based on:
 - i. LA WIC's vendor limiting criteria;
 - ii. vendor submitting its vendor application outside the timeframes during which applications are being accepted and processed as stated in the vendor guide and policy manual;
 - iii. a current sanction (termination) for a non-federally mandated (State) selection criteria; or
 - iv. failure to meet the following vendor selection criteria:

- (a). business integrity;
- (b). current SNAP authorization; or
- (c). competitive pricing.

- b. termination of an agreement because of change in ownership or location or cessation of operations;
- c. disqualification based on the following:
 - i. a trafficking conviction;
 - ii. the imposition of a SNAP CMP for hardship;or

iii. a mandatory sanction imposed by another WIC state agency.

d. A CMP imposed in lieu of disqualification based on the following:

- i. a mandatory sanction imposed by another WIC state agency; or
- ii. SNAP disqualification.

e. LA WIC'S application of vendor peer group criteria; or

f. LA WIC's application of the criteria used to identify vendors that are above-50-percent (A-50) vendors.

2. Abbreviated Administrative Review Procedures. A vendor or vendor applicant who files a timely and proper appeal request for those actions subject to abbreviated administrative review shall be provided:

a. a decision-maker who is someone other than the person who rendered the initial decision on the action and whose determination is based solely on whether LA WIC has correctly applied federal and state statutes, regulations, policies, and procedures governing LA WIC, according to the information provided to the vendor, concerning the cause(s) for the adverse action and the response from the vendor; and

b. written notification of the review decision, including the basis for the decision within 90 days from the date of receipt of the request for an administrative review from a vendor. This timeframe is only an administrative requirement for LA WIC and does not provide a basis for

overturning LA WIC's adverse action if a decision is not made within the specified timeframe.

G. Actions Not Subject to Administrative Review. Adverse actions not described in this Subpart are not subject to administrative review. Adverse actions that are not subject to administrative review include, but are not limited to, the following:

1. the validity or appropriateness of the following:
 - a. LA WIC's vendor limiting criteria;
 - b. LA WIC's participant access criteria and LA WIC's participant access determinations;
 - c. LA WIC's prohibition of incentive items and LA WIC's denial of an A-50 vendor's request to provide an incentive item to customers;
 - d. vendor selection criteria for the following:
 - i. minimum variety and quantity of WIC approved food items ;
 - ii. business integrity;
 - iii. current SNAP disqualifications or CMP for hardship; or
 - iv. competitive price including, but not limited to, vendor peer group criteria and the criteria used to identify vendors that are A-50 vendors or comparable to A-50 vendors.

2. LA WIC's determination:

- a. to include or exclude an infant formula supplier (manufacturer, wholesaler, distributor, or retailer) from the LA WIC infant formula supplier list; or
- b. to notify a vendor in writing when an investigation reveals an initial violation for which a pattern of violations must be established in order to impose a sanction.

3. denial of WIC authorization if LA WIC's vendor authorization is subject to the procurement procedures applicable to LA WIC;

4. The expiration of a vendor's agreement;

5. disputes regarding:

- a. payments by LA WIC to vendors for WIC transactions;
- b. vendor claims for reimbursement; or
- c. claims and/or recoupment made by LA WIC against vendors (other than the opportunity to justify or correct a vendor overcharge or other error).

6. disqualification of a vendor as a result of disqualification from SNAP; or

7. any other circumstance, situation, or action not described in this Subpart.

H. A vendor who has been issued a CMP and is permitted to continue program operations while its appeal is in process must also continue to abide by all LA WIC vendor rules and regulations.

I. Participation as a vendor in LA WIC is a privilege. WIC authorization does not constitute a license or property interest. A vendor cannot claim and is not entitled to money for loss of WIC sales during the pendency of an appeal of an adverse action. If the vendor is reinstated following a successful administrative review of an adverse action taken by LA WIC, the vendor cannot claim and is not entitled to retroactive payments and/or compensation for revenues lost for the period of time the vendor was not on the program.

J. Unless otherwise noted, full and abbreviated administrative review decisions are the final action of LA

WIC. LA WIC reserves the right to file additional motions for reconsideration as well as motions for re-appeal. LA WIC is under no obligation to immediately reinstate the vendor during ongoing proceedings.

1. If the administrative review yields a decision in favor of LA WIC, the vendor may pursue judicial review of the decision.

2. If the administrative review yields a decision in favor of the vendor, the vendor will be reinstated provided all appeal rights have been exhausted and the vendor agreement has not expired during ongoing proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:340 (February 2017), LR 49:

Family Impact Statement

The proposed Rule should not have a foreseen impact on family formation, stability, and autonomy. In particular, the proposed Rule should have a positive impact on the following by providing families with access to the LA WIC Program:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children; or
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule should not have a foreseen impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be a positive effect on the following:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits; or
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The proposed Rule should have no adverse impact on small businesses as defined in the Small Business Protection Act.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments on the proposed rule. Such comments must be received no later than Thursday, June 8, 2023 at COB, 4:30 p.m., and should be addressed to Susan Bailey, Director of the Bureau of Emergency Medical Services, 7273 Florida Blvd., Baton Rouge, LA 70806.

Public Hearing

Interested persons may submit a written request to conduct a public hearing either by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on Thursday, June 8, 2023. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 2 p.m. on Monday, June 26, 2023 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after Thursday, June 8, 2023. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Participant Eligibility

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is anticipated to increase LDH expenditures by approximately \$1,278 SGF in FY 23 associated with publication costs.

In compliance with 7 CFR Part 246, the LDH proposes to amend LAC 48:V Chapters 41, 43, and 45 regarding the Woman, Infants, and Children (WC) Program. Specifically, the rule provides definitions and makes general updates.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated costs or economic benefits to directly affected persons, small businesses, or non governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Doris S. Brown
Assistant Secretary
2305#040

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Regulation 112—Adoption of NAIC Handbooks, Guidelines, Forms, and Instructions (LAC 37:XIII.16101)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to amend Regulation 112.

The purpose of the amendment to Regulation 112 is to identify and to incorporate by reference the current edition of handbooks, guidelines, forms, and instructions adopted by the National Association of Insurance Commissioners (NAIC) and referenced in the Louisiana Insurance Code.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 161. Regulation Number 112—Adoption of NAIC Handbooks, Guidelines, Forms and Instructions

§16101. NAIC Handbooks, Guidelines, Forms and Instructions Incorporated by Reference

A. ...

B. The following NAIC handbooks, guidelines, forms, and instructions are hereby adopted and incorporated by reference:

1. The Financial Condition Examiner's Handbook, 2022 edition;
2. The Annual and Quarterly Statement Instructions, Property and Casualty, 2022 edition;
3. The Annual and Quarterly Statement Instructions, Life, Accident, and Health, 2022 edition;
4. The Annual and Quarterly Statement Instructions, Health, 2022 edition;
5. The Annual and Quarterly Statement Instructions, Title, 2022 edition;
6. The Annual and Quarterly Statement Instructions, Fraternal, 2022 edition;
7. The Annual and Quarterly Statement Blanks, Property and Casualty, 2022 edition;
8. The Annual and Quarterly Statement Blanks, Life, Accident, and Health, 2022 edition;
9. The Annual and Quarterly Statement Blanks, Health, 2022 edition;
10. The Annual and Quarterly Statement Blanks, Title, 2022 edition;
11. The Annual and Quarterly Statement Blanks, Fraternal, 2022 edition;
12. The Accounting Practices and Procedures Manual, 2022 edition;
13. The Financial Analysis Handbook, 2022 edition;
14. The Own Risk and Solvency Assessment Guidance Manual, 2022 edition;
15. The Purposes and Procedures Manual of the NAIC Investment Analysis Office, 2022 edition;
16. The Risk-Based Capital Forecasting and Instructions, 2022 edition;
17. The Market Regulation Handbook, 2022 edition.

C. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 258, 619(B), 640(B), 675, 661(A), 691.11, 691.54, and 1804.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 45:1208 (September 2019), amended LR 46:993 (July 2020), amended LR 47:1328 (September 2021), LR 48:2299 (September 2022), amended LR 49:

Family Impact Statement

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed regulation should have no measurable impact upon the stability of the family.

2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the Effect of the Proposed Regulation on the Functioning of the Family. The proposed regulation should have no direct impact upon the functioning of the family.

4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed regulation should have no direct impact upon family earnings and budget.

5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed regulation should have no impact upon the behavior and personal responsibility of children.

5. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

Poverty Impact Statement

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed regulation should have no effect on household income assets and financial security.

2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the Effect on Employment and Workforce Development. The proposed regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed regulation should have no effect on taxes and tax credits.

5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Small Business Analysis

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered

and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Provider Impact Statement

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed regulation will have no effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed regulation will have no effect.

Public Comments

Interested persons who wish to make comments may do so by writing to Jennifer Land, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, by faxing comments to (225) 342-1632, or electronically at regulations@ldi.la.gov. Comments will be accepted through the close of business, 4:30 p.m., June 12, 2023.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulation 112—Adoption of NAIC Handbooks, Guidelines, Forms, and Instructions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not result in additional costs or savings for state or local governmental units. The proposed rule changes incorporate and reference the current editions of handbooks, guidelines, forms, and instructions adopted by the National Association of Insurance Commissioners (NAIC) and referenced in the Louisiana Insurance Code. The current editions of these publications serve as the most current professional guidance for entities regulated by the LA Dept. of Insurance (LDI).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will have no impact on state or local governmental revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes will benefit persons and entities seeking to identify which handbooks or guidelines are currently being incorporated by reference that serve as professional guidance for entities under the purview of LDI. These handbooks and guidelines will be available for public viewing in hardcopy form at the offices of the LDI and Office of State Register and online at the NAIC website.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will have no impact upon competition and employment in the state.

Denise Gardner
Chief of Staff
2305#029

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Natural Resources Office of Mineral Resources

Leasing State Lands and Water Bottoms for the Exploration,
Development and Production of Wind Energy
(LAC 43:V.Chapter 7)

The Department of Natural Resources, Office of Mineral Resources proposes to amend LAC 43:V. Chapter 7, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana.

The proposed Rule changes include changes to LAC 43:V.Chapter 7 required to conform to Act 443 of 2022 and to implement the charge therein that the secretary of the Department of Natural Resources promulgate rules and regulations that include all provisions necessary to accomplish the intent of the legislature. The aforesaid Act had as its stated purpose to establish a maximum acreage for wind leases; to provide for operating agreements relative to the production of wind energy; to provide for the powers and duties of the secretary of the Department of Natural Resources; to provide for rules and regulations; and to provide for related matters.

Title 43

NATURAL RESOURCES

Part V. Office of Mineral Resources

Chapter 7. Leasing State Lands and Water Bottoms for the Exploration, Development and Production of Wind Energy

Editor's Note: Pursuant to Act 196 of the 2009 Regular Session, the name of the State Mineral Board has been changed to State Mineral and Energy Board.

§707. Registration

[Formerly LAC 43:I.1007]

A. Applicant Registration. Any party who wants to apply for a state wind lease shall register certain information with the Office of Mineral Resources on a one-time basis prior to submitting an application. Registration consists of

completing and submitting an official applicant registration form.

