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Executive Orders

EXECUTIVE ORDER JBE 21-13

Elections—Rescheduled Due to Statewide
State of Emergency Caused by Hurricane Ida

WHEREAS, the Governor declared a Statewide Emergency via Proclamation Number 165 JBE 2021 on August 26, 2021, in response to the imminent threat of emergency conditions threatening the lives and property of the citizens of the State due to then-Tropical Storm Ida; Tropical Storm Ida became a major hurricane and made landfall in Louisiana on our coast on August 29, 2021, bringing with it devastating winds, widespread power outages, tragic loss of life, and severe damage to Louisiana;

WHEREAS, the Governor further amended his emergency proclamation regarding the state's response to the impact of Hurricane Ida by issuing additional emergency proclamations: 166 JBE 2021 on August 27, 2021, as well as 170 JBE 2021 on September 6, 2021;

WHEREAS, on September 8, 2021, the Secretary of State certified to the Governor that a state of emergency exists that would affect the electoral process, pursuant to La. R.S. 18:401.1;

WHEREAS, an election submitting four proposed constitutional amendments to all voters statewide for approval and an election of municipal officers and certain propositions in various parishes is scheduled for October 9, 2021; and the general elections for run-offs for elections for other municipal officers and propositions are scheduled for November 13, 2021;

WHEREAS, the in-person or by-mail voter registration deadline is September 8, 2021, and the online electronic voter registration deadline is September 18, 2021 for the October 9, 2021 elections;

WHEREAS, the in-person or by-mail voter registration deadline is October 13, 2021, and the online electronic voter registration deadline is October 23, 2021 for the November 13, 2021 elections;

WHEREAS, early voting for the October 9, 2021 election is set for September 25, 2021 through October 2, 2021, except for Sunday, September 26, 2021, and early voting for the November 13, 2021 election is set for October 30, 2021 through November 6, 2021, except for Sunday, October 31, 2021;

WHEREAS, the deadline for the parish boards of election supervisors to select election day commissioners is September 10, 2021, and the deadline for the parish boards of election supervisors to select parish board commissioners is October 4, 2021 for the October 9, 2021 elections;

WHEREAS, nursing home voting begins on September 18, 2021 for the October 9, 2021 elections, and on October 23, 2021 for the November 13, 2021 elections;

WHEREAS, the deadline to request absentee by mail ballots for the October 9, 2021 elections is October 5, 2021, except for voters who are military and overseas, sequestered jurors, hospitalized, or nursing home voters; the deadline to request absentee by mail ballots for the November 13, 2021 elections is November 9, 2021, except for voters who are

military and overseas, sequestered jurors, hospitalized, or nursing home voters;

WHEREAS, the deadline to return voted absentee by mail ballots for the October 9, 2021 elections is October 8, 2021, except for voters who are military and overseas, sequestered jurors, or hospitalized; the deadline to return voted absentee by mail ballots for the November 13, 2021 elections is November 12, 2021, except for voters who are military and overseas, sequestered jurors, or hospitalized;

WHEREAS, Secretary of State Kyle Ardoin has certified to the Governor that, due to Hurricane Ida's devastation in the state, numerous election issues would make holding the elections currently scheduled for October 9, 2021 and November 13, 2021 impossible and would impair the integrity of the elections, including but not limited to: 1) the location of displaced voters; 2) the displacement of nursing home residents; 3) the lack of and inconsistency of postal service delivery; 4) extensive power outages; 5) damage to and relocation of early voting and election day polling places; 6) damage to the offices of registrars of voters and clerks of court; 7) displaced election commissioners, registrars of voters staff, clerks of court staff, and parish boards of election supervisors members; and 8) the possible inability to publish notices required by law; and

WHEREAS, a state of emergency exists and it is necessary to reschedule the October 9, 2021 and November 13, 2021 elections to protect the health and safety of the voters of Louisiana.

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

SECTION 1: The following election days and deadlines are hereby rescheduled in light of the severe damage wrought by Hurricane Ida throughout much of the State of Louisiana, and the imminent threat that this storm's aftermath still poses to the residents of our State:

A. The October 9, 2021 statewide election is hereby rescheduled for November 13, 2021.

B. The November 13, 2021 election is hereby rescheduled for December 11, 2021.

C. Early Voting for the elections rescheduled in paragraph A above is hereby rescheduled for October 30, 2021 through November 6, 2021, except for Sunday, October 31, 2021.

D. Early Voting for the elections rescheduled in paragraph B above is hereby rescheduled for November 27, 2021 through December 4, 2021, except for Sunday, November 28, 2021.

E. For the elections rescheduled in paragraph A above, the in-person or by-mail voter registration deadline is hereby set for October 13, 2021, and the online electronic voter registration deadline is hereby set for October 23, 2021.

F. For the election date rescheduled in paragraph B above, the in-person or by-mail voter registration deadline is

EXECUTIVE ORDER JBE 21-14

Flags at Half-Staff—Stephen E. Pugh

hereby set for November 10, 2021, and the online electronic voter registration deadline is hereby set for November 20, 2021.

G. The deadline for the parish boards of election supervisors to select election day commissioners is hereby set for October 15, 2021, and the deadline for the parish boards of election supervisors to select parish board commissioners is hereby set for November 8, 2021, for the October 9, 2021 elections rescheduled to November 13, 2021.

H. Nursing home voting shall begin on October 23, 2021, for the October 9, 2021 elections rescheduled to November 13, 2021.

I. Nursing home voting shall begin on November 20, 2021, for the November 13, 2021 elections rescheduled to December 11, 2021.

J. The deadline to request absentee by mail ballots shall be November 9, 2021, for the October 9, 2021 elections rescheduled to November 13, 2021, except for voters who are military and overseas, sequestered jurors, hospitalized, or nursing home voters.

K. The deadline to request absentee by mail ballots shall be December 7, 2021, for the November 13, 2021 elections rescheduled to December 11, 2021, except for voters who are military and overseas, sequestered jurors, hospitalized, or nursing home voters.

L. The deadline to return voted absentee by mail ballots shall be November 12, 2021, for the October 9, 2021 elections rescheduled to November 13, 2021, except for voters who are military and overseas, sequestered jurors, or hospitalized.

M. The deadline to return voted absentee by mail ballots shall be December 10, 2021, for the November 13, 2021 elections rescheduled to December 11, 2021, except for voters who are military and overseas, sequestered jurors, or hospitalized.

SECTION 2: The deadline for calling special elections and proposition elections previously set for the October 9, 2021 election and the November 13, 2021 election shall not be extended.

SECTION 3: The Secretary of State shall have the authority to redesignate all time intervals in the electoral process by any delay or suspension, pursuant to La. R.S. 18:401.1(F).

SECTION 4: These elections shall be held and conducted under the applicable provisions of the Louisiana Election Code, La. R.S. 18:1, et seq.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 9th day of September, 2021.

John Bell Edwards
Governor

ATTEST BY
THE GOVERNOR
R. Kyle Ardoin
Secretary of State
2108#068

WHEREAS, Stephen E. “Steve” Pugh, a former distinguished member of the Louisiana Legislature, died at the age of 60 on Tuesday, September 7, 2021;

WHEREAS, he was predeceased in 2015 by his beloved wife, Elizabeth; and he is survived by their two sons, Stephen and Christopher; grandchildren, Brady and Cecilia; and his sister, Marion Amedee;

WHEREAS, he was born on Saturday, April 1, 1961, in Hammond, Louisiana, the son of the late Charles and Marion Wadsworth Pugh;

WHEREAS, a devoted public servant and family man, Pugh began his career of service with membership in Kiwanis of Ponchatoula, and he became a fixture in many civic and community organizations, including the West Florida Division of the Ancient Order of Hibernians and the Krewe of Erin; in 1984, he became the youngest chairman ever elected to the Ponchatoula Strawberry Festival Board; a successful local business owner of St. Patrick’s Green Acres and Pugh’s Florist in Ponchatoula, he was widely regarded as having a keen eye for beauty and expression through floral arrangements;

WHEREAS, he served his state and his home of Tangipahoa Parish in the Louisiana Legislature for twelve years, first elected to the House of Representatives in 2007, and serving for three terms until 2020; and

WHEREAS, Steve Pugh lived his life with integrity and honor, and his public service as a lawmaker to 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 for Stephen E. “Steve” Pugh, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol from sunrise until sunset on Monday, September 13, 2021.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Monday, September 13, 2021.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 9th day of September, 2021.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
R. Kyle Ardoin
Secretary of State
2108#069

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agro-Consumer Services

Suspension of Standard Fuel Specifications for Gasoline and Gasoline-Oxygenate Blends (LAC 7:XXXV.303)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 3:4608 and 4680, the commissioner of Agriculture and Forestry declares an emergency to exist and adopts by emergency process the attached regulations for the suspension of rules governing the sale of gasoline with greater than 9.0 psi reid vapor pressure (RVP) and a minimum temperature for Vapor-to-Liquid ratio (V/L) equal to 20 of 116 degrees Fahrenheit or 47 degrees Centigrade (Class 3).