1. **Prospective Leaseholder Registration.** All prospective leaseholders of state wind leases shall register certain information and proof of current authorization to do business in the state of Louisiana with the Office of Mineral Resources and thereafter renew their registration annually by January 31. Only those bidders who are registered as prospective leaseholders with the Office of Mineral Resources shall be allowed to bid on tracts for the purpose of obtaining a state wind lease. Transfers or assignments of state wind leases shall not be granted to prospective leaseholders that are not currently registered as a prospective leaseholder with the Office of Mineral Resources.

a. Registration consists of submitting a completed official prospective leaseholder registration form (obtainable from the Office of Mineral Resources) and an appropriate certificate from the Louisiana Secretary of State to the Office of Mineral Resources as follows:

- i. individual/sole proprietorship—no certificate required;
- ii. corporation—good standing certificate;
- iii. limited liability company—good standing certificate; and
- iv. partnership—existence certificate.

b. If a current record state wind lessee fails to maintain his Prospective Leaseholder Registration with the Office of Mineral Resources, the State Mineral Board may levy liquidated damages of \$100 per day in accordance with R.S. 30:123.1 until the unregistered lessee is properly registered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1734.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 34:260 (February 2008), repromulgated LR 41:1733 (September 2015), LR 49:

§711. Nomination of State Lands and Water Bottoms for Wind Lease
[Formerly LAC 43:I.1011]

A. Interested, registered parties shall nominate state lands and water bottoms for wind lease by scheduling a pre-nomination meeting with and submitting proposals (called "nominations") by application to the Office of Mineral Resources in the form it requires. Each application shall include a description of the land, including a map, on both paper and CD-ROM, or other acceptable digital storage device, and be accompanied by submission of a nonrefundable \$400 processing fee made payable to the Office of Mineral Resources, as well as any other documentation and information required.

B. Only those parties who are registered applicants with the Office of Mineral Resources as set forth under §707.A shall be allowed to nominate state lands and water bottoms for wind lease.

C. A party interested in nominating state lands and water bottoms for wind lease shall use bearing, distance and X-Y coordinates based on the Louisiana Coordinate System of 1927, North or South Zone (as applicable), to accurately and clearly describe the nominated acreage. Determine whether the acreage to be nominated falls in the North Zone or the South Zone of the Louisiana Coordinate System of 1927 and

provide this information in the nomination packet. A single nomination may contain acreage that falls partially in the North Zone and partially in the South Zone. However, allocate the nominated acreage to the zone wherein the majority of the acreage falls and use that zone's coordinates (see R.S. 50:1). A nominating party is excepted from using the Louisiana Coordinate System of 1927 only if the acreage to be nominated is not susceptible of or has another type legal description not translatable into a description using bearing, distance and X-Y coordinates based on the Louisiana Coordinate System of 1927. If the acreage to be nominated falls under this exception, the nominating party is allowed to provide the legal description of the property as provided in the title deed wherein the state acquired its ownership interest in the property.

D. At the pre-nomination meeting with the Office of Mineral Resources, the party shall submit a nomination packet that includes one copy (unless required otherwise) of the following items:

1. any title documentation obtained pursuant to §709.A.6;

2. any proof of notification documentation obtained pursuant to §709.B.2;

3. a written property description of the nominated acreage, fully justified, using Microsoft Word. Provide three original paper copies and one electronic copy. Include:

a. a designated point of beginning using X-Y coordinates based on the Louisiana Coordinate System of 1927, North or South Zone (as applicable), then going clockwise fully write out (no abbreviations or symbols) bearing and distance to the next X-Y coordinates for each corner back to the point of beginning;

b. the gross acreage amount of state lands and water bottoms, inclusive of Louisiana Wildlife and Fisheries Commission/Louisiana Department of Wildlife and Fisheries Property, contained within the nomination area;

c. the net acreage amount of state lands and water bottoms, exclusive of Louisiana Wildlife and Fisheries Commission/Louisiana Department of Wildlife and Fisheries property, contained within the nomination area; and

d. the net acreage amount of Louisiana Wildlife and Fisheries Commission/Louisiana Department of Wildlife and Fisheries property contained within the nomination area;

4. a plat of the nominated acreage, using the most recent background imagery. Use X-Y coordinates based on the Louisiana Coordinate System of 1927, North or South Zone (as applicable). Provide three original paper copies and one electronic copy. Include:

a. an outline of the nominated acreage with a designated point of beginning and corners using X-Y coordinates that exactly match the X-Y coordinates for the point of beginning and corners provided in the written property description, clearly labeled therein;

b. an outline of the state lands and water bottoms falling in the nomination area, clearly labeled along with the acreage amount contained therein;

c. an outline of any Louisiana Wildlife and Fisheries Commission/Louisiana Department of Wildlife and Fisheries property, school indemnity lands, tax adjudicated lands, vacant state lands, White Lake, and legal areas, falling in the nomination area, clearly labeled along with the acreage amount contained in each;

d. an outline of each active or non-released land use agreement granted by the state of Louisiana including, but not limited to, a state wind lease, state mineral lease, state operating agreement, state exclusive geophysical agreement, state non-exclusive seismic permit, state right of way, and/or state surface/subsurface agreement, as well as any nomination tract approved for advertisement or advertised as offered for state mineral lease, state operating agreement, or state exclusive geophysical agreement abutting, adjacent to, intersecting, and partially/wholly enclosed in the nomination area, clearly labeled with its official number along with the acreage amount contained therein;

e. an outline of any lands and water bottoms not belonging to the state of Louisiana falling in the nomination area, clearly labeled "Not State Owned" along with the acreage amount contained therein;

f. all water bodies, clearly labeled;

g. the block system (if applicable), with block names and numbers;

h. section, township, range information (if applicable);

i. parish name(s); and

j. the name and date of the background imagery used;

5. a .dxf file that contains only the boundary of the nominated acreage. The boundary shall be a single line with no additional lines, labels, text, or graphics, and shall be constructed of individual line segments between vertices. The X-Y coordinates in the .dxf file must exactly match those in the written property description and the plat;

6. a nomination in electronic form clearly labeled "State Wind Lease Nomination" that shall have the applicant and project names affixed thereon and contain the written property description as a Word .doc file, the plat as a .pdf file, and the .dxf file;

7. a summary of the environmental issues including, but not limited to, avian and baseline noise levels, the environmental impact of the placement of wind turbines and other equipment necessary for the exploration, development and production of wind energy, and the steps proposed to minimize the environmental impact, along with any supporting environmental impact documentation;

8. a list of governmental entities including each federal, state, parish and local governmental entity that has jurisdiction in the nomination area and for each, the contact person name, title, office address, telephone and fax numbers, and email, as well as the type of legal authority, if any, acquired or to be acquired from the governmental entity;

9. any other information and documentation required by the Office of Mineral Resources.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1734.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 34:261 (February 2008), repromulgated LR 41:1734 (September 2015), amended LR 49:

§713. Examination and Evaluation of Nomination for Wind Lease
[Formerly LAC 43:I.1013]

A. If the Office of Mineral Resources determines that the state wind lease nomination complies with legal, procedural

and technical requirements, as well as with any current policies and practices, it shall:

1. place the state wind lease nomination tract on the State Mineral Board's agenda for the next regular board meeting;

2. take the area out of commerce for the purpose of wind leasing while the nomination is being evaluated;

3. transmit a copy of the nomination for a State Wind Lease, written property description, and plat to the State Land Office and to the Louisiana Department of Wildlife and Fisheries, who shall review the proposed location of the state wind lease, certify to the State Mineral Board whether or not there are other leases of any kind at the proposed lease location and if so, provide copies to the State Mineral Board of the other leases as an attachment to the other leases certification; and

4. Following receipt of certifications from the State Land Office and the Louisiana Department of Wildlife and Fisheries, transmit the nomination packet and the other leases certifications to the Secretary of the Department of Natural Resources for evaluation.

B. The Secretary of the Department of Natural Resources shall evaluate the wind lease nomination pursuant to R.S. 41:1733 and determine whether the proposed wind lease is appropriate. If so, he shall recommend to the State Mineral Board that it conduct a public bid process and if not, he shall recommend to the State Mineral Board that it not conduct a public bid process. The State Mineral Board, through the Office of Mineral Resources, shall notify the applicant of the secretary's determination.

C. If an applicant wants to withdraw a nomination during the examination and evaluation process, prior to the tract being officially advertised for a state wind lease, he shall submit a letter requesting withdrawal of the nomination to Office of Mineral Resources, Attention: Leasing Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1734.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 34:262 (February 2008), repromulgated LR 41:1736 (September 2015), amended LR 49:

§715. Advertisement of State Tract Offered for Wind Lease and Request for Bids
[Formerly LAC 43:I.1015]

A. Upon approval of the nomination by the State Mineral and Energy Board, through the Office of Mineral Resources shall publish an advertisement of the state tract offered for wind lease and request for bids in the official journal of the state and official journal(s) of the parish(es) where the property is located, and otherwise at its discretion, not more than 120 days and not less than 60 days prior to the date for the public opening of bids (generally the lease sale date). The advertisement shall contain a description of the land proposed to be leased and its official tract number, any notes pertaining to the nominated tract, the date, time and place where sealed bids shall be received and publicly opened, and any other information the board may consider necessary. This advertisement and any other published by the board shall constitute judicial advertisement and legal notice within the contemplation of R.S. Title 43, Chapter 5.

B. The advertisement shall also provide notice of the following.

1. The primary term of a wind lease on state lands and water bottoms as approved by the State Mineral and Energy Board.

2. The dollar amount (bonus) with regard to any wind lease on state lands and water bottoms shall be no less than any minimum amount if set by the State Mineral and Energy Board at the time of advertisement. The dollar amount shall be provided on the official bid form as a total amount and as an amount per acre (which is equal to the dollar amount divided by the acreage bid on). Payment shall be due within 24 hours of state wind lease award and shall be made to the Office of Mineral Resources via certified funds or wire transfer. If payment is not made the State Mineral Board may not execute the lease and may rescind it.

3. The annual rental with regard to any wind lease on state lands and water bottoms shall not be for less than any minimum amount if set by the State Mineral and Energy Board at the time of advertisement. Bonus payment as required in subpart (2) of this subsection shall constitute the annual rental for the first year of the wind energy lease.

4. The royalty with regard to any wind lease on state lands and water bottoms shall be no less than any minimum amount if set by the State Mineral and Energy Board at the time of the advertisement. The state may elect, at its option, to take in kind all or any of the portion due it as royalty.

5. A bidder for a state wind lease may offer additional consideration.

6. When two or more parties submit a joint bid, the parties shall designate the undivided percent interest of each party on the official bid form. The interests so designated shall be stipulated in any lease that may be awarded. Failure to designate the undivided percent interest of each joint bidder shall result in the State Mineral Board assigning equal interests to each bidder.

7. When two or more parties submit a joint bid, the parties shall designate the party who shall be the principal state wind lessee, authorized to act on behalf of all co-lessees, on the official bid form. Additionally, each party shall submit a designation of principal state wind lessee and operator form with the joint bid. The principal state wind lessee and operator so designated shall be stipulated in any lease that may be awarded.