Procedural Note: This Emergency Rule supercedes and replaces a prior version of this Emergency Rule issued, filed, and distributed earlier today, as that version contained a substantive error.

On August 26, 2021, Governor John Bel Edwards declared a state of emergency in Louisiana in response to Tropical Storm Ida resulting in difficulty in the transportation of refined oil products and in providing an adequate supply of fuel to our state. The commissioner of Agriculture and Forestry is granting a temporary emergency waiver so that summer CBOB, summer conventional gasoline (CG), winter CBOB, winter CB, winter RBOB, and winter RGF may be used in Louisiana as long as the BOB or gasoline does not have an RVP that exceeds 11.5 pounds per square inch (psi) after the addition of ethanol. Further, under this waiver, fuel manufacturers, distributors, resellers, terminal owners and operators, and carriers may commingle RBOB and CBOB, and RFG and CG, for the duration of this waiver. Furthermore, regulated parties may produce, sell, and distribute winter gasoline (including BOBs) with an RVP of no more than 11.5 psi after the addition of ethanol. This waiver is effective immediately and will continue to through the termination date of September 15, 2021.

After September 15, 2021, gasoline that does not meet the RFG requirements for Louisiana may not be introduced into terminal storage tanks from which gasoline has dispensed into trucks for distribution to retail outlets in Louisiana. However, any gasoline meeting the conditions for this waiver that had already been placed in the terminal storage tanks for distribution to retail and wholesale purchasers-consumers before the expiration date of this waiver may be distributed until the supply is depleted. Likewise, retailers and wholesaler purchasers-consumers in Louisiana may continue to sell or dispense gasoline after the above expiration date until their supplies are depleted. This emergency rule will rescind and replace any previous emergency rule that has not yet expired.

The Department of Agriculture and Forestry has adopted rules and regulations concerning the ASTM International Standards for gasoline reid vapor pressure and temperatures

at which certain gasoline classes have a V/L ratio that equals 20. A temporary suspension of these rules and regulations during this emergency is necessary to provide for an adequate supply of gasoline. Failure to suspend these rules and regulations creates an imminent peril to the public health, safety, and welfare of the citizens of this state.

This Emergency Rule shall become effective upon the signature of the commissioner and shall remain effective through the termination date of September 15, 2021.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 3. Petroleum Products and Motor Fuels

Subchapter A. Standards

§303. Standard Fuel Specifications for Gasoline and Gasoline-Oxygenate Blends

A. - A.8. ...

9. The ASTM D4814, "Standard Specifications for Automotive Spark-Ignition Fuel" Seasonal volatility standards for all parishes in the state of Louisiana are hereby suspended to immediately allow the statewide use of gasoline with an RVP of 11.5 psi and a minimum temperature for a Vapor-to-Liquid ratio (V/L) equal to 20 of 116 degrees Fahrenheit or 47 degrees Centigrade (Class 3) through September 15, 2021.

10. The ASTM D4814, "Standard Specifications for Automotive Spark-Ignition Fuel" base gasoline and blending requirements are hereby suspended for all parishes in the state of Louisiana through September 15, 2021.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:29 (January 2005); amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2549 (December 2008), LR 47:

Mike Strain, DVM
Commissioner

2109#015

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System—Interests and Opportunities Index Components (LAC 28:XI.801)

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 LAC 28:CLXI in Bulletin 137—Louisiana Early Learning Center Licensing Regulations. The aforementioned revisions provide a menu approach for the Interests and Opportunities index calculation. The 2021-2022 school year will serve as a learning year in which school districts adjust

to the use of domains and indicators for the interests and opportunities index calculation. Domains include: arts; extracurricular activities; STEM (science, technology, engineering, and math); and world languages. This Declaration of Emergency, effective August 18, 2021, is for a period of 180 days from adoption, or until finally adopted as Rule.

**Title 28
EDUCATION**

Part XI. Accountability/Testing

Subpart 1. Bulletin 111—The Louisiana School, District, and State Accountability System

Chapter 8. Interests and Opportunities Index Calculations

§801. Interests and Opportunities Index Components

A. ...

B. For the 2019-2020 baseline school year, 2020-2021 school year, and 2021-2022 school year, the interests and opportunities index for K-8 schools will be based in equal parts on survey completion and course enrollment.

* * *

C. ...

D. Beginning with the 2022-2023 school year (2023 SPS), K-8 schools and high schools will select from a list of approved domains and associated indicators that will serve as the basis for the interests and opportunities index calculation.

1. *Domains* are defined as a broad grouping of offerings related to student interests. Beginning with the 2022-2023 school year (2023 SPS), the following domains shall be applicable to the interests and opportunities index calculation:

- a. the arts;
- b. extracurricular activities;
- c. STEM (science, technology, engineering, and math); and
- d. world languages.

2. *Indicators* are defined as specific measures that capture the extent to which a school is advancing student interests and opportunities. For purposes of the interests and opportunities index, K-8 schools and high schools shall select four total indicators. These indicators shall be associated with at least two different domains.

3. The 2021-2022 school year (2022 SPS) will be a designated learning year as local education agencies adjust to the interests and opportunities index criteria outlined in this Subsection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:1450 (October 2019), amended LR 46:1372 (October 2020), LR 47:

Sandy Holloway
President

2109#003

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment Standards and Practices—Performance Standards (LAC 28:XI.6913)

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 LAC 28:XI: Subpart 3 in Bulletin 118—Statewide Assessment Standards and Practices. The aforementioned revisions are in response to new LEAP Connect assessment forms administered to eligible students in grades 3-8 and 11 in the spring of 2021. Specifically, the revisions update the reference of “scaled-scores” used in current policy to “scale scores;” update scale score ranges for English language arts, mathematics, and science; and update the labels for the four achievement levels previously identified as Level 1, 2, 3, and 4. This Declaration of Emergency, effective August 18, 2021, is for a period of 180 days from adoption, or until finally adopted as Rule.

**Title 28
EDUCATION**

Part XI. Accountability/Testing

Subpart 3. Bulletin 118—Statewide Assessment Standards and Practices

**Chapter 69. LEAP Alternate Assessment, Level 1
Subchapter D. Alternate Achievement Levels and Performance Standards**

**§6913. Performance Standards
[Formerly LAC 28:CXI.1913]**

A. Performance standards for LEAP Connect English language arts, mathematics, and LEAP Connect science tests are finalized in scale score form.

B. LEAP Connect Alternate Achievement Levels and Scale-Score Growth Ranges

1. English Language Arts and Mathematics Scale Score Ranges

- a. English Language Arts

English Language Arts				
Grade	Below Goal	Near Goal	At Goal	Above Goal
3	1200 - 1231	1232 - 1239	1240 - 1257	1258 - 1290
4	1200 - 1231	1232 - 1239	1240 - 1252	1253 - 1290
5	1200 - 1231	1232 - 1239	1240 - 1252	1253 - 1290
6	1200 - 1231	1232 - 1239	1240 - 1249	1250 - 1290
7	1200 - 1231	1232 - 1239	1240 - 1247	1248 - 1290
8	1200 - 1231	1232 - 1239	1240 - 1243	1244 - 1290
HS	1200 - 1231	1232 - 1239	1240 - 1258	1259 - 1290

- b. Mathematics

Mathematics				
Grade	Below Goal	Near Goal	At Goal	Above Goal
3	1200 - 1231	1232 - 1239	1240 - 1275	1276 - 1290
4	1200 - 1231	1232 - 1239	1240 - 1251	1252 - 1290
5	1200 - 1231	1232 - 1239	1240 - 1256	1257 - 1290
6	1200 - 1231	1232 - 1239	1240 - 1247	1248 - 1290
7	1200 - 1231	1232 - 1239	1240 - 1256	1257 - 1290
8	1200 - 1231	1232 - 1239	1240 - 1254	1255 - 1290
HS	1200 - 1231	1232 - 1239	1240 - 1248	1249 - 1290

2. Science Scale Score Ranges

Science				
Grade	Below Goal	Near Goal	At Goal	Above Goal
4	1200 - 1231	1232 - 1239	1240 - 1243	1244 - 1290
8	1200 - 1231	1232 - 1239	1240 - 1243	1244 - 1290
HS	1200 - 1231	1232 - 1239	1240 - 1244	1245 - 1290

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(F)(3) and R.S. 17:183.1-17:183.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:426 (March 2007), amended LR 35:209 (February 2009), amended by the Board of Elementary and Secondary Education, LR 44:472 (March 2018), LR 44:1237 (July 2018), LR 47:568 (May 2021), LR 47:

Sandy Holloway
President

2109#004

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 137—Louisiana Early Learning Center
Licensing Regulations—CPR and First Aid Certification
(LAC 28:CLXI.1723)

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 LAC 28:CLXI in Bulletin 137—Louisiana Early Learning Center Licensing Regulations. The aforementioned revisions align Board of Elementary and Secondary Education (BESE) policy with U.S. Department of Health and Human Services, Office of Child Care (OCC) mandates that require all staff members on the premises of an early learning center and who are accessible to children to have current CPR and first aid certification. This Declaration of Emergency, effective August 18, 2021, is for a period of 180 days from adoption, or until finally adopted as Rule.

Title 28

EDUCATION

Part CLXI. Bulletin 137—Louisiana Early Learning Center Licensing Regulations

Chapter 17. Minimum Staffing Requirements and Standards

§1723. CPR and First Aid Certifications

A. Infant and Child CPR. All staff members on the premises of a center and accessible to children shall have current certification in infant and child CPR through training approved by the department.

B. Adult CPR All staff members on the premises of a center and accessible to children shall have current certification in adult CPR through training approved by the department.

C. Pediatric First Aid. All staff members on the premises of a center and accessible to children shall have current certification in pediatric first aid through training approved by the department.

D. Certification. A copy of the certification for each such staff member shall be on-site at all times and available for inspection by the department.

E. First Responder. Staff members who maintain current certification as a first responder are considered to have current certification in CPR and pediatric first aid.

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:

Sandy Holloway
President

2109#002

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State
Certification of School Personnel
(LAC 28:CXXXI.Chapters 3, 5, 7, 11, 13,15 and 23)

Editor’s Note: In accordance with R.S. 49:954.1, this Emergency Rule is being published without regard to its validity. The contents of this Emergency Rule contain numerous errors to be addressed by the promulgating agency.

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 LAC 28:CXXXI in Bulletin 746—*Louisiana Standards for State Certification of School Personnel*. The proposed revisions: adopt new high school and middle school Math Praxis exams; remove the requirement that teaching experience be in an educator area of certification as a condition of advancing a teaching certificate; require teacher preparation providers to submit all practitioner license (PL) applications; allow the issuance of Temporary Authority to Teach (TAT) certifications to applicants who fail to meet minimum grade point average requirements, contingent upon the applicant's satisfactory completion of a personal interview by the employing school system; allow a “family childcare” child development associate (CDA) credential for purposes of earning an ancillary Early Childhood Certificate; allow uncertified nonpublic school educators to serve as mentor teachers; align Child Nutrition Coordinator requirements with Federal regulations; align CTTIE certificate structure issuance and renewal with standard teaching certification; reduce the number of years of teaching experience for Educational Leader Certificate Level 3 (EDL3) and Out-of-State Superintendent (OSS) from 5 years to 3 years; and provide for technical edits. This Declaration of Emergency, effective August 18, 2021, is for a period of 180 days from adoption, or until finally adopted as Rule.

Title 28

EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

**Chapter 2. Initial Teacher Certification
Subchapter B. Testing Required for Certification Areas §303. Certification Exams and Scores**

A. A teacher applicant for certification must successfully complete the appropriate written or computer-delivered

assessment identified in this Section prior to issuance of a Louisiana educator certification.

1. Core Academic Skills for Educators. Teacher applicants in all content areas must pass all three Praxis core academic skills tests for educators.

a. An ACT composite score of 22 or an SAT combined score of 1100 or higher (new SAT) or 1030 or higher (pre-March 2016 SAT) may be used in lieu of PRAXIS 1 PPST exams or core academic skills for educators in reading, writing and math by prospective teachers in Louisiana.

b. Applicants possessing a non-education graduate degree from an institution accredited in accordance with 34 CFR 602 will be exempted from the core skills exam.

Core Academic Skills for Educators	Test #	Score	Effective Date
Reading	5712	156	Effective 1/1/14 to 12/31/2020
Writing	5722	162	
Mathematics	5732	150	

Core Academic Skills for Educators	Test #	Score	Effective Date
Reading	5713	156	Current-
Writing	5723	162	
Mathematics	5733	150	

¹NOTE: To differentiate the computer delivered tests, Educational Testing Service has placed the number "5" or "6" preceding the current test code. The department will accept computer delivered passing test scores for licensure

2. Principles of Learning and Teaching (PLT) Exams

Pre-Professional Skills Test "Paper or Computer Administrations"	Test #	Score	Effective Date
PPST:R Pre-Professional Skills Test: Reading	0710/5710	176	Effective 7/1/10 to 12/31/13
PPST:W Pre-Professional Skills Test: Writing	0720/5720	175	
PST:M Pre-Professional Skills Test: Mathematics	0730/5730	175	

Principles of Learning and Teaching: Early Childhood	0621 or 5621	157	Effective 1/1/12
Principles of Learning and Teaching: K-6	0622 or 5622	160	
Principles of Learning and Teaching: 5-9	0623 or 5623	160	
Principles of Learning and Teaching: 7-12	0624 or 5624	157	

B. Content and Pedagogy Requirements

Certification Area	Name of Praxis Test	Content Exam Score	Pedagogy: Principles of Learning and Teaching		
			PLT K-6 (#0622 or 5622)	PLT 5-9 (#0623 or 5623)	PLT 7-12 (#0624 or 5624)
Birth to Kindergarten	Early Childhood Content Knowledge (5022/5025 after September 2015)	160 (for 5022)	PLT: Early Childhood 0621 or 5621 (Score 157)		
	Early Childhood Education (5025) or Education of Young Children (5024) or PreK Education (5531)	156 (for 5025) 160 155			
Early Childhood PK-3	Elementary Content Knowledge (0014 or 5014) prior to 9/1/15	150	PLT: Early Childhood 0621 or 5621 (Score 157)		
Early Childhood PK-3	Effective 9/1/15 to 8/31/17 Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001) Reading/Language Arts(5002) Mathematics (5003) Social Studies (5004) Science (5005)	163 157 157 155 159	PLT: Early Childhood 0621 or 5621 (Score 157)		
	Mandatory 9/1/17 Elementary Education: Multiple Subjects (5001) Reading/Language Arts(5002) Mathematics (5003) Social Studies (5004) Science (5005)	157 157 155 159			
Grades 1-5	Elementary Content Knowledge (0014 or 5014) prior to 9/1/15	150	160	---	---
Grades 1-5	Effective 9/1/15 to 8/31/17 Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001) Reading/Language Arts(5002) Mathematics (5003) Social Studies (5004) Science (5005)	163 157 157 155 159	160		
	Mandatory 9/1/17 Elementary Education: Multiple Subjects (5001) Reading/Language Arts(5002) Mathematics (5003) Social Studies (5004) Science (5005)	157 157 155 159			

Certification Area	Name of Praxis Test	Content Exam Score	Pedagogy: Principles of Learning and Teaching		
			PLT K-6 (#0622 or 5622)	PLT 5-9 (#0623 or 5623)	PLT 7-12 (#0624 or 5624)
Grades 4-8 Mathematics	Middle School Mathematics (0069) Prior to 1/1/14	148	---	160	---
	Middle School Mathematics (5169) Effective 1/1/14	165			
	Middle School Mathematics (5164) Effective 9/1/2021	157			
Grades 4-8 Science	Middle School Science (0439) Prior to 6/8/14	150	---	160	---
	Middle School Science (5440) Effective 6/8/14 to 3/31/2022	150			
	Middle School Science (5442) Effective 4/1/2021	152			
Grades 4-8 Social Studies	Middle School Social Studies (0089 or 5089)	149	---	160	---
Grades 4-8 English/ Language Arts	Middle School English/Language Arts (0049 or 5049) Prior to 1/1/14	160	---	160	---
	Middle School English (5047) Effective 1/1/14	164			

C. Certification Areas
1. Grades 6-12 Certification

Grades 6-12 Certification Areas					
Certification Area	Name of PRAXIS Test	Score			PLT 7-12
Agriculture	Agriculture (0700) Prior to 6/8/14	510	---	---	157
	Agriculture (5701) Effective 6/8/14	147			
Algebra I	Algebra I (5162) Effective 8/14/18	157			
	Middle School Mathematics (5169) Effective 1/1/14-8/31/2022	165			
	Middle School Mathematics (5164) Effective 9/1/2021	157			
American Sign Language	American Sign Language Proficiency Interview (ASLPI-0634)	3+170	World Languages Pedagogy 0841 (Score 158)		
Biology	Biology: Content Knowledge (0235 or 5235)	150	---	---	157
Business	Business Education: Content Knowledge (0101 or 5101)	154	---	---	157
Chemistry	Chemistry: Content Knowledge (0245 or 5245)	151			157
Chinese	Chinese (Mandarin): World Language (5665)	164	PLT7-12 (Score 157) until 6/30/13; After 6/30/13 World Languages Pedagogy 0841 (Score 158)		
English	English Language, Literature, and Composition: Content Knowledge (0041 or 5041) Pedagogy (0043) Prior to 1/1/14	160 130	---	---	157
	English Language Arts: Content and Analysis (5039) Effective 1/1/14	168			
Family and Consumer Sciences	Family and Consumer Sciences (0121 or 5121) Prior to 6/8/14	141	---	---	157
	Family and Consumer Sciences (5122) Effective 6/8/14	153			
French	French: World Language (5174)	157	PLT7-12 (Score 157) until 6/30/13; After 6/30/13 World Languages Pedagogy 0841 (Score 158)		
General Science	General Science: Content Knowledge (0435 or 5435)	156	---	---	157
German	German: World Language (5183)	157	PLT7-12 (Score 157) until 6/30/13; After 6/30/13 World Languages Pedagogy 0841 (Score 158)		
Mathematics	Mathematics: Content Knowledge (0061 or 5061) Effective 6/1/10-12/31/13	135	---	---	157
	Mathematics: Content Knowledge (5161) Effective 1/1/14-8/31/2022	160			
	Mathematics: Content Knowledge (5165) Effective 9/1/2021	159			
Physics	Physics: Content Knowledge (0265 or 5265)	141			157
Social Studies	Social Studies: Content and Interpretation (0086 or 5086)	*153	---	---	157
Spanish	Spanish: World Language (5195)	157	PLT7-12 (Score 157) until 6/30/13; After 6/30/13 World Languages Pedagogy 0841 (Score 158)		

Grades 6-12 Certification Areas					
Certification Area	Name of PRAXIS Test	Score			PLT 7-12
Speech	Speech Communications (0221 or 5221)	146	---	---	157
Technology Education	Technology Education (0051 or 5051)	159	---	---	157
Computer Science Earth Science Environmental Science Journalism Latin Marketing	At this time, a content area exam is not required for certification in Louisiana.	---	---	---	157

* The passing score for tests taken prior to January 1, 2020 is 160.