8. A state wind lease shall not be for more than 25,000 acres.

9. The State Mineral Board is authorized to collect an administrative fee for leasing state lands and water bottoms for the exploration, development and production of wind energy in the amount of 10 percent of the total dollar amount (bonus) bid for a state wind lease. This 10 percent administrative fee shall be in addition to the total dollar amount bid and is due within 24 hours of state wind lease award. Payment shall be made to the Office of Mineral Resources via certified funds or wire transfer. If payment is not made the State Mineral Board may not execute the lease and may rescind it.

10. A bid for a state wind lease shall exclude all rights not specifically granted in any wind lease awarded.

11. Once a bid is submitted, it may not thereafter be withdrawn or cancelled. The State Mineral Board does not obligate itself to accept any bid. Bid acceptance or rejection is at the sole discretion of the State Mineral Board which

reserves the right to reject any and all bids or to grant a wind lease on any portion of the state tract advertised and to withdraw the remainder of the tract.

12. If examination of the successful bid acreage amount reveals that there is more or less state acreage than the amount bid on, then the dollar amount (bonus) and annual rental shall be adjusted accordingly.

13. The successful bidder(s) to whom a state wind lease is awarded has 20 days from receipt of the lease contract, properly executed by the State Mineral Board, to execute and return the lease contract to the Office of Mineral Resources. Failure to return the lease contract, properly executed, within 20 days may result in forfeiture of the state wind lease including the dollar amount (bonus) and 10 percent administrative fee.

14. All state wind leases shall be executed upon the terms and conditions provided in the current official state wind lease form with any attached rider(s).

15. Notwithstanding any provisions to the contrary in any state wind lease awarded or in any rider attached thereto, the lease awarded shall be granted and accepted without any warranty of title and without any recourse against the lessor whatsoever, either expressed or implied. Further, lessor shall not be required to return any payments received under the state wind lease awarded or be otherwise responsible to the state wind lessee therefor.

16. Some tracts available for wind leasing may be situated in the Louisiana Coastal Zone as defined in R.S. 49:214.21 et seq., and may be subject to guidelines and regulations promulgated by the Louisiana Department of Natural Resources, Office of Coastal Management, for operations in the Louisiana Coastal Zone.

17. Lessor excepts and reserves the full use of the leased premises and all rights with respect to its surface and subsurface for any and all purposes except for those granted to the state wind lessee, including the use of the leased premises for the exploration, production and development of oil, gas and other minerals by the lessor, its mineral lessees, grantees or permittees. Co-users of the leased premises shall agree to coordinate plans and cooperate on activities to minimize interference with other operations to the extent possible.

18. Any and all wind data collected by the state wind lessee during the primary term of the lease shall become public record at the end of the primary term.

19. Any contract entered into for the lease of state lands for any purpose shall require that access by the public to public waterways through the state lands covered by the lease shall be maintained and preserved for the public by the lessee. This provision shall not prohibit the secretary of the agency having control over the property from restricting access to public waterways if he determines that a danger to the public welfare exists. This provision shall not apply in cases involving title disputes.

20. Prior to commencing construction, each state wind lessee and state wind lease operator shall have a general liability insurance policy in a form acceptable to the State Mineral Board as set forth in §729.A.2.

21. Prior to commencing construction, each state wind lessee and state wind lease operator shall provide financial security in a form acceptable to the State Mineral Board as set forth in §729.A.3.

22. The state wind lessee and state wind lease operator shall be required, in the state wind lease contract, to take measures to reduce risk to the state, including but not limited to, effecting compliance with any and all wind energy standards established by the American National Standards Institute (ANSI), the American Wind Energy Association (AWEA), the International Electrotechnical Commission (IEC), and any other entity responsible for establishing wind industry consensus standards. Standards for wind energy development/operations include, but are not limited to:

- a. wind turbine safety and design;
- b. power performance;
- c. noise/acoustic measurement;
- d. mechanical load measurements;
- e. blade structural testing;
- f. power quality; and
- g. siting.

C. A party may request proof that a tract was advertised in the official state and parish journals using the official Request for Proof of Publication form published by the Office of Mineral Resources. Proof of publication consists of certified copies of the affidavits from the official state and parish journals attesting to publication. There is a fee of \$20 for providing proof of publication for a tract.

D. If an applicant wants to withdraw a nomination after the tract has been advertised for state wind lease, he shall submit a letter requesting withdrawal of the nomination to the State Mineral Board. No withdrawal shall be allowed unless approved by the State Mineral Board. If the State Mineral Board approves the request, the nomination fee payment shall not be refunded.

E. If a party wants to protest the State Mineral Board wind leasing a state tract, he shall submit a formal letter of protest to the State Mineral Board at least seven days prior to the meeting of the State Mineral Board to receive bids on the tract (generally the lease sale date). The letter of protest shall reference the appropriate tract number, parish, and state mineral lease sale date, as well as set forth the source and nature of the title claimed, how and when acquired, and by what legal process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1734.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 34:263 (February 2008), repromulgated LR 41:1736 (September 2015), amended LR 49:

§717. Submission of Bids on State Tract Offered for Wind Lease
[Formerly LAC 43:I.1017]

A. Interested, registered parties shall submit sealed bids on the state tract advertised as offered for state wind lease to the Office of Mineral Resources in the form it requires by the bid submission deadline (generally no later than 12 noon CT on the Tuesday immediately prior to the Wednesday lease sale at which the tracts are offered unless otherwise noticed). Each bid shall be accompanied by any other documentation and information required.

B. Only those bidders who are registered prospective leaseholders with the Office of Mineral Resources as set forth under §707 shall be allowed to bid on tracts for the purpose of obtaining a wind lease from the state of Louisiana.

C. A party interested in bidding on a state tract for wind lease shall prepare a bid packet that includes the items listed below. The bidder shall place all of the items required to be included in the bid packet in an envelope, completely seal the envelope, write the official tract number on the outside of the envelope, and notate on the outside of the envelope that "Sealed Bid for State Wind Lease is Enclosed." If a bidding party is submitting multiple bids then he may place the individual sealed bid packet envelopes into a larger envelope, completely seal the envelope, and notate on the outside of the envelope that "Sealed Bids for State Wind Lease are Enclosed."

1. An official bid form available from the Office of Mineral Resources. Provide one originally signed paper copies and no electronic copy.

2. A summary of experience that shall include, at a minimum, the number of years experience in the exploration, development and production of wind energy and project descriptions. Experience with wind energy projects involving government lands and water bottoms shall be so specified.

3. A proposed plan of operations that shall set forth the following:

a. a summary of the overall business plan of the proposed wind energy development including size of operation, development costs, marketing of the site, market prices, and status of acquiring a power purchase agreement;

b. a summary of the overall wind project including status of site control (progress with leasing other properties within the entire wind project boundaries), wind data reviews, and application process with the transmission provider, as well as a time frame for the project to be operational;

c. summary of the wind development (include plat) proposed on the state lands and water bottoms sought to be leased including layout of wind power and transmission facilities, proposed wind tower information (size, location, number), which towers will be affixed to existing platforms, which towers will necessitate newly constructed platforms, turbine make, type, nameplate power production capacity, and selection criteria used, and supporting infrastructure;

d. the status and timeline of the major milestones in the wind project exploration, development, production, and decommissioning;

e. the name of the company that will operate the wind project and the linkage, if any, to the applicant;

f. a summary of the expected revenue and cash flow for the wind project on state lands and water bottoms, including a detailed list of assumptions;

g. the measures proposed to reduce risk to the state, including but not limited to, a summary of compliance with any and all wind energy standards established by the American National Standards Institute (ANSI), the American Wind Energy Association (AWEA), the International Electrotechnical Commission (IEC), and any other entity responsible for establishing wind industry consensus standards. Standards for wind energy development/operations include, but are not limited to, wind turbine safety and design, power performance, noise/acoustic measurement, mechanical load measurements, blade structural testing, power quality, and siting;

h. a summary of how the wind energy project will ensure the viability of the state's natural resources, provide a continuing energy source for the citizens and businesses of Louisiana, promote economic development through job retention and creation in the state of Louisiana, and promote a clean and lasting environment;

i. a summary of how the use of the state land and water bottoms for the exploration, development and production of wind energy will be coordinated with other users of the state lands and water bottoms.

4. A summary of the environmental issues including, but not limited to, avian and baseline noise levels, the environmental impact of the placement of wind turbines and other equipment necessary for the exploration, development and production of wind energy, and the steps proposed to minimize the environmental impact, along with any supporting environmental impact documentation.

5. A list of project participants who are or will be participating in the planning, predevelopment, construction, operation, maintenance, remediation, and/or decommission phases of the proposed project, and a brief description of their role. This list shall be supplemented for each new project participant.

6. A summary of project financing which shall include, at a minimum, identification of the sources of financing and a discussion of such financing.

7. A list of governmental entities including each federal, state, parish and local governmental entity that has jurisdiction in the nomination area and for each, the contact person name, title, office address, telephone and fax numbers, and email, as well as the type of legal authority, if any, acquired or to be acquired from the governmental entity.

8. If two or more parties are submitting a joint bid, each party shall submit a Designation of Principal State Wind Lessee and Operator Form with the joint bid.

D. The sealed bid packet may be hand-delivered or mailed to the Office of Mineral Resources. However, whether hand-delivered or mailed, the sealed bid packet shall be physically in the hands of appropriate Office of Mineral Resources personnel by the bid submission deadline (generally no later than 12 p.m. CT on the Tuesday immediately prior to the Wednesday lease sale at which the tracts are offered unless otherwise noticed). A receipt is generated in the name of and provided to the party delivering the bid. Any bid received after the deadline shall not be accepted. Further, no bid, once submitted, shall be thereafter withdrawn or canceled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1734.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 34:264 (February 2008), repromulgated LR 41:1738 (September 2015), amended LR 49:

§725. Transfer of Interest in or Assignment of a State Wind Lease
[Formerly LAC 43:I.1025]

A. Prior to execution and recordation of a transfer of interest in or assignment of a state wind lease, a prospective transferee or assignee of a state wind lease shall schedule a pre-transfer meeting with and submit a transfer packet to the Office of Mineral Resources no later than the State Mineral Board regular meeting for the month prior to the State

Mineral Board regular meeting at which the item is to appear on the State Mineral Board docket for approval.

B. The transfer or assignment shall be docketed for State Mineral Board approval. No transfer or assignment in relation to any state wind lease shall be valid unless approved by the State Mineral Board. Failure to obtain State Mineral Board approval of any transfer or assignment of a state wind lease prior to transfer or assignment shall subject the transferor or assignor and the transferee or assignee, jointly, severally and in solido, to liquidated damages of \$100 per day beginning on the first day following the execution of the transfer or assignment.

C. All parties to transfers or assignments in relation to any state wind lease shall be registered prospective leaseholders with the Office of Mineral Resources. Transfers or assignments shall not be granted to prospective leaseholders that are not currently registered with the Office of Mineral Resources as set forth under forth under §707.