2. All-Level K-12 Certification

All-Level K-12 Certification Areas							
Subject Area	Praxis Test	Score	PLT K-6		PLT 5-9		PLT 7-12
Grades K-12 Art	Art: Content Knowledge (0134 or 5134)	159	160	or	160	or	157
Grades K-12 Dance	None Available**	---	160		160	or	157
Grades K-12 Foreign Languages	Chinese (Mandarin):World Language (5665)	164	PLT K-6 (Score 160) or PLT 5-9 (Score 160) or PL7-12 (Score 157) until 6/30/13; After 6/30/13 World Languages Pedagogy 0841 (Score 158)				
	French: World Language (5174)	157					
	German: World Language (5183)	157					
	Spanish: World Language (5195)	157					
	American Sign Language Proficiency Interview (ASLPI - 0634)	3+ 170					
Grades K-12 Music	Music: Content Knowledge (0113 or 5113)	151	160	or	160	or	157
Grades K-12 Health and Physical Education	Physical Education: Content Knowledge (0091 or 5091), Prior to 6/8/14	146	160		or	160	or
	Health and Physical Education (5857), Effective 6/8/14	160					

**At this time, a content area exam is not required for certification in Louisiana

D. Special Education Areas

Area	Content Exam	Score	Pedagogy Requirement	Score
All Special Education Area(s)				
Early Interventionist	Prior to 9/1/15: Elementary Content Knowledge prior to 9/1/15 (0014 or 5014)	150	Effective 1/1/12: Special Education: Core Knowledge and Applications (0354 or 5354) and Principles of Learning and Teaching: Early Childhood (0621 or 5621) Effective 1/1/14: Special Education: Early Childhood (0691) and Principles of Learning and Teaching: Early Childhood (0621 or 5621)	145
	Effective 9/1/15 to 8/31/17 Elementary Education: Content Knowledge (5018)	163		157
	or Elementary Education: Multiple Subjects (5001)			
	Reading/Language Arts (5002)	157		159
	Mathematics (5003)	157		
	Social Studies (5004)	155		
	Science (5005)	159		157
	Mandatory 9/1/17 Elementary Education: Multiple Subjects (5001)			
	Reading/Language Arts (5002)	157		
	Mathematics (5003)	157		
Deaf and Hard of Hearing	Prior to 9/1/15: Elementary Content Knowledge (0014 or 5014)	150	Effective 11/1/11: Special Education: Core Knowledge and Applications (0354 or 5354) and Education of Deaf and Hard of Hearing Students (0271) Effective 1/1/14: Special Education: Core Knowledge and Applications (0354 or 5354) and Special Education: Education of Deaf and Hard of Hearing Students (0272 or 5272)	145
	Effective 9/1/15 to 8/31/17: Elementary Education: Content Knowledge (5018)	163		160
	or Elementary Education: Multiple Subjects (5001)			
	Reading/Language Arts(5002)	157		145
	Mathematics (5003)	157		
	Social Studies (5004)	155		
	Science (5005)	159		160
	Mandatory 9/1/17: Elementary Education: Multiple Subjects (5001)			
	Reading/Language Arts(5002)	157		
	Mathematics (5003)	155		
Mild to Moderate Disabilities	ALL Candidates must pass a content area exam appropriate to certification level 1-5, 4-8, 6-12 such as elementary, or core subject-specific exams for middle or secondary grades.		Special Education: Core Knowledge and Mild to Moderate Applications (0543 or 5543) AND PLT specific to grade level (K-6, 5-9, or 7-12)	153

Area	Content Exam	Score	Pedagogy Requirement	Score
Significant Disabilities	Elementary Content Knowledge prior to 9/1/15 (0014 or 5014) Effective 9/1/15 to 8/31/17 Elementary Education: Content Knowledge (5018) OR Elementary Education: Multiple Subjects (5001) Reading/Language Arts(5002) Mathematics (5003) Social Studies (5004) Science (5005)	150 163 157 157 155 159	Special Education: Core Knowledge and Severe to Profound Applications (0545 or 5545)	153
	Mandatory 9/1/17 Elementary Education: Multiple Subjects (5001) Reading/Language Arts(5002) Mathematics (5003) Social Studies (5004) Science (5005)	157 157 155 159		
Visual Impairments/ Blind	Elementary Content Knowledge prior to 9/1/15 (0014 or 5014) Effective 9/1/15 to 8/31/17 Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001) Reading/Language Arts(5002) Mathematics (5003) Social Studies (5004) Science (5005)	150 163 157 157 155 159	Special Education: Core Content Knowledge and Applications (0354 or 5354) Effective 11/1/11 Special Education: Core Content Knowledge and Applications (0354 or 5354) and Special Education: Teaching Students with Visual Impairments (0282) Effective 1/1/14	145 145 163
	Mandatory 9/1/17 Elementary Education: Multiple Subjects (5001) Reading/Language Arts(5002) Mathematics (5003) Social Studies (5004) Science (5005)	157 157 155 159		

E. Administrative and Instructional Support Areas

Certification Area	Name of Test	Area Test Score
Educational Leader—Level 1	School Leaders Licensure Assessment (1011 or 6011)	166 (Effective until 7/31/20)
	School Leaders Licensure Assessment (6990)	151 (Effective 9/1/19)
	Louisiana Leadership Assessment Series	“Demonstrated” (for at least 9 assessments within the series) Effective April 1, 2020
Educational Leader—Level 3	School Superintendent Assessment (6021)	160 (Effective until 7/31/20)
	School Superintendent Assessment (6991)	162 Current-
School Counselor K-12	Professional School Counselor (0421 or 5421)	156
School Librarian	Library Media Specialist (0311 or 5311)	136

F. Reading Exams

Name of Test	Area Test Score
Teaching Reading Exam (0204 or 5204) Effective 9/1/2011 – 7/31/2020	157
Teaching Reading Exam (0206 or 5206) Effective 9/1/2019	156

1. Praxis scores, for certification purposes, must be received by the LDE via one of the following ways:

a. the electronic ETS Praxis score report forwarded directly from ETS; or

b. the original Praxis score report issued by ETS submitted with the certification application.

G. Mentor Teacher and Content Leader. The mentor teacher certificate and the content leader certificate may be earned by passing the applicable Louisiana assessment series.

Certification Area	Name of Test	Area Test Score
Mentor Teacher	Louisiana Mentor Teacher Assessment Series—Elementary	2 coaching- related components
	Louisiana Mentor Teacher Assessment Series—Secondary ELA	2 coaching- related components
	Louisiana Mentor Teacher Assessment Series—Secondary Math	2 coaching- related components
	Louisiana Mentor Teacher Assessment Series—Universal	2 coaching- related components
Content Leader	Louisiana Content Leader Assessment Series	4
	Intervention Content Leader Assessment Series	3

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.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1833 (October 2006), amended LR 36:485 and 488 (March 2010), LR 36:2265 (October 2010), LR 37:551 (February 2011), repromulgated LR 37:556 (February 2011), amended LR 37:3210 (November 2011), LR 39:1461 (June 2013), LR 40:277 (February 2014), LR 40:1680 (September 2014), LR 41:645 (April 2015), LR 41:916 (May 2015), LR 42:233 (February 2016), LR 43:1292 (July 2017), LR 44:264 (February 2018), LR 44:1999 (November 2018), LR 45:228, 230 (February 2019), repromulgated LR 45:403 (March 2019), amended LR 45:1458 (October 2019), LR 46:325 (March 2020), LR 46:557 (April 2020), LR 46:1374 (October 2020), LR 47:453 (April 2021), repromulgated LR 47:574 (May 2021), LR 47:

Chapter 5. Teaching Credentials, Licenses and Certifications

Subchapter A. Standard Teaching Certificates

§503. Introduction

A. There are seven types of standard teaching certificates issued by the state of Louisiana:

1. professional Level 1, 2, and 3 certificates;
2. type C, B, and A certificates;
3. out-of-state certificate;
4. world language certificates (WLC);
5. practitioner 1, 2, and 3 licenses;
6. extended endorsement license (EEL); and
7. standard certificates for teachers in non-public schools.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1797 (October 2006), amended LR 37:558 (February 2011), LR 38:1951 (August 2012), LR 46:01375 (October 2020), LR 47:

§505. General Provisions

A. Non-Practicing Status or Operational Role Status for Standard Teaching Certificates

1. The LDE may grant:
 - a. non-practicing status to any teacher who applies after ceasing employment as a teacher or leader in a local education agency;
 - b. operational role status to any teacher who is serving in a role that cannot be evaluated per student growth measures.
2. Non-practicing status will take effect on the last day of employment in the local education agency evaluated role, as verified by the employing LEA.
 - a. If an educator was never employed in a Louisiana school system, the program provider may make the request.
3. Operational role status will take effect on the first day of employment in a role that cannot be evaluated per student growth measures, as verified by the employing LEA.
4. Operational role teachers returning to a role that can be evaluated per student growth measures must be evaluated with student growth measures upon return to that role.
5. Non-practicing teachers returning to practice and operational role teachers returning to a role that can be evaluated per student growth measures may apply through a local education agency for an extension of the certificate for the number of years remaining in the renewal period of the certificate.
6. Final effectiveness ratings earned while in active status will be retained during non-practicing status and operational role status and applied to any subsequent renewal or extension.
7. The first date an educator can enter into non-practicing or operational role is August 1, 2012.

B. Medical Excuse and Exceptions. Exceptions to policy will be considered in the case of serious medical condition or unavailability of required coursework or exams. When serious medical problems of the teacher or immediate family exist, a doctor statement is required with a letter of assurance from the teacher that the unmet policy requirements will be completed within one year of granting the exception. The final authority for approval and policy flexibility is at the discretion of the LDE.

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.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:325 (March 2020), amended LR 47:

§507. Professional Level Certificates

A. Level 1 is the entry-level professional certificate, valid for three years. The level 2 and level 3 certificates are valid for five years.

1. Eligibility Requirements for Level 1 Professional Certificate

a. Louisiana graduate:

- i. successfully complete a state-approved traditional or alternate teacher preparation program:

(a) for alternate preparation completers, the applicant must receive mentoring by a school-based mentor teacher in accordance with §553 of this Chapter;

ii. have a minimum 2.50 undergraduate grade point average (GPA) on a 4.00 scale;

(a) an applicant who does not meet the GPA requirement may be certified if by meeting the following requirements in an alternate teacher preparation program:

(i) satisfactorily complete a personal interview by the program admissions officer;

(ii) if the program awards credit hours, the applicant shall achieve a minimum grade point average (GPA) of 3.00 in alternate teacher preparation program courses by the end of the first 12 credit hours and successfully complete the program;

(iii) if the program does not award credit hours, the applicant shall demonstrate mastery of competencies as required by the program administrator and by the school system in which the applicant completes required clinical practice; and

(iv) satisfactorily complete all program requirements as set forth by BESE, including any requirements for clinical practice, at graduation;

iii. present appropriate scores on the core exams; the principles of learning and teaching (PLT) or other pedagogy exam(s) required for the area(s) of certification as specified in §303 of this Part; and the specialty area (content) exam in the certification area in which the teacher preparation program was completed or in which the initial certificate was;

(a) See §303 of this Part for exam substitutions; and

iv. be recommended by a state-approved university or private program provider for certification.

b. Out-of-State graduate:

i. possess a minimum of a baccalaureate degree from a college or university accredited in accordance with 34 CFR 602;

(a) credentials may be submitted to a credentialing agency that follows the standards of the American Association of Collegiate Registrars and Admissions Officers (AACRAO) for evaluation with the original course-by-course evaluation including a statement verifying the comparability of the baccalaureate degree in the field of education;

ii. hold a standard out-of-state teaching certificate, or if no certificate was issued, a letter from the state education agency (SEA) or teacher preparation

program provider in the state of origin verifying eligibility in that state for a certificate in the certification area(s);

iii. pass all parts of Praxis exam(s) required for Louisiana certification:

(a). present appropriate scores on the core exams, the principles of learning and teaching (PLT) or other pedagogy exam required for the area(s) of certification, and the specialty area (content) exam in the certification area in which the teacher preparation program was completed or in which the initial certificate was issued;

(b). if applicant has obtained National Board Certification (NBC) in corresponding areas for which certification is being sought as well as certification/licensure in the state of origin, the examination required for NBC will be accepted to fulfill the testing requirements for certification;

(a). See §303 of this Part for exam substitutions.

iv. has completed student teaching, an internship, or year(s) of teaching experience as required by the teacher preparation program provider; and

v. has not been out of teaching in the five years immediately preceding first employment or application for a Louisiana certificate. A candidate who has not taught in five years may be issued a one-year non-renewable (OS1) certificate during completion of six semester hours required for the issuance of a three-year non-renewable (OS) certificate.

vi. A candidate who is certified in another state can qualify for exclusion from the BESE adopted exam(s) required for Louisiana certification under the following criteria:

(a). meet all requirements for Louisiana certification except the Praxis exam requirements; have at least three years of successful teaching experience in another state, as verified by the out-of-state employing authority or SEA; and teach on an out-of-state certificate for one year in a Louisiana-approved public or an approved nonpublic school system;

(b). the employing authority must verify that the teacher has completed one year of successful teaching experience in a Louisiana approved public or an approved nonpublic school and is recommended for further employment;

(c). the employing authority must request that the teacher be granted a valid Louisiana teaching certificate.

c. Foreign Applicant (OS) Certificate eligibility requirements:

i. possess a minimum of a baccalaureate degree verified by an institution in the United States accredited in accordance with 34 CFR 602, or if the institution is located in Louisiana, the dean of the College of Education must recommend the applicant for certification based upon Louisiana requirements and submit the original course-by-course evaluation including a statement verifying the comparability of the baccalaureate degree in the field of education, or if the institution is located in another state/country, the guidelines prescribed for out-of-state applicants must be followed; or

ii. credentials may be submitted to a credentialing agency that follows the standards of the American Association of Collegiate Registrars and Admissions Officers (AACRAO) for evaluation, and the original course-

by-course evaluation must include a statement verifying the comparability of the baccalaureate degree in the field of education.

d. Foreign Applicant—Level 1 Certificate eligibility requirements:

i. possess a minimum of a baccalaureate degree verified by an institution in the United States accredited in accordance with 34 CFR 602, or if the institution is located in Louisiana, the dean of the College of Education must recommend the applicant for certification based upon Louisiana requirements with the original course-by-course evaluation including a statement verifying the comparability of the baccalaureate degree in the field of education, or if the institution is located in another state/country, the guidelines prescribed for out-of-state applicants must be followed; or

ii. credentials may be submitted by an agency that follows the standard of the American Association of Collegiate Registrars and Admissions Officers (AACRAO) for evaluation, and the original course-by-course evaluation for certification must include a statement verifying the comparability of the baccalaureate degree in the field of education; and

iii. present appropriate scores on the core exams for the principles of learning and teaching (PLT) or other pedagogy exam required for the area(s) of certification and the specialty area (content) exam(s) in the certification area(s) in which the teacher preparation program was completed or in which the initial certificate was issued.

(a). See §303 of this Part for exam substitutions.

B. Level 2 Professional Certificate eligibility requirements:

1. hold or meet eligibility requirements for a level 1 certificate;

2. successfully meet the standards of effectiveness for three years pursuant to state law and LAC 28:CXLVII (Bulletin 130):

a. all out-of-state experience must be verified as successful by the out-of-state employing authority or SEA; and

3. accrue three years of experience in an approved educational setting.

4. If the level 2 certificate is the initial certificate, a state-approved teacher preparation program provider must submit the request.

5. If the level 1 certificated teacher qualifies for advancement to a level 2 certificate, the request for the higher certificate must be submitted directly to the LDE by the employing authority.

C. Level 3 Professional Certificate eligibility requirements:

1. hold or meet eligibility requirements for a level 2 certificate;

2. earn a graduate degree from a college or university accredited in accordance with 34 CFR 602; and

3. have five years of experience in an approved educational setting.

a. All out-of-state experience must be verified as successful by the out-of-state employing authority or SEA.

4. If the level 3 certificate is initial certificate, a state-approved teacher preparation program provider must submit the request.

5. If the level 2 certificated teacher qualifies for advancement to a level 3 certificate, the request for the higher certificate must be submitted directly to the LDE by the employing authority.

D. Renewal/Extension Guidelines for Level 1, Level 2, and Level 3 Certificates

1. Level 1 certificate:

a. valid for three years initially and may be extended thereafter for a period of one year at the request of a Louisiana employing authority with extensions of Level 1 certificates being limited to two such extensions.

2. Level 2 and level 3 certificates:

a. valid for five years initially and may be renewed thereafter for a period of five years at the request of a Louisiana employing authority, with renewal of level 2 and level 3 certificates, contingent upon candidates successfully meeting the standards of effectiveness for at least three years during the five-year initial or renewal period pursuant to state law and Bulletin 130.