D. The transfer packet shall contain the following items:

1. two original, unexecuted, unrecorded transfer or assignment instruments:

a. provide the marital status of the assignor if the assignor is an individual and, if applicable, the spouse's name and space for the spouse's signature to be affixed thereon;

b. designate the operator and the party who shall be the principal state wind lessee authorized to act on behalf of all co-lessees and attach proof of such agency;

c. after State Mineral Board approval, the transfer or assignment instrument must be executed by both assignor and assignee (and spouse(s), if appropriate), with each signature duly witnessed and a notarized witness acknowledgement provided for each, or the assignee (and spouse, if appropriate) shall execute an acceptance by assignee form, with the signature duly witnessed and notarized, and a copy attached to each of the transfer instruments;

2. a designation of principal state wind lessee and operator form completed by each prospective leaseholder;

3. a separate statement of conveyance—wind lease form completed for each state wind lease impacted by the transfer and reflect only the gross working interest in the lease existing before and after the conveyance (no net revenue interests are to be considered or reported);

4. a proposed plan of operations that includes all the items set forth in §717.C.3.a-i;

5. any environmental impact documentation supplementing and updating §711.C.7;

6. a list of project participants who are or will be participating in the planning, predevelopment, construction, operation, maintenance, remediation, and/or decommission phases of the proposed project, and a brief description of their role. This list shall be supplemented for each new project participant;

7. a summary of project financing which shall include, at a minimum, identification of the sources of financing and a discussion of such financing;

8. a list of governmental entities including each federal, state, parish and local governmental entity that has jurisdiction in the nomination area and for each, the contact person name, title, office address, telephone and fax numbers, and email, as well as the type of legal authority, if

any, acquired or to be acquired from the governmental entity;

9. if state wind lease operations have commenced, general liability insurance in a form acceptable to the State Mineral Board as set forth in §729.A.2 and financial security in a form acceptable to the State Mineral Board as set forth in §729.A.3;

10. a docket fee payment in the amount of \$100 made payable to the Office of Mineral Resources to cover the cost of preparing and docketing transfers or assignments of state wind leases. A personal or business check is acceptable;

11. any other information and documentation required by the Office of Mineral Resources.

E. After receiving State Mineral Board approval of the transfer or assignment, record the approved transfer instrument and the approval resolution in the appropriate parish(es) per the approval resolution and furnish the Office of Mineral Resources with the recordation information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1734.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 34:266 (February 2008), repromulgated LR 41:1740 (September 2015), amended LR 49:

**§727. Partial or Full Release of a State Wind Lease
[Formerly LAC 43:I.1027]**

A. Upon expiration or termination of a state wind lease, in whole or in part, for any reason, the principle state wind lessee shall execute and record an appropriate instrument of release within 90 days of such expiration or termination in each parish wherein the leased premises are located and shall provide the State Mineral Board through the Office of Mineral Resources with a copy of the recorded instrument of release from each parish wherein it is recorded properly certified by the recorder for that parish. In the event the principle state wind lessee fails to comply, all the state wind lessees currently of record jointly, severally and in solido shall be subject to liquidated damages of \$100 per day beginning on the ninety-first day after expiration or termination, as well as reasonable attorney fees and costs incurred should suit be brought for lease cancellation.

B. The release instrument shall provide the state wind lease number and be signed by the principle state wind lessee, with the signature duly witnessed and notarized. Failure to follow the notarization requirements of R.S. 35:12 shall be grounds for the release instrument to be rejected.

C. If a party wants to release only a portion of the leased acreage, he shall contain the whole of the retained acreage, including the buffer acreage within the boundaries set forth in §729.C.1.a-c, within a single contiguous block of acreage. For a partial release only, the party shall also provide the following items.

1. A written property description, fully justified, using Microsoft Word. The first part shall describe and provide the amount of state owned acreage released. The second part shall describe and provide the amount of state owned acreage retained. Use X-Y Coordinates based on the Louisiana Coordinate System of 1927, North or South Zone (as applicable), starting with an X-Y point of beginning and using distance and bearings to each X-Y corner or turning point. Use calculations, closures and ties to existing state wind leases that comply with generally accepted surveying

standards. Provide one original paper copy and one electronic copy as a Word .doc file named "released.doc" on a digital storage method.

2. A plat that clearly delineates the boundaries of and sets forth the state owned acreage amount released and the state owned acreage amount retained. Use an 8 1/2 x 11 copy of the most recent edition of the 7 1/2 minute USGS Quadrangle Map (scale 1" = 2000' or 1" = 3000'; or the block system of 1" = 4000', if applicable). Use X-Y Coordinates based on the Louisiana Coordinate System of 1927, North or South Zone (as applicable), starting with an X-Y point of beginning and using distance and bearings to each X-Y corner or turning point. Use calculations, closures and ties to existing state wind leases that comply with generally accepted surveying standards. Provide one original paper copy and one electronic copy included as a .pdf file named "released.pdf" on a digital storage method.

3. A .dxf file that contains only the boundary of the acreage portion to be released, named "released.dxf" and provided on a digital storage method. This boundary shall be a single line with no additional lines, labels, text, or graphics, and shall be constructed of individual line segments between vertices. The X-Y coordinates in the .dxf file must exactly match those in the written property description and the plat.

4. A release instrument on a digital storage method clearly labeled "State Wind Lease Release" that shall have the principal state wind lessee and project names affixed thereon and contain the written property description as a Word .doc file, the plat as a .pdf file, and the .dxf file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1734.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 34:267 (February 2008), repromulgated LR 41:1740 (September 2015), amended LR 49:

**§729. State Wind Lease Operations
[Formerly LAC 43:I.1029]**

A. The state wind lessee and state wind lease operator shall schedule a pre-operations meeting with and submit an operations packet to the Office of Mineral Resources at least 60 days prior to commencement of construction. The operations packet shall be updated and revised as necessary at least once every five years. The operations packet shall contain the following items:

1. notice of beginning of wind lease operations form;

2. proof of general liability insurance for the leased premises in the amount of at least \$1,000,000 issued by an insurer to whom A.M. Best Company has given not less than an A rating, specifically covering all damages, and name as insured the state of Louisiana and its departments, agencies and boards:

a. subsequent to the commencement of construction, an updated proof of general liability insurance is required to be submitted by January 31 of each year. Failure to submit updated proof of general liability insurance may cause the Office of Mineral Resources to levy liquidated damages of \$100 per day until such proof is received;

3. financial security in a form acceptable to the State Mineral Board. The financial security amount for individual turbines shall be equal to the estimated cost to decommission

found in the plan required by subsection A.9 of this section. Compliance with this financial security requirement shall be provided by any of the following or a combination thereof:

a. a certificate of deposit issued in sole favor of the Louisiana Department of Natural Resources in a form prescribed by the board from a financial institution acceptable to the board; or

b. a performance bond in sole favor of the Louisiana Department of Natural Resources in a form prescribed by the board issued by an appropriate institution authorized to do business in the state of Louisiana; or

c. a letter of credit in sole favor of the Louisiana Department of Natural Resources in a form prescribed by the board issued by a financial institution acceptable to the board;

4. an updated plan of operations that includes all the items set forth in §717.C.3.a-i;

5. any updated environmental impact documentation supporting §711.D.7;

6. an updated list of project participants as set forth in §717.C.5;

7. any other information and documentation required by the Office of Mineral Resources.

8. designation of proposed acreage to be released at the end of the wind energy lease's primary term where no wind energy is being produced or no construction or other operations is occurring, all as further set forth in the wind energy lease.

9. a decommissioning plan for the end of the proposed facility's expected life or upon circumstances that would require closure of the facility; such plan shall include the estimated cost of site closure and remediation in accordance with these rules.

B. At the expiration of the primary term, production of wind generated electric power, construction, or operations, all as further set forth in the wind energy lease, shall be required to maintain the lease in force. If the lessee is producing wind generated electric power, the lease shall continue in force so long as production of wind generated electric power continues without lapse of more than 180 days. Any lapse in production of wind generated electric power greater than 180 days shall result in automatic termination of the lease.

C. On or before five years after the lessee commences the production of wind generated electric power on the lease, or five years from the end of the primary term, whichever is sooner (said date being the "Undeveloped Acreage Release Date"), the lessee shall release undeveloped acreage pursuant to the requirements of this Subpart, as well as those set forth in §727.

1. Lessee shall survey the exact locations of any physical improvements that it has made upon the property including, but not limited to, turbines, towers, controller boxes, foundations, guy wires, roads, overhead and underground electrical wires, communication lines, poles and cross members, and substations and transmission facilities, and shall further show on such survey the areas of land containing the improvements with the following boundaries:

a. approximately 50 feet from the closest point on which a meteorological tower, road, guy wire, or transmission line is located;

b. approximately 150 feet from the perimeter of any substation; and

c. approximately 400 feet from the axis of horizontal rotation of any turbine.

2. Lessee shall contain the whole of the retained acreage, including the buffer acreage within the boundaries set forth in Subparagraphs 1.a-c, within a single contiguous block of acreage.

D. Any and all wind data collected during the primary term of the lease by the state wind lessee shall be released to public record at the end of the primary term.

E. The Office of Mineral Resources may require periodic reporting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1734.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 34:267 (February 2008), repromulgated LR 41:1741 (September 2015), amended LR 49:

§731. State Wind Lease Electric Power Production Royalty Payment and Reporting [Formerly LAC 43:I.1031]

A. A state wind lease shall contain a provision permitting the state, at its option, to take in kind all or any part of the portion due it as royalty of any wind generated electric power produced from the leased premises. Unless the state elects to exercise this in kind option, which option is expressly reserved by the state and which is to be exercised by written notice by the state to the state wind lessee ("lessee") at any time and from time to time while a state wind lease is in effect and either prior or subsequent to acceptance by the state of royalties other than in kind, it being understood that nothing contained in a state wind lease shall ever be interpreted as limiting or waiving this option, the lessee shall pay to the state as royalty an amount as set forth in the wind energy lease. The royalty amount approved by the State Mineral and Energy Board shall be the amount that it determines to be most advantageous to the State and shall be based upon comparable wind energy leases where available.

B. All royalties accruing under a state wind lease (including those paid in kind) shall be without deduction for the cost of producing, interconnecting, transporting and otherwise making electric production available for sale or use at the delivery side of the substation.

C. Prior to the first royalty payment, lessee shall complete a payor notification form available from the Office of Mineral Resources. If the payor attributable to a state wind lease changes between payment dates without notification to the Office of Mineral Resources of the change and without submission of the current mailing address, telephone number, and email address for the new payor prior to the next payment, the new payor shall be subject to liquidated damages of \$1,000. The State Mineral Board may waive all or any part of the liquidated damages based on a consideration of all factors bearing on the issue.

D. The first payments of royalty shall be made within 120 days following commencement of production of wind generated electric power from the leased premises. Thereafter, royalty shall be paid by the twenty-fifth of the second month following that in which wind generated electric power is produced. In the event any royalty payment is not correctly or timely made, lessee shall pay legal interest and penalty (where applicable), until paid, on royalty owing under the terms of this lease commencing the date such royalty is due and payable, along with damages, attorney fees, and costs. The state may also seek dissolution of the lease.