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.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 47:

§509. Type C Certificates

A. Effective July 1, 2002, type C certificates are no longer issued for initial certification. The type C certificate is valid for three years. Teachers who hold type B and type A lifetime certificates will continue to hold these certificates. Effective July 1, 2012, type B and type A lifetime certificates will no longer be issued to teachers holding type C certificates applying for advanced certificates. Teachers holding a type C certificate who wish to apply for more advanced certification credentials will be granted a level 2 certificate, upon meeting the standards of effectiveness for at least three years, pursuant to Bulletin 130 and R.S. 17:3902.

B. Type C Certificate Renewal Guidelines. The type C certificate may be renewed for an additional one-year period upon the request of the Louisiana employing authority, subject to the approval of the LDE. Type C certificates are limited to two such extensions.

C. Type B Certificate—a lifetime certificate for continuous service, provided the holder does not allow any period of five or more consecutive years of disuse to accrue where not a regularly employed teacher for at least one semester, or 90 consecutive days, and/or the certificate is not revoked by the Board of Elementary and Secondary Education (BESE).

D. Type A Certificate—a lifetime certificate for continuous service, provided the holder does not allow any period of five or more consecutive years of disuse to accrue where not a regularly employed teacher for at least one semester, or 90 consecutive days, and/or the certificate is not revoked by the BESE.

1. Eligibility requirements:

- a. hold a type B or B* certificate;
- b. successfully complete the local evaluation plan mandated by state law and Bulletin 130;
- c. earn a graduate degree from an institution of higher education accredited in accordance with 34 CFR 602; and
- d. have five years of experience in an approved educational setting.

i. All out-of-state experience must be verified as successful by the out-of-state employing authority or SEA.

2. The request for the higher certificate must be submitted directly to the LDE by the employing authority.

E. Process for Reinstating Lapsed Types B and A Certificates:

1. A certificate will lapse for disuse if the holder allows a period of five consecutive calendar years to pass where not a regularly employed teacher for at least one semester, or 90 consecutive days.

2. To reinstate a lapsed certificate, the holder must present evidence of earning six semester hours of credit in state-approved courses during the five-year period immediately preceding the request for reinstatement.

3. If the holder did not earn six semester hours or equivalent, the lapsed certificate may be reactivated upon request of the Louisiana employing authority at the level that was attained prior to disuse for a period of one year, during which time the holder must complete reinstatement requirements.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1798 (October 2006), amended LR 37:559 (February 2011), LR 38:3136 (December 2012), LR 43:1306 (July 2017), LR 45:1459 (October 2019), LR 46:1376 (October 2020).

§511. Out-of-State (OS) Certificate

A. An out-of-state (OS) certificate, valid for a three-year period, is not renewable, and is issued to a teacher who has completed an out-of-state teacher preparation program and either holds or is eligible for a certificate in the state in which the program was completed. The teacher is not initially eligible for a level 1, 2, or 3 Louisiana certificate but meets Louisiana certification requirements with the exception of the Praxis/National Teacher Exam requirements. OS certification provides a transition period that permits the holder to be employed in Louisiana K-12 schools while completing Louisiana Praxis/NTE requirements or meeting Praxis exclusion eligibility requirements. For continued employment as a teacher in a Louisiana school system after the three-year period has elapsed, the OS certificate holder must fulfill guidelines for a level 1 or higher-level certificate.

B. OS Eligibility requirements:

1. earn a minimum of a baccalaureate degree from a college or university accredited in accordance with 34 CFR 602;
2. complete a teacher preparation program in another state;
3. hold a standard out-of-state teaching certificate, or if no certificate was issued, a letter from the state department of education or college of education dean verifying eligibility in that state for a certificate in the certification area(s);
4. complete student teaching or internship in a certification area, or in lieu of student teaching or internship have three years of successful teaching experience in a certification area;
5. if applicant earned a degree five or more years prior to the date of application, the educator must have been a regularly employed teacher for at least one semester, or 90

consecutive days, within the five year period immediately preceding first employment in Louisiana or application for a Louisiana certificate, or if lacking this experience, must earn six semester hours of credit in state-approved courses during the five year period immediately preceding application, and a candidate who has not taught in five years may be issued a one-year non-renewable (OS1) certificate while completing six semester hours required for the issuance of a three-year non-renewable (OS) certificate; and

6. beginning January 1, 2017, the LDE will issue a letter of eligibility for an OS certificate to requesting teachers at the request of the Louisiana employing authority.

C. Advancing from OS to Professional Level 1, 2, or 3 Certificate

1. Pass all parts of exam(s) required for Louisiana certification identified in §303:

a. present appropriate scores on the core exams; the principles of learning and teaching (PLT) or other pedagogy exam required for the area(s) of certification, and the specialty area (content) exam in the certification area in which the teacher preparation program was completed or in which the initial certificate was issued:

i. (iii). See §303 of this Part for exam substitutions; and

b. if applicant has obtained national board certification (NBC) in corresponding areas for which certification is being sought as well as certification/licensure in the state of origin, the examination required for NBC will be accepted to fulfill the testing requirements for certification;

c. a candidate who is certified in another state can qualify for exclusion from the exam(s) required for Louisiana certification under the following criteria:

i. meet all requirements for Louisiana certification except the Praxis exam requirements with at least three years of successful teaching experience in another state, prior to issuance of the OS, as verified by the out-of-state employing authority or SEA, and teach on an OS certificate for one year in a Louisiana approved public or an approved nonpublic school system;

ii. the Louisiana employing authority verifies that completion of one year of successful teaching experience in a Louisiana approved public or an approved nonpublic school and has been recommended for further employment; and

iii. the employing authority requests issuance of a valid Louisiana teaching certificate.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1799 (October 2006), amended LR 33:433 (March 2007), LR 34:1611 (August 2008), LR 35:222 (February 2009), LR 35:894 (May 2009), LR 37:559 (February 2011), LR 37:882 (March 2011), LR 40:280 (February 2014), LR 43:1306 (July 2017), LR 45:1459 (October 2019), LR 46:1376 (October 2020), LR 47:

§515. Practitioner Licenses

A. Issuance and Renewals

1. Practitioner licenses (PL) 1 and 2 may be issued for one school year, renewed annually, and held a maximum of three years while the holder completes an alternate program. Upon completion of the three years of employment on a PL

certificate, the holder must fulfill guidelines for a level 1 or higher-level certificate for continued employment in a Louisiana school system.

2. The practitioner license 3 may be issued for one school year, renewed annually, and held a maximum of four years while the holder completes an alternate program. Upon completion of the four years of employment on a PL certificate, the holder must fulfill guidelines for a level 1 or higher-level certificate for continued employment in a Louisiana school system.

3. Practitioner Licenses 1-3. Beginning with the 2020-2021 academic year, in order to obtain the first renewal only of a practitioner license 1, 2, or 3 certificate, practitioner candidates participating in a residency as a teacher of record, must receive mentorship by a school-based mentor teacher who may collaborate with other personnel providing mentoring support, in accordance with LAC 28:XLV (Bulletin 996).

a. The school-based mentor teacher must be credentialed in accordance with §553 or §1369 of this Chapter.

b. The mentorship must be at least 15 percent, or 5 hours per week, of the instructional time of the school.

c. The mentorship must include intensive support, including:

i. co-teaching;

ii. collaborative planning; and

iii. observation and feedback sessions.

4. Eligibility requirements:

a. minimum of a non-education baccalaureate degree from a college or university accredited in accordance with 34 CFR 602;

b. 2.50 or higher undergraduate grade point average (GPA) on a 4.00 scale to enter a non-university provider program; or a 2.20 or higher undergraduate GPA on a 4.00 scale to enter a college or university program; or be granted conditional admittance into an alternate teacher preparation program following a satisfactory personal interview by the program admission officer; and

c. passing scores on core academic skills for educators and current Praxis content area exam(s), or if no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 30 semester hours of coursework specific to the content area for admission to the program. See §303 of this part for exam substitutions.

d. Special education mild/moderate certification candidates must qualify for admission to alternate programs by passing a Praxis specialty area exam, and secondary education candidates (grades 6-12) must pass a Praxis core subject area exam, or if there is no content Praxis exam adopted by the State in the specific secondary core subject area, candidates must demonstrate content mastery by presenting 30 semester credit hours in the core subject area.

5. The approved teacher preparation program provider shall submit the request for the initial practitioner license as well as renewals directly to the LDE.

6. Renewal Requirements. The candidate must remain enrolled in the practitioner teacher, certification-only, or master's degree alternate certification program and fulfill a minimum of six semester hours of coursework or equivalent contact hours per year for PL1, or nine semester hours or

equivalent contact hours per year for PI2/3 to the extent that required semester hours remain in the program to be completed, teaching assignments, and prescribed activities identified by the program provider.

a. Beginning with the 2020-2021 academic year, the first renewal only of a PL 1, 2, or 3 will be conducted in accordance with §515.A of this Chapter.