E. A state wind lessee shall report royalty payments on the official royalty reporting form available from the Office of Mineral Resources. Payment shall accompany the official royalty reporting form. Payments equal to or less than \$9,999 may be made by personal or business check. Payments greater than \$9,999 shall be made by ACH Network transfer. In all cases, the payee shall be the Office of Mineral Resources.

F. A state wind lessee shall keep true, accurate and complete books, records, accounts, contracts and data sufficient to support and verify the calculation of all amounts due under the lease. The state or any representative of the state shall have the right at all reasonable times and upon the provision of reasonable notice, to inspect the books, accounts, contracts, records, and any other relevant data, in possession or control of lessee and pertaining to the production, transportation or sale of electricity produced from the lease premises, including, without limitation, statements, documents, records or other data, from third parties which verify price, value or quantity of electricity generated on the lease premises. Any such inspection and review shall take place at the office of lessee, unless another location is otherwise agreed to by the state and lessee.

G. Should a state wind lessee contest royalty payment or any form of payment under a state wind lease, including requests for recoupment of any alleged overpayment of royalty, or present any claim, dispute or question pertaining to the terms, conditions, obligations, and duties expressed or implied in a state wind lease, the Office of Mineral Resources may collect a fee of \$35 per hour for each hour or portion thereof spent in verification of any such contest, claim, dispute, or question.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1734.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 34:268 (February 2008), repromulgated LR 41:1742 (September 2015), amended LR 49:

§733. State Wind Lease Decommissioning [Formerly LAC 43:I.1033]

A. Definitions to be used in this Section:

Decommissioning—ending wind energy operations and returning the lease to a condition that meets the requirements of the Bureau of Ocean Energy Management, U.S. Department of the Interior, as required by R.S. 41:1732.C, as well as the requirements of the Louisiana Department of Natural Resources, State Mineral Board and Office of Mineral Resources, and the requirements of any other agencies that have jurisdiction over decommissioning activities.

Facility—any installation used for wind energy activities that is permanently or temporarily attached to state lands or water bottoms. Facilities may include obstructions.

Obstructions—structures, equipment or objects that were used in wind energy operations that, if left in place, would hinder other users of the state lands or water bottoms. Obstructions may include, but are not limited to, wind turbines, towers, pads, platforms, templates, pilings, shell mounds, overhead and underground electrical transmission and communications lines, electric transformers, energy storage facilities, telecommunications equipment, power generation facilities, roads, meteorological towers and wind measurement equipment, control buildings, maintenance yards, transmission towers, wires, cables, substations, and related facilities and equipment.

B. Lessees and owners of operating rights are jointly and severally responsible for meeting decommissioning obligations for facilities and obstructions on leases, as the obligations accrue and until each obligation is met. In this Section, the terms *you* or *I* refer to lessees and owners of operating rights, as to facilities installed under the authority of a lease.

C. You accrue decommissioning obligations when you install a facility, create an obstruction to other users of the state lands and water bottoms, are or become a lessee or the owner of operating rights of a lease on which there is a facility or an obstruction, or re-enter a facility or an obstruction that was previously abandoned.

D. When your facilities are no longer useful for operations, you shall get approval from the Office of Mineral Resources before decommissioning facilities and then permanently remove all facilities and obstructions created by your lease operations in a manner that is safe, does not unreasonably interfere with other users of the state lands or water bottoms, and does not cause undue or serious harm or damage to the human, wildlife, aquatic, or coastal environment.

E. You shall submit decommissioning applications and receive approval and submit subsequent reports according to the table in this Subpart.

Decommissioning Applications and Reports Table		
Decommissioning Applications and Reports	When to Submit	Instructions
1. Final removal application for a facility	Before removing a facility	Include information required under Subpart G
2. Post-removal report for a facility	Within 30 days after you remove a facility	Include information required under Subpart I
3. Site clearance report for a facility	Within 30 days after you complete site clearance verification activities	Include information required under Subpart O

F. You shall remove all facilities within one year after the lease terminates unless you receive approval to maintain a facility to conduct other activities. Before you may remove a facility, you shall submit a final removal application to the Office of Mineral Resources for approval and include the information listed in Subsection G. You shall remove a facility according to the approved application. You shall

notify the Office of Mineral Resources at least 48 hours before you begin the removal operations.

G. You shall submit a final removal application to remove a facility to the Office of Mineral Resources for approval. Provide one paper copy and one electronic copy of the final removal application. The final removal application shall include the following, as applicable:

1. applicant identification including lease operator, address, contact person and telephone number, and shore base;

2. facility identification including facility name/ID number, location (lease, area, X-Y coordinates based on the Louisiana Coordinate System of 1927, block name and number), year installed, proposed date of removal (month/year), and water depth;

3. description of the facility you are removing including configuration (attach a photograph or a diagram), size, brief description of soil composition and condition, the maximum removal lift weight and estimated number of main lifts to remove the facility, and any other pertinent information;

4. a description, including anchor pattern, of the vessel(s) you will use to remove any facility from state water bottoms;

5. identification of the purpose, including lease expiration date and reason for removing the facility;

6. a description of the removal method, including a brief description of the method you will use. If you are using explosives, the type of explosives, number and sizes of charges, whether you are using a single shot or multiple shots, if multiple shots, the sequence and timing of detonations, whether you are using a bulk or shaped charge, depth of detonation below ground level or mud line (as applicable), whether you are placing the explosives inside or outside of the facility, and a statement whether or not you will use transducers to measure the pressure and impulse of the detonations;

7. if removing a facility from state water bottoms, whether you will use divers or acoustic devices to conduct a pre-removal survey to detect the presence of aquatic life and a description of the proposed detection method;

8. your plans for transportation and disposal (including as an artificial reef) or salvage of the removed facility;

9. if available, the results of any recent biological surveys conducted in the vicinity of the structure and recent observations of wildlife or aquatic life at the facility site;

10. your plans to protect archaeological and sensitive biological features during removal operations, including a brief assessment of the environmental impacts of the removal operations and procedures and mitigation measures you will take to minimize such impacts;

11. your plans to return and restore the state lands or water bottoms to a condition as nearly equivalent to that which existed before said operations were conducted and/or facility was constructed;

12. if removing a facility from state water bottoms, a statement whether or not you will use divers to survey the area after removal to determine any effects on aquatic life.

H. Unless the Office of Mineral Resources approves an alternate depth under Paragraph 2 of this Subpart, you shall remove all facilities on state water bottoms to at least 15'

below mud line and you shall remove all facilities on state lands to at least 2' below plow depth. The Office of Mineral Resources may approve an alternate removal depth if:

1. the remaining facility or part thereof would not become an obstruction to other users of the state lands and water bottoms, and geotechnical and other information you provide demonstrate that erosional processes capable of exposing the obstructions are not expected; or

2. if removing a facility from state water bottoms, you determine, and the Office of Mineral Resources concurs, that you must use divers and the seafloor sediment stability poses safety concerns.

I. Within 30 days after you remove a facility, you shall submit a post-removal report to the Office of Mineral Resources that includes the following:

1. a summary of the removal operation including the date it was completed;

2. a description of any mitigation measures you took; and

3. a. statement signed by your authorized representative that certifies that the types and amount of explosives you used in removing the facility were consistent with those set forth in the approved final removal application.

J. The Office of Mineral Resources may grant a departure from the requirement to remove a facility by approving partial facility removal or toppling in place for conversion to an artificial reef or other use if you meet the following conditions:

1. the structure becomes part of a state artificial reef program, and the responsible state agency acquires a permit from the U.S. Army Corps of Engineers and accepts title and liability for the facility; and

2. you satisfy any U.S. Coast Guard (USCG) navigational requirements for the facility.

K. Within 60 days after you remove a facility from state water bottoms, you shall verify that a site is clear of obstructions by using one of the following methods.

1. For a facility site in water depths less than 300 feet, you shall drag a trawl over the site.

2. For a facility site in water depths 300 feet or more, you shall drag a trawl over the site, scan across the site using sonar equipment or use another method approved by the Office of Mineral Resources if the particular site conditions warrant.

L. If you drag a trawl across the site, you shall comply with the following.

1. Drag the trawl in a grid-like pattern across a 1,320 foot radius circle centered on the location of the facility.

2. Trawl 100 percent of the limits, described in Subparagraph 1 above, in two directions.

3. Mark the area to be cleared as a hazard to navigation according to USCG requirements until you complete the site clearance procedures.

4. Use a trawling vessel equipped with a calibrated navigational positioning system capable of providing position accuracy of +/-30 feet.

5. Use a trawling net that is representative of those used in the commercial fishing industry (one that has a net strength equal or greater than that provided by No. 18 twine).

6. Ensure that you trawl no closer than 300 feet from a shipwreck, and 500 feet from a sensitive biological feature.

7. If you trawl near an active pipeline, you must meet the requirements in the following table.

For-	You Must Trawl-	And You Must-
1. Buried active pipelines		First contact the pipeline owner or operator to determine the condition of the pipeline before trawling over the buried pipeline.
2. Unburied active pipelines that are 8 inches in diameter or larger	no closer than 100 feet to the either side of the pipeline	Trawl parallel to the pipeline. Do not trawl across the pipeline.
3. Unburied smaller diameter active pipelines in the trawl area that have obstructions (e.g., pipeline valves) present	no closer than 100 feet to either side of the pipeline	Trawl parallel to the pipeline. Do not trawl across.
4. Unburied active pipelines in the trawl area that are smaller than 8 inches in diameter and have no obstructions present.	parallel to the pipeline	

8. Ensure that any trawling contractor you may use has no corporate or other financial ties to you and has a valid commercial trawling license for both the vessel and its captain.

M. If you do not trawl a state water bottom site, you can verify that the site is clear of obstructions by using any of the methods shown in the following table.

If You Use-	You Must-	And You Must-
1. Sonar	Cover 100 percent of the appropriate grid area.	Use a sonar signal with a frequency of at least 500 kHz.
2. A diver	Ensure that the diver visually inspects 100 percent of the appropriate grid area.	Ensure that the diver uses a search pattern of concentric circles or parallel lines spaced no more than 10 feet apart.
3. An ROV (remotely operated vehicle)	Ensure that the ROV camera records videotape over 100 percent of the appropriate grid area.	Ensure that the ROV uses a pattern of concentric circles or parallel lines spaced no more than 10 feet apart.

N. Within 60 days after you remove a facility from state lands other than water bottoms, you shall verify that you have returned and restored the state lands to a condition as nearly equivalent to that which existed before said operations were conducted and/or facility was constructed.

O. You shall submit a site clearance report to the Office of Mineral Resources within 30 days after you complete the verification activities. The site clearance report shall include the following:

1. a letter signed by an authorized company official certifying that the facility site area is cleared of all obstructions and that a company representative witnessed the verification activities;

2. a letter signed by an authorized official of the company that performed the verification work for you certifying that they cleared the facility site area of all obstructions;

3. the date the verification work was performed and if applicable, the vessel used;

4. the extent of the area surveyed;

5. the survey method used;

6. the results of the survey, including a list of any debris removed or, if applicable, a statement from the trawling contractor that no objects were recovered; and

7. a post-trawling job plot or map showing the trawled area.