7. For certification purposes, non-university providers and colleges or universities will submit signed statements to the LDE indicating that the student completing the practitioner teacher, certification-only, or master's degree program alternative certification path meets the following requirements:

a. passed all licensure exams required for certification pursuant to §503; and

b. completed all program requirements including the residency with a 2.50 or higher GPA for candidates in a university program;

c. if an applicant who does not meet the requirement of Subparagraph b of this Paragraph, certification may be issued if the following requirements in an alternate teacher preparation program are met:

i. satisfactory completion a personal interview by the program admissions officer;

ii. if the program awards credit hours, the applicant shall achieve a minimum GPA of 3.00 in alternate teacher preparation program courses by the end of the first 12 credit hours and successfully complete the program;

iii. if the program does not award credit hours, the applicant shall demonstrate mastery of competencies as required by the program administrator and by the school system in which the applicant completes required clinical practice; and

iv. satisfactory completion of all program requirements as set forth by BESE, including any requirements for clinical practice, at graduation;

d. demonstrate proficiency in reading and literacy competencies through successfully completing the required number of credit or contact hours in reading and literacy as specified in LAC 28:XLV (Bulletin 996) or passing a reading competency assessment noting that the reading competency assessment for early childhood PK-3, elementary 1-5, and special education candidates is the Praxis teaching reading exam, and middle grades 4-8 and secondary grades 6-12 will be required to take the required reading course credit hours or equivalent contact hours until an appropriate reading competency assessment is developed and adopted; and

e. complete prescriptive plans as determined by the preparation provider.

8. The teacher is restricted to the specific grade level and content area as designated on the practitioner license as outlined in Bulletin 996.

B. Practitioner License 1 is issued to a candidate who is admitted to and enrolled in a state-approved practitioner teacher program. Program requirements must be completed within the three-year maximum that the license can be held.

C. Practitioner License 2 is issued to a candidate who is admitted to and enrolled in a state-approved certification-only alternate certification program. Program requirements must be completed within the three-year maximum that the license can be held.

D. Practitioner License 3 is issued to a candidate who is admitted to and enrolled in a state-approved master's degree alternate certification program. Program requirements must be completed within the four-year maximum that the license can be held.

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.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1800 (October 2006), amended LR 35:221 (February 2009), LR 38:1952 (August 2012), LR 40:280 (February 2014), LR 43:1307 (July 2017), LR 45:1748 (December 2019), LR 46:326 (March 2020), LR 46:1376 (October 2020), LR 47:

§519. Standard Certificates for Teachers in Nonpublic Schools

A. A standard certificate with an asterisk (*) following the certificate type is issued to a teacher in a nonpublic school. If the teacher enters a public school system in Louisiana, the educator will be required to meet the standards of effectiveness pursuant to state law and in accordance with LAC 28:CXLVII (Bulletin 130) for issuance of a level 2 or level 3 teaching certificate.

B. Level 2* (2-asterisk) Certificate—valid for five years.

1. Eligibility requirements:

a. a Louisiana level 1 certificate;

b. successfully taught for three years;

c. complete a teacher evaluation program for three years at a nonpublic school, with the principal as evaluator and the teacher performance rated as satisfactory in the areas of planning, management, instruction, and professional development.

2. The request for the level 2* certificate must be submitted directly to the LDE by the Louisiana employing authority.

C. Level 3* (3-asterisk) Certificate—valid for five years.

1. Eligibility requirements:

a. hold or be eligible to hold a Louisiana level 1, 2 or 2* certificate;

b. successfully taught for five years;

c. graduate degree from college or university accredited in accordance with 34 CFR 602; and

d. complete a teacher evaluation program for three years at a nonpublic school, with the principal as evaluator and the teacher performance rated as satisfactory in the areas of planning, management, instruction, and professional development.

2. The request for the level 3* certificate must be submitted directly to the LDE by the Louisiana employing authority.

3. Renewal Guidelines for Level 2* and Level 3* Certificates

a. A teacher must earn effective ratings per local personnel evaluations for at least three years during the five-year initial or renewal period.

b. The Louisiana employing authority must request renewal of a level 2* or level 3* certificate.

D. Type B* (B-asterisk) Certificate—a lifetime nonpublic school certificate for continuous service, provided the holder does not allow any period of 5 or more consecutive years of disuse to accrue where not a regularly employed teacher for at least 1 semester, or 90 consecutive days, and/or certificate is not BESE.

1. Eligibility requirements:

- a Louisiana type B certificate;
- successfully taught for three years; and
- complete a teacher evaluation program for three years at a nonpublic school, with the principal as evaluator and the teacher performance rated as satisfactory in the areas of planning, management, instruction, and professional development.

2. The request for the type B* certificate must be submitted directly to the LDE by the Louisiana employing authority.

3. The type B* certificate is valid for life of continuous service in a nonpublic school setting, and if the teacher enters a Louisiana public/charter school the requirement shall be to complete the local evaluation plan mandated by state law and Bulletin 130 regulations.

E. Type A* (A-asterisk) Certificate is valid for life for continuous service in a nonpublic school setting, provided the holder does not allow any period of 5 or more consecutive years of disuse to accrue where not a regularly employed teacher for at least 1 semester, or 90 consecutive days, and/or the certificate is not revoked by the BESE.

1. Eligibility requirements:

- a Louisiana type B, or type B* certificate;
- successfully taught for five years;
- graduate degree from a college or university accredited in accordance with 34 CFR 602; and
- complete a teacher evaluation program for three years at a nonpublic school, with the principal as evaluator and the teacher performance rated as satisfactory in the areas of planning, management, instruction, and professional development.

2. The request for the type A* certificate must be submitted directly to the LDE by the Louisiana employing authority.

3. The type A* certificate is valid for life of continuous service in a nonpublic school setting, and if the teacher enters a Louisiana public school the requirement shall be to successfully complete the local evaluation plan mandated by state law and Bulletin 130.

F. Reinstating Lapsed Types B* or A* Certificate

1. If the holder of a type B*, or type A* certificate allows a period of five consecutive calendar years to pass in which the educator is not a regularly employed teacher for at least one semester, or 90 consecutive days, the certificate will lapse for disuse.

2. To reinstate a lapsed certificate, the holder must present evidence that the educator earned six semester hours of credit in state-approved courses during the five-year period immediately preceding the request for reinstatement.

3. If the holder did not earn six semester hours or equivalent, the lapsed certificate may be reactivated upon request of the Louisiana employing authority at the level that was attained prior to disuse for a period of one year, during which time the holder must complete reinstatement requirements.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1801 (October 2006),

amended LR 36:752 (April 2010), LR 37:559 (February 2011), LR 38:1952 (August 2012), LR 43:1309 (July 2017), LR 46:1377 (October 2020), LR 47:

Subchapter B. Nonstandard Teaching Credentials

§525. Introduction

A. There are five types of nonstandard teaching credentials issued in Louisiana: temporary authority to teach (TAT); out-of-field authorization to teach (OFAT); temporary employment permit (TEP); nonpublic temporary certificate (T); and resident teacher certificate (R). Nonstandard credentials are of a temporary nature but may be renewed under specified guidelines.

B. Medical Excuse and Exceptions. Exceptions to policy will be considered in the case of serious medical condition or unavailability of required coursework or exams. When serious medical problems of the teacher or immediate family exist, a doctor statement is required with a letter of assurance from the teacher that the unmet policy requirements will be completed within one year of the exception being granted. The final authority for approval and policy flexibility is at the discretion of the LDE in accordance with BESE policy.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1803 (October 2006), LR 43:1311 (July 2017), LR 47:

§527. Temporary Authority to Teach (TAT)

A. Temporary authority to teach (TAT) is issued for one calendar year, while the holder pursues alternate certification program admission requirements or certification requirements. A TAT cannot be issued to teachers who previously held a temporary employment permit (TEP) or a standard teaching certificate.

B. Eligibility Requirements:

1. The applicant must teach in a demonstrated area of need as evidenced by LEA-level workforce needs.

2. The applicant must have a baccalaureate or higher degree from an institution accredited in accordance with 34 CFR 602.

3. The applicant must possess passing scores on the core academic skills for educators in reading and writing examinations or appropriate scores on the ACT or SAT.

a. See §303 for exam substitutions.

4. The applicant must have at least a 2.20 undergraduate GPA. An applicant who does not meet the GPA requirement may be certified upon satisfactory completion of a personal interview by the employing school system.

C. The employing school system must submit the application and provide an affidavit signed by the local superintendent, or the designee, verifying that good faith efforts for recruiting certified personnel have been made, including posting all positions for which TATs are issued and that there is no regularly certified, competent, and suitable person available for the position.

D. Renewal Requirements

1. TATs are valid for one year initially and may be renewed twice thereafter provided:

a. the applicant provides evidence that the required exam(s) for admission into a teacher preparation program has been taken at least twice since the issuance of the TAT;

b. the applicant provides evidence of meeting the standards of effectiveness pursuant to Bulletin 130;

c. the employing school system submits the application on behalf of the applicant and provides an affidavit signed by the local superintendent, or the designee, verifying that good faith efforts for recruiting certified personnel have been made, including posting all positions for which TATs are issued; and

d. there is no regularly certified, competent, and suitable person available for the position.