P. If a Lessee or owner of operating rights fails to decommission in accordance with this section after a good faith effort by the Office of Mineral Resources to locate and demand they perform such decommissioning, the Office of Mineral Resources may declare that no responsible party can be located for purposes of decommissioning by mailing a notice of the declaration to the Lessee and publishing a notice of such declaration in the Louisiana State Register. Upon such declaration, the Secretary of the Department of Natural Resources may expend sums payable to the department from the financial security required by these rules and enter into contracts for the purpose of decommissioning and reclaiming the associated wind energy sites in accordance with these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1734.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 34:269 (February 2008), repromulgated LR 41:1743 (September 2015), amended LR 49:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

This Rule has no known impact on small businesses as described in R.S. 49:965.6.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested parties will be afforded the opportunity to submit data, views, or arguments, in writing. Written comments will be accepted by hand delivery or USPS only, through June 12th, 2023 at Office of Mineral Resources, P.O. Box 2827, Baton Rouge, LA 70821-2827; or 617 North Third Street, 8th Floor, Baton Rouge, LA 70802. All inquiries should be directed to James Devitt at the above addresses or by phone to (225) 342-7903.

Public Hearing

A public hearing on the proposed Rule amendments will be held at 3:30pm on June 12, 2023, at the Department of Natural Resources, LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802, so that interested persons may submit oral comments on the proposed amendments.

Thomas Harris
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Leasing State Lands and Water Bottoms for the Exploration, Development and Production of Wind Energy**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change has no direct material effect on state or local government expenditures. The proposed rule amends LAC 43:V to conform to Act 443 of 2022 which establishes a maximum acreage for wind leases; provides for operating agreements relative to the production of wind energy; provides for the powers and duties of the secretary of the Department of Natural Resources; provides for rules and regulations; and provides for related matters.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no expected costs or economic benefits to directly affected persons, small businesses or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no expected effect on competition and employment from the proposed rule change.

Mark Brady
Undersecretary
2305#020

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Office of Motor Vehicles

Odometer Disclosure
(LAC 55:III.398)

Under the authority of R.S. 32:704, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Motor Vehicles hereby proposes to adopt Section 398, Odometer Disclosure, to provide that the special secure power of attorney shall not require notarization if ownership of the non-exempt motor vehicle is being transferred using a special power of attorney. This Rule shall become effective upon the promulgation of the Rule in the Louisiana Register.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 3. License Plates and Removal of Plates, Registrations, and Title Transactions

Subchapter D. Title Transactions

§398. Odometer Disclosure

A. The Federal Truth in Mileage Act requires the seller of a motor vehicle to provide an odometer disclosure to the buyer at the time of sale or transfer of ownership. A completed odometer disclosure must be provided for all non-exempt vehicles at the time of application for title.

1. Beginning January 1, 2021, vehicles of model year 2011 and newer will be subject to odometer disclosure for 20 years.

B. Vehicles exempt from odometer requirements include:

1. vehicles having a gross weight rating of more than 16,000 pounds;

2. vehicles that are not self-propelled (i.e. trailers);

3. a vehicle with a model year of 2010 or before, that is transferred at least 10 years after January 1 of the calendar year corresponding to its designated model year.

C. Transfer of ownership when the certificate of title is in the possession of a lienholder, lost or otherwise unavailable. The same person may not sign a disclosure statement as both the transferor and the transferee in the same transaction except if the certificate of title is physically held by the lienholder, the transferor may complete a special power of attorney that meets the criteria set forth in 49 CFR. 580.4 and 580.13 for the purpose of granting a transferee authority to complete a odometer disclosure on their behalf. The special power of attorney form shall not require notarization.

D. Upon receipt of the certificate of title, the transferee shall complete the odometer disclosure exactly as the mileage was disclosed by the transferor on the special power of attorney form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:704.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 49:

Family Impact Statement

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule is not anticipated to have an impact on poverty as defined by R.S. 49:973.

Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule.

This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

All interested persons may submit written comments through June 16, 2023, to Stephen A. Quidd, Executive Management Officer, Office of Motor Vehicles, Louisiana Department of Public Safety and Corrections, at P. O. Box 64886, Baton Rouge, LA 70896, or faxed to (225) 922-0158.

Public Hearing

A public hearing on the proposed Rule will be held on June 26, 2023, at the Louisiana Department of Public Safety and Corrections, Office of Motor Vehicles Headquarters, 7979 Independence Blvd., Suite 301, Baton Rouge, La. 70806, (225) 925-6281, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the OMV Headquarters at least seven working days in advance of the hearing. For assistance, call (225) 925-6281 (voice and TDD). Any interested person should call before coming to the public hearing as the hearing will be cancelled if the requisite number of comments, as provided in R.S.49:961(B), are not received.

Karen St. Germain
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Odometer Disclosure

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will not result in any costs or savings to state or local governmental units. The requested change clarifies the process for completing a federal odometer statement at the time of motor vehicle transfer.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no impact on state or local governmental revenues. The proposed rule is procedural in nature and does not establish new fees or impact collections of any fees currently authorized by statute. The requirements are applied uniformly statewide.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule does not have any effect on the estimated costs and/or economic benefits of affected persons or non-governmental groups. The requirements are applied uniformly statewide.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated or foreseen impact on competition and employment. The requirements are applied uniformly statewide.

Jill Jarreau
Administrator
2305#045

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Treasury Board of Trustees of the Louisiana State Employees' Retirement System

DROP Program (LAC 58:I.2713)

The Department of Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") proposes amendment of a provision in Chapter 27 of Part I of LAC Title 58. The proposed Rule change is required to comply with changes in federal law made by the SECURE 2.0 Act, which became law in December of 2022. The Act changed the time when a Required Minimum Distribution ("RMD") must be made from Deferred Option Retirement Plan ("DROP") accounts of LASERS retirees. The age was moved from age 72 to age 73. Section 2713 must be amended to conform to that change. The proposed Rule change complies with and is enabled by R.S. 11:515.

Title 58

RETIREMENT

Part I. Louisiana State Employees' Retirement System Chapter 27. DROP Program Subchapter C. Withdrawal §2713. Time for Disbursement

A. - B. ...

C. When a retiree reaches age 73, mandatory annual distributions shall begin in accordance with IRS regulations. The amount of the distributions will be recalculated annually.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 25:2466 (December 1999), LR 29:1121 (July 2003), LR 30:2079 (September 2004), LR 32:1070 (June 2006), LR 35:2476 (November 2009), LR 46:1695 (December 2020), LR 49:

Family Impact Statement

The proposed Rule repeal is not anticipated to have an impact on family formation, stability, or autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule is not anticipated to have an impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed Rule is not anticipated to have an adverse impact on small businesses as defined in R.S. 49:978.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as defined by HCR 170 of the 2014 Regular Legislative Session.

Public Comments

Interested parties may submit oral or written comments, data, views, or arguments relative to this proposed rule for a period up to 20 days (exclusive of weekends and state

holidays) from the date of this publication to Steve Stark, Board of Trustees for the Louisiana State Employees' Retirement System, P.O. Box 44213, Baton Rouge, LA 70804.

Cindy Rougeou
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: DROP Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no expected implementation costs or savings to state or local governmental units as a result of this proposed rule change.

The proposed rule amendment makes a change to Chapter 27 of Title 58, Part I of the Louisiana Administrative Code applicable to Louisiana State Employees' Retirement System (LASERS). The existing Deferred Retirement Option Plan (DROP) rules are being updated to reflect changes to Required Minimum Distributions (RMD) made by the SECURE 2.0 Act of 2022 recently passed by Congress, which changes the RMD age from 72 to age 73. The proposed rule change also removes an obsolete provision which references a table no longer present in Chapter 27.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of the proposed change will allow retirees to delay receiving required minimum distributions from their retirement account by a year, which may result in the retiree having a lower income tax liability during that period.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule has no known effect on competition and employment.

Cindy Rougeou
Executive Director
2305#027

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Fox/Coyote Hunting Preserve,
Purchase and Sale of Live Foxes and Coyotes,
Permitting Year-Round Coyote Trapping
(LAC 76:V.113)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend §113. Fox/Coyote Hunting Preserve, Purchase and Sale of Live Foxes and Coyotes, Permitting Year Round Coyote Trapping regulations relative to coyote/fox pens and associated activity definitions, permitting, licensee responsibilities, trap sizes, disease prevention and humane treatment of coyotes and foxes in the pens.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and compiling public comments and submissions for the commission's review and consideration. In the absence of any further action by the commission following an opportunity to consider all public comments regarding the proposed Rule, the Secretary is authorized and directed to prepare and transmit a summary report to the legislative oversight committees and file the final Rule.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§113. Fox/Coyote Hunting Preserve, Purchase and Sale of Live Foxes and Coyotes, Permitting Year Round Coyote Trapping

A. ...

B. Definitions

LDWF-Approved Applicant—a person who has no Class 3 or greater wildlife or fish violations during the past three years, who has a minimum of two years of trapping experience and who is at least 15 years old.

Licensee—any bona fide resident and lawful holder of an effective license duly issued under the authority of the department.

C. Licenses, Permits and Fees. The licenses and fees required for activities authorized by these regulations are as prescribed under provisions of Title 56.

1. An annual special permit may be issued to a Department of Wildlife and Fisheries approved applicant [authority granted by Louisiana laws pertaining to Wildlife and Fisheries, R.S. 56:123(C)] for the trapping of coyotes only, outside of the annual trapping season. In order for the permittee to sell live coyotes, he must also possess a nongame quadruped breeder's license (R.S. 56:262.1) and a valid trapping license;

2. A nongame quadruped exhibitor's license may be issued permitting the applicant to breed and/or exhibit such animals provided he meets the rules and regulations of the department;

3. A nongame quadruped breeder license may be issued permitting the applicant to breed, propagate, exhibit, and sell such animals alive.

D. General Rules

D.1. - D.4. ...

5. Licensees shall be required to make available to the game:

a. food that is palatable, uncontaminated and nutritionally adequate to ensure normal growth and maintenance;

b. water which is fresh, uncontaminated and available at all times.

D.6. - D.10. ...

11. Permittees (trapping coyotes during the closed trapping season) will be required to use only either a padded (4 9/16-6 1/2 inch inside jaw width at hinge posts), offset, laminated or wide (4 5/8-6 3/8 inch inside jaw width at hinge posts) or unmodified (5 inch inside jaw width at hinge posts) foot-hold trap, or a box-type trap, or a cable restraint with a relaxing lock.

D.12. - D.20. ...

21. Neurological or sick animals shall be humanely euthanized and shall not be moved or sold in an effort to prevent the spread of disease. Licensees shall be required to immediately report to the department the occurrence of any disease contracted by captive fox or coyotes. These diseases include but are not limited to rabies, canine distemper, sarcoptic mange or Echinococcus infections.

22. Animals held under any non-game quadruped breeder, non-game quadruped exhibitor, or coyote trapping license shall not be physically altered, except for medical treatment by a Louisiana licensed veterinarian, or mutilated in any way.

E. - E.3. ...

F. Penalty for Violation. Violation of these regulations will be a Class 2 violation with the following exceptions.

1. Violation of the license requirements for nongame quadruped breeders and nongame quadruped exhibitors shall be a Class 3 violation (see §113.C.1, 2, 3 and D.2).

2. Violation of the reporting requirements shall be a Class 3 violation (see §113E.1-3).

3. Violation of the regulations pertaining to import of foxes and/or coyotes into the state or export of foxes and/or coyotes from the state shall be a Class 4 violation (see §113.D.6-7).

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:262.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 17:205 (February 1991), amended LR 49:512 (March 2023), LR 49:

Family Impact Statement

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issue its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

This proposed Rule has no known impact on small businesses as described in R.S. 49:965.2 through R.S. 49:965.8.

Provider Impact Statement

This proposed Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

Interested persons may submit comments relative to the proposed Rule to Melissa Collins, LDWF Wildlife Biologist, Permits Coordinator, Department of Wildlife and Fisheries,

42371 Phyllis Ann Drive, Hammond, LA 70403, or via email to mcollins@wlf.la.gov prior to Wednesday, July 5, 2023.

Andrew J. Blanchard
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Fox/Coyote Hunting Preserve, Purchase and Sale of Live Foxes and Coyotes, Permitting Year- Round Coyote Trapping

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no expenditure impact on state or local governmental units.

The proposed rule change does the following:

1. Removes "non-resident" from the definition of "licensee" within this section of the rule;

2. Reinserts the requirements to hold permits to trap coyotes outside annual trapping season into Title 76. Permittees are required to possess a non-game quadruped breeders license and a trapping license;

3. Reinserts the requirement to hold non-game quadruped exhibitor license to breed or exhibit coyotes or foxes into Title 76;

4. Reinserts the requirement to hold non-game quadruped breeder license to breed, propagate, exhibit, or sell live coyotes or foxes into Title 76;

5. Alters the types of traps that may be used to trap coyotes to be consistent with Association of Fish and Wildlife Agencies (AFWA) best management practices (BMP);

6. Requires the humane euthanization of neurological or sick animals and prohibits the moving or selling of such animals;

7. Prohibits the physical alteration of animals held by non-game quadruped breeders, non-game quadruped exhibitors, or coyote trapping licensees; and

8. Transfers the obligation to comply with humane treatment regulations from the owners of fox and coyote pen owners to the licensees who operate the facilities.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is expected to have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change requiring the humane treatment of animals and the euthanization of sick animals may result in a minor increase in operating costs for some fox and coyote operations.

The proposed changes altering the type of traps allowed for coyotes may increase costs for trappers who do not already possess traps that meet the changed parameters.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is anticipated to have no impact on competition and employment.

Bryan McClinton
Undersecretary
2305#031

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Participation in the Deer Management Assistance Program (LAC 76:V.111)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend the Deer Management Assistance Program (DMAP) regulations in an effort to change eligibility requirements for program participants within 5 miles of a Chronic Wasting Disease (CWD) detection. While participation is voluntary, DMAP tier 1 participants within 5 miles of a CWD positive detection will no longer be required to meet the 1,000 acre minimum. In addition, enrollment fees will be waived and enrollment may occur at any point during the current deer season due to a CWD detection. Participants will still be required to collect required biological data and may be required to submit CWD samples. Tier 1 DMAP will provide an avenue for season and bag limit liberalization while collecting biological data and disease surveillance samples. Also changed was the timeframe for submission of all DMAP harvest records and unused tags.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and compiling public comments and submissions for the commission's review and consideration. In the absence of any further action by the commission following an opportunity to consider all public comments regarding the proposed Rule, the secretary is authorized and directed to prepare and transmit a summary report to the legislative oversight committees and file the final Rule.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§111. Rules and Regulations for Participation in the Deer Management Assistance Program

A. The following rules and regulations shall govern the Deer Management Assistance Program.

1. Application Procedure

a. Application for enrollment of a new cooperator in the Deer Management Assistance Program (DMAP) must be submitted to the Department of Wildlife and Fisheries by August 1. Application for the renewal enrollment of an active cooperator must be submitted to the Department of Wildlife and Fisheries annually by September 1. Except lands enrolling in Tier 1 DMAP within 5 miles of a Chronic Wasting Disease (CWD) detection may enroll at any time during the current season.

b. Applicants will select from 1 of 4 levels of DMAP participation. Level 1 participation is limited to qualifying clubs of 1000 acres or more, unless the property is 40 acres or more and located within 5 miles of a CWD detection, and will require collection of complete harvest data, including jaw bone removal, weights, antler measurements, and checking females for lactation. Level 1

participation may require the submission of CWD samples, per the Department's discretion, for properties within 5 miles of a CWD detection. Issuance of both antlered and antlerless tags will be mandatory. Level 2 participation is limited to clubs with 500 acres or more and will also require collection of complete harvest data. Antlerless tags only will be issued unless antlered tags are specifically requested and needed to meet harvest objectives. Level 3 participation will be for tracts of 40 acres or larger, and only require recording the total number of male and female deer harvested. Only antlerless tags are available. Licensed deer farmers authorized to hunt deer by Department of Agriculture and Forestry and Department of Wildlife and Fisheries are eligible to participate in this level. Level 4 participation will only require recording the total number of male and female deer harvested and is only available for nuisance deer issues such as crop or lawn depredation. Only antlerless tags will be issued. There is no acreage minimum for level 4.

c. Each application for a new cooperator must be accompanied by a legal description of lands to be enrolled and a map of the property. Renewal applications must be accompanied by a legal description and map only if the boundaries of the enrolled property have changed from records on file from the previous hunting season. This information will remain on file in the appropriate ecoregion field office.

d. Fee schedule:

i. tier 1—fee dependent on acreage and distance to a CWD detection:

- (a). 1,000-1,500 acres—\$250;
- (b). 1,501-10,000 acres—\$300;
- (c). 10,001-20,000 acres—\$500;
- (d). 20,001-50,000 acres—\$1,500;
- (e). 50,001-75,000 acres—\$2,500;
- (f). >75,000 acres—\$3,750 minimum, to be

negotiated;

(g). ≥40 acres or more and within 5 miles of a CWD detection—no fee;

ii. tier 2—fee dependent on acreage:

- (a). 500-1,500 acres—\$150;
- (b). 1,501-10,000 acres—\$200;
- (c). 10,001-20,000 acres—\$500;
- (d). 20,001-50,000 acres—\$1,500;
- (e). 50,001-75,000 acres—\$2,500;
- (f). >75,000 acres—\$3,750 minimum, to be

negotiated;

iii. tier 3—fee dependent on acreage:

- (a). 40-500 acres—\$100;
- (b). 501-1,500 acres—\$150;
- (c). 1,501-10,000 acres—\$200;
- (d). 10,001-20,000 acres—\$500;
- (e). 20,001-50,000 acres—\$1,500;
- (f). 50,001-75,000 acres—\$2,500;
- (g). >75,000 acres—\$3,750 minimum, to be

negotiated;

iv. tier 4—no acreage minimum, no fee.

e. DMAP fees must be paid to the Department of Wildlife and Fisheries Fiscal Section prior to September 15.

f. An agreement must be completed and signed by the official representative of the cooperator and submitted to the appropriate ecoregion field office for approval. This agreement must be completed and signed annually.

g. Entrances and public road frontage of lands enrolled in DMAP shall be clearly marked and posted with DMAP signs in compliance with R.S. 56:110 and the provisions of R.S. 56:110 are only applicable to property enrolled in DMAP. DMAP signs shall be removed if the land is no longer enrolled in DMAP. Rules and regulations for compliance with R.S. 56:110 are as follows.

i. The color of DMAP signs shall be orange. The words "DMAP" and "posted" shall be printed on the sign in letters no less than four inches in height. Signs may be constructed of any material and minimum size is 11¼ inches x 11¼ inches.

ii. Signs will be placed at 1000-foot intervals along any public road frontage and at all points of ingress and egress used by motorized vehicles to access the property.

h. By enrolling in the DMAP, cooperators agree to allow department personnel access to their lands for management surveys, investigation of violations and other inspections deemed appropriate by the department. The person listed on the DMAP application as the contact person will serve as the liaison between the DMAP cooperator and the department.

i. Each cooperator that enrolls in DMAP is strongly encouraged to provide keys or lock combinations annually to the enforcement division of the Department of Wildlife and Fisheries for access to main entrances of the DMAP property. Provision of keys is voluntary. However, the cooperator's compliance will ensure that DMAP enrolled properties will be properly and regularly patrolled.

j. Large acreage ownerships (>10,000 acres) may further act as cooperators and enroll additional non-contiguous tracts of land deemed sub-cooperators. Sub-cooperators shall be defined by the large acreage ownerships lease agreements. Non-contiguous sub-cooperator lands enrolled by large acreage ownerships will have the legal description and a map included for those parcels enrolled as sub-cooperators. Sub-cooperators shall be subject to the same requirements, rules and regulations as cooperators.

k. The department may grant season extensions to hunt deer with any legal weapon, up to either 15 days prior to or after the established season framework for the regular deer area season, if requested by the DMAP level 1 cooperator in order to fulfill property-specific objectives and goals if biological reasons and limitations exist that support such extensions. Additionally, the department may grant season extensions to hunt rabbits and squirrels by any legal means for up to 10 days after the established rabbit and squirrel season framework, if requested by the DMAP level 1 cooperator in order to fulfill property-specific objectives and goals if biological reasons and limitations exist that support such extensions.

2. Tags

a. A prescribed number of special tags will be provided by the department to each cooperator/sub-cooperator in DMAP to affix to deer taken as specified by the program participation level. These tags shall be used during all seasons. Tags are only authorized on DMAP lands for which the tags were issued.

b. Each hunter must have a tag in his possession while hunting on DMAP land in order to harvest an antlerless deer (or antlered deer if antlered deer tags are

issued). Antlerless deer may be harvested any day of the deer season on property enrolled in DMAP provided a DMAP tag is possessed by the hunter at time of harvest. The tag shall be attached through the hock in such a manner that it cannot be removed before the deer is transported. The DMAP tag will remain with the deer so long as the deer is kept in the camp or field, is enroute to the domicile of its possessor, or until it has been stored at the domicile of its possessor, or divided at a cold storage facility and has become identifiable as food rather than as wild game. The DMAP number shall be recorded on the possession tag of the deer or any part of the animal when divided and properly tagged.

c. DMAP tagged antlered or antlerless deer harvested on property enrolled in DMAP do not count in the daily or season bag limit.

d. All unused tags shall be returned 30 days after the close of the season to the ecoregion field office which issued the tags.

3. Records

a. Cooperators/sub-cooperators are responsible for keeping accurate records on forms provided by the department for all deer harvested on lands enrolled in the program. Mandatory information includes tag number, sex of deer, date of kill, name of person taking the deer, LDWF i.d. number and biological data (age, weight, antler measurements, lactation) as deemed essential by the Department of Wildlife and Fisheries Deer Section. Biological data collection must meet quality standards established by the Deer Section. Documentation of mandatory information shall be kept daily by the cooperator/sub-cooperator. Additional information may be requested depending on management goals of the cooperator/sub-cooperator.

b. Information on deer harvested shall be submitted 30 days after the close of the season to the ecoregion field office handling the particular cooperator/sub-cooperator.

c. The contact person shall provide this documentation of harvested deer to the department upon request. Cooperators/sub-cooperators who do not have a field camp will be given 48 hours to provide this requested documentation.

B. Suspension and cancellation of DMAP Cooperators/Sub-Cooperators

1. Failure of the cooperator/sub-cooperator to follow these rules and regulations may result in suspension and cancellation of the program on those lands involved. Failure to make a good faith attempt to follow harvest recommendations may also result in suspension and cancellation of the program.

a. Suspension of cooperator/sub-cooperator from DMAP. Suspension of the cooperator/sub-cooperator from DMAP, including forfeiture of unused tags, will occur immediately for any misuse of tags, failure to tag any antlerless deer, or failure to submit records to the department for examination in a timely fashion. Suspension of the cooperator/sub-cooperator, including forfeiture of unused tags, may also occur immediately if other DMAP rules or

wildlife regulations are violated. Upon suspension of the cooperator/sub-cooperator from DMAP, the contact person may request a Department of Wildlife and Fisheries hearing within 10 working days to appeal said suspension. Cooperation by the DMAP cooperator/sub-cooperator with the investigation of the violation will be taken into account by the department when considering cancellation of the program following a suspension for any of the above listed reasons. The cooperator/sub-cooperator may be allowed to continue with the program on a probational status if, in the judgment of the department, the facts relevant to a suspension do not warrant cancellation.

b. Cancellation of cooperator/sub-cooperator from DMAP. Cancellation of a cooperator/sub-cooperator from DMAP may occur following a guilty plea or conviction for a DMAP rule or regulation violation by any individual or member hunting on the land enrolled in DMAP. The cooperator/sub-cooperator may not be allowed to participate in DMAP for one year following the cancellation for such guilty pleas or conviction. Upon cancellation of the cooperator/sub-cooperator from DMAP, the contact person may request an administrative hearing within 10 working days to appeal said cancellation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:110.1 and R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 17:204 (February 1991), amended LR 25:1656 (September 1999), LR 26:2011 (September 2000), LR 30:2496 (November 2004), LR 34:1427 (July 2008), LR 35:1910 (September 2009), LR 37:2187 (July 2011), repromulgated LR 37:2753 (September 2011), amended LR 39:2292 (August 2013), LR 41:1123 (June 2015), LR 46:704 (May 2020), LR 47:605 (May 2021), LR 49:

Family Impact Statement

In accordance with Act 1183 of 1999 Regular Session of the Louisiana Legislature, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Poverty Impact Statement

This proposed Rule will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

This proposed Rule has no known impact on small businesses as described in R.S. 49:965.2 through R.S. 49:965.8.

Provider Impact Statement

This proposed Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments relative to the proposed Rule until to Johnathan Bordelon, Department of Wildlife and Fisheries, P. O. Box 98000, Baton Rouge, LA 70898-9000 or via e-mail to jbordelon@wlf.la.gov until July 6, 2023.

Andrew J. Blanchard
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Participation in the Deer Management Assistance Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no expenditure impact on state or local governmental units.

The proposed rule change does the following:

1. Reduces the minimum acreage requirement for enrollment in Tier 1 of the Deer Management Assistance Program (DMAP or the Program) from 1,000 acres to 40 acres for properties within five miles of a detected case of Chronic Wasting Disease (CWD);

2. Waives the fee for Tier 1 DMAP properties within five miles of a detected case of CWD;

3. Subjects DMAP Tier 1 properties within five miles of a detected case of CWD to possible requirements to submit CWD samples to the Louisiana Department of Wildlife and Fisheries (LDWF); and

4. Changes the deadline for submission of DMAP harvest records and unused deer tags from March 1 to 30 days after the end of deer season.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is expected to reduce revenue collections accruing to the LDWF by \$450 to \$900 per year at the current level of CWD detection within the state.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change may reduce fee payments made by DMAP enrollees in the vicinity of the currently detected CWD cases by \$450 to \$900 per year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is anticipated to have no impact on competition and employment.

Bryan McClinton
Undersecretary
2305#030

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

Potpourri

POTPOURRI

**Department of Environmental Quality
Office of the Secretary
Legal Affairs and Criminal Investigations Division**

Withdrawal of Log Number OS100
Voluntary Environmental Self-Audit Regulations
(LAC 33:I.Chapter 70)

This potpourri notice announces the withdrawal of rulemaking for log number OS100 to allow the Louisiana Department of Environmental Quality to correct and/or provide clarification for the following proposed regulations: LAC 33:I.7009.E.1.h, LAC 33:I.7009.F, and LAC 33:I.7011.B.6.h. The Notice of Intent was published in the Louisiana Register on April 20, 2023. The rulemaking process has been terminated and the public hearing scheduled for May 25, 2023, has been canceled. (2305Pot1)

Courtney J. Burdette
Executive Counsel

2305#026

POTPOURRI

**Department of Insurance
Office of the Commissioner**

Regulation 128—Louisiana Timber and Agriculture
Transportation—Group Self-Insurance Funds
(LAC 37:XIII.Chapter 193)

The Department of Insurance published a Notice of Intent to promulgate its rule, Regulation 128, in the February 20, 2023, Volume 49, No. 2 edition of the *Louisiana Register*. The Department of Insurance proposes the following changes: to amend Section 19301 of the current notice of intent of Regulation 128 by changing the title of the definition of *Surplus* to *Members Distribution Payable/Surplus*; to amend Section 19305 by providing for a fund to provide either evidence satisfactory to the Commissioner that it possesses a surplus in excess of \$1,000,000 or a current audited financial statement. Since these are substantive changes, the Louisiana Department of Insurance is giving the public an opportunity for a hearing as published in this potpourri.

Title 37

INSURANCE

Part XIII. Regulations

**Chapter 193. Regulation Number 128—Louisiana
Timber and Agriculture Transportation
Group Self-Insurance Funds**

§19301. Definitions

A. When used in this regulation, the following words or terms shall have the following meaning.

* * *

Members Distribution Payable/Surplus—assets of a group self-insurance fund in excess of loss reserves, actual and contingent liabilities and loss development reserves in all fund years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4351.9(D).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:

§19305. Financial and Actuarial Reports

A. At inception, each fund shall either:

1. Provide evidence satisfactory to the commissioner that it possesses surplus in excess of \$1,000,000, or

2. Submit a current audited financial statement, audited by an independent certified public accountant, of at least two members showing, at the inception of the fund, a combined net worth of a minimum of \$1,000,000, current financial statements of all other members, a combined ratio of current assets to current liabilities of more than one to one, a combined working capital of an amount establishing financial strength and liquidity of the members to pay normal compensation claims promptly, and showing evidence of the financial ability of the group to meet its obligations. An audited or a financial statement properly certified by an officer, owner, or partner for all members joining the fund after the inception date shall be submitted to the commissioner until such time as an audited financial statement is available for the fund as a whole. Thereafter, the filing of member financial statements with the department is no longer required. In no event shall the cumulative net worth or ratio of the current assets to current liabilities of all members be less than that required in this Subsection.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4351.3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:

Public Comments

A public hearing on the proposed substantive changes will be held by the Louisiana Department of Insurance on June 21, 2023, at 10:00 a.m. in the Poydras Hearing Room, Poydras Building, 1702 North Third Street, Baton Rouge, LA. Interested persons who wish to make comments may do so at the public hearing or by writing to Jennifer Land, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214. Comments will be accepted no later than June 21, 2023, by close of business, 4:30 p.m.

James J. Donelon
Commissioner

2305#017

POTPOURRI

**Department of Natural Resources
Office of Conservation**

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Alvin Johnson	Caddo Pine Island	S	Herndon	12	55023
Alvin Johnson	Caddo Pine Island	S	Muslow	19	60397
Arkansas Fuel Oil Co	Tullos Urania	M	Tremont Lumber Co	C-26	35988
Cep Production LLC	Bee Brake, North	M	Quinn Swd	001	116690
Cep Production LLC	Bee Brake, North	M	Quinn D	001	130147
Cep Production LLC	Bee Brake, North	M	Nichols Sutt; Quinn D	002	131223
Cep Production LLC	Bee Brake, North	M	Quinn	001	144372
Cep Production LLC	Bee Brake, North	M	Quinn	002	145365
Cep Production LLC	Bee Brake, North	M	Quinn A	001	153861
Cep Production LLC	Bee Brake, North	M	Quinn B	001	165026

Operator	Field	District	Well Name	Well Number	Serial Number
Cep Production LLC	Bee Brake, North	M	Quinn C	001	166767
Cep Production LLC	Bee Brake, North	M	Quinn	003	204760
Cep Production LLC	Bee Brake, North	M	Quinn 5	001	227591
Cep Production LLC	Bee Brake, North	M	Quinn 5	003	228091
Cep Production LLC	Bee Brake, North	M	Quinn	004	245325
Cep Production LLC	Caddo Pine Island	S	Sarkozi & May C	009	185044
Cep Production LLC	Caddo Pine Island	S	Sarkozi & May C	003	185284
Cep Production LLC	Caddo Pine Island	S	Sarkozi & May C	004	185336
Cep Production LLC	Caddo Pine Island	S	Sarkozi & May C Swd	001	186290
Cep Production LLC	Caddo Pine Island	S	Sarkozi & May C	012	187996
Cep Production LLC	Caddo Pine Island	S	Sarkozi & May C	013	193953
Cep Production LLC	Caddo Pine Island	S	Sarkozi & May C	014	194710
Cep Production LLC	Caddo Pine Island	S	Sarkozi & May C	015	194711
Cep Production LLC	Caddo Pine Island	S	Sarkozi & May C	001	247596
Cep Production LLC	Caddo Pine Island	S	Sarkozi & May C	002	247597
Fieldwood Onshore LLC	Iberia	L	Helis	002	201349
Gray Wireline Service, Inc.	Anselm Coulee	L	Hellaire Decou Et Ux	001	166195
John M. Muckleroy, Jr.	Monroe	M	J M Muckleroy	005	180651

Operator	Field	District	Well Name	Well Number	Serial Number
Kindee Oil & Gas Louisiana, LLC	Fausse Pointe	L	Tgr Land Company Inc Etal	001	240087
Muslow And Parker	Caddo Pine Island	S	Flowers	004	45584(30)
Muslow And Parker	Caddo Pine Island	S	Bush-Annisman-Tanner	010	50431(30)
Muslow And Parker	Caddo Pine Island	S	Bush-Anisman-Landers	004	51254(30)
Muslow And Parker	Caddo Pine Island	S	Head	002	57723(30)
Muslow And Parker	Caddo Pine Island	S	Wells	001	80040(30)

Operator	Field	District	Well Name	Well Number	Serial Number
Roby J Finley	Caddo Pine Island	S	Muslow A	A-2	71908
Salvage Oil Company	Caddo Pine Island	S	Comegys	001	109782(30)
Stanolind Oil & Gas Co.	Anse La Butte	L	Rycade Unit	001	33161
Inactive Operator	Montegut	L	Dugas	001	990496
W. Dewey Roberson	Monroe	M	Rufus C Roberson	001	85064

Monique M. Edwards
Commissioner

2305#028

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