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.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1803 (October 2006), amended LR 36:2547 (November 2010), LR 40:280 (February 2014), LR 44:2000 (November 2018), LR 45:1750 (December 2019), LR 47:

§529. Out-of-Field Authorization to Teach (OFAT)

A. Out-of-Field Authorization to Teach (OFAT) is issued for one three-year period while the holder pursues endorsement or add-on certification requirements. The OFAT is limited to two certification areas and is transferable to other employing school systems for the remaining validity period. If the teacher is actively pursuing certification in the field and the LDE has designated the area as an area that requires extensive hours for completion, up to two additional years of renewal may be granted. Issuance of subsequent OFAT requests may be considered once the previous OFAT certification area(s) have been added to the holder's standard teaching certificate.

B. Eligibility requirements:

1. issued to an applicant who holds a valid Louisiana out-of-state certificate;

2. temporary employment permit; or

3. a type C, type B or B* type A or A*, level 1, level 2 or 2*, or level 3 or 3* or OS teaching certificate but is teaching outside of the certified area(s).

C. OFAT Stipulations:

1. LEAs must submit the application and provide an affidavit signed by the local superintendent, or the designee, verifying that good faith efforts for recruiting certified personnel have been made, including consulting the Teach Louisiana website, and that there is no regularly certified, competent, and suitable person available for the position, and that the applicant is the best-qualified person for the position.

2. If the teacher is actively pursuing certification in the field and the LDE designates the area as an area that requires extensive hours for completion, up to two additional years of renewal may be granted. Designated areas are as follows:

a. applicants pursuing certification in academically gifted, significant disabilities, early interventionist, deaf or hard of hearing, and visual impairments/blind may be granted two additional years of renewal; and

b. applicants pursuing certification in mild/moderate may be granted one additional year of renewal.

D. COVID-19 OFAT Extensions. Educators for whom the 2019-2020 school year was the final year of OFAT validity period and who were unable to successfully meet endorsement or add-on certification requirements due to the COVID-19 pandemic, shall be granted a one-year OFAT extension for the 2020-2021 school year. This OFAT extension is only available to educators employed in 2019-2020 as reported by school systems in the Profile for Educational Personnel (PEP).

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1804 (October 2006), amended LR 33:2355 (November 2007), LR 35:1487 (August 2009), LR 43:1311 (July 2017), LR 46:1377 (October 2020), LR 47:

§535. Resident Teacher Certificate (R)

A. Beginning July 1, 2018, the resident teacher certificate (R) shall be required for individuals completing a one-year residency required for certification in Louisiana pursuant to Bulletin 996.

B. Resident teacher certificates are valid for one school year, are renewable, and may be held a maximum of three years while the holder pursues certification through a BESE-approved teacher preparation program.

C. Eligibility guidelines:

1. enrollment in a BESE-approved traditional, master's degree, or certification-only teacher preparation program;

2. placement in a classroom in a public or approved nonpublic school with a teacher of record who holds a valid level 1, 2, 3, type A, or type B teaching certificate in the area for which the candidate is pursuing certification pursuant to Bulletin 746;

a. resident teachers placed in charter schools must be placed with a teacher of record who has demonstrated effectiveness pursuant to state law and Bulletin 130; and

3. passing scores on required core academic skills exams for initial issuance, including exam substitutions outlined §303 of this Part.

D. Renewal Guidelines: Passing scores on required content knowledge exams for renewal.

E. The request for the Resident Teacher license as well as renewal requests must be submitted directly to the LDE by the preparation provider.

F. The LDE will begin issuing resident teacher certificates to candidates completing residencies in BESE-approved programs with one-year residencies beginning July 1, 2017.

G. There shall be no fee charged for the resident teacher certificate issuance.

H. Holders of the resident teacher certificate may serve as a substitute teacher in the residency school system for up to ten days each semester. Such service shall not impede residency performance or ability to successfully complete the preparation program.

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 43:1312 (July 2017), amended LR 1377 (October 2020), LR 47:

Subchapter C. Ancillary Teaching Certificates

§537. Introduction

A. Types of Ancillary Certificates

1. Ancillary certificates are issued by the LDE for individuals who provide teaching, support, administrative, or supervisory services to children in pre-kindergarten through twelfth grade schools and early learning centers serving children from birth to five years old.

a. See Chapter 7 of this Part regarding ancillary certificates issued for individuals who provide support services in pre-kindergarten through twelfth grade schools and early learning centers serving children from birth to five years old.

b. See Chapter 15 of this Part regarding ancillary certificates issued for individuals who provide administrative and supervisory services in pre-kindergarten through twelfth grade schools.

2. Types of ancillary teaching certificates are as follows:

- a. ancillary artist or talented;
- b. early childhood ancillary;
- c. nonpublic Montessori teacher;
- d. family and consumer sciences (occupational programs);
- e. Junior Reserve Officers Training Corps (JROTC) instructor;
- f. math for professionals;
- g. mentor teacher ancillary; and
- h. content leader ancillary.

3. Non-Practicing status or operational role status for ancillary teaching certificates may be granted in accordance with §505 of this Part.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1805 (October 2006), amended LR 41:917 (May 2015), LR 45:230 (February 2019), LR 46:1378 (October 2020), LR 47:

§541. Early Childhood Ancillary Certificate

A. The early childhood ancillary certificate authorizes an individual to teach in a publicly-funded early learning center serving children ages birth to five as defined in R.S. 17:407.33, unless program requirements mandate a professional-level certificate. After June 30, 2019, an individual shall have, at a minimum, an early childhood ancillary certificate to serve as a lead teacher in a publicly-funded early learning center.

B. Early Childhood Ancillary Certificates

1. Eligibility Requirements. An early childhood ancillary certificate shall be issued to an applicant who submits evidence of one of the following to the LDE:

- a. a baccalaureate degree or higher from a college or university accredited in accordance with 34 CFR 602;
- b. a current child development associate (CDA) credential, either infant/toddler, preschool or family childcare, awarded by the Council for Professional Recognition and a high school diploma or equivalent:
 - i. after July 1, 2018, all 120 clock hours of coursework for the CDA must be earned from a BESE-

approved early childhood ancillary certificate program provider for initial issuance:

(a). an individual who has completed 36 or more clock hours of coursework for the CDA by July 1, 2018, may complete the remaining coursework for the CDA from any CDA provider;

(b). an individual who has not completed 36 or more clock hours of coursework for the CDA by July 1, 2018, must earn all 120 hours of coursework for the CDA from a BESE-approved early childhood ancillary certificate program provider;

(c). after July 1, 2018, individuals may submit a request to the LDE to waive the requirement that all 120 hours of coursework for the CDA be obtained from a BESE-approved early childhood ancillary certificate program if the individual is able to demonstrate unavailability of enrollment options within a reasonable geographic proximity;

ii. after July 1, 2018, applicants who obtained a CDA or completed coursework from a provider that is not BESE-approved while residing in another state shall submit additional documentation of program components for approval;

iii. coursework counting toward the early childhood ancillary certificate shall include at least 10 training hours in each of the following subject areas:

- (a). planning and implementing a safe and healthy learning environment;
- (b). advancing physical and intellectual development;
- (c). supporting social and emotional development;
- (d). building productive relationships with families;
- (e). managing an effective program operation;
- (f). maintaining a commitment to professionalism;
- (g). observing and recording child behavior; and
- (h). understanding principles of child development and learning;

c. an associate degree in an early childhood related field from a college or university accredited in accordance with 34 CFR 602;

d. a technical diploma or certificate of technical studies in an early childhood related field from an accredited technical or community college:

i. after July 1, 2018, all coursework for technical diplomas and certificates of technical studies must be earned from a BESE-approved provider;

ii. after July 1, 2018, individuals may submit a request to the LDE to waive the requirement that coursework be obtained from a BESE-approved early childhood ancillary certificate program if the individual is able to demonstrate unavailability of enrollment options within a reasonable geographic proximity; and

e. a career diploma that has been approved by the Louisiana Pathways Career Development System, and in which coursework began prior to July 1, 2018.

2. Renewal Requirements:

a. For individuals meeting eligibility requirements with a CDA, the early childhood ancillary certificate shall be valid for a three-year period. The ancillary certificate may be renewed by the LDE at the request of the applicant employer

with submission of either documentation of a renewed CDA credential, awarded by the Council for Professional Recognition, or documentation of:

i. either a 3 credit-hour course or 45 clock hours of approved training or professional development in early childhood care and education; and

ii. a minimum of 80 hours of work experience with young children or families with young children within the last three years.

b. For individuals meeting eligibility requirements with a baccalaureate degree or higher, associate degree, technical diploma, certificate of technical studies, or career diploma, the early childhood ancillary certificate shall be valid for a three-year period. The certificate may be renewed by the LDE at the request of the applicant's employer with submission of documentation of:

i. either a 3 credit-hour course, 45 clock hours of training in early childhood care and education or a CDA credential earned from a BESE-approved early childhood ancillary certificate program and awarded by the council for Professional Recognition; and

ii. a minimum of 80 hours of work experience with young children or families with young children within the last three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:17:6(A)(10), (11), and (15), R.S. 17:7(6), and R.S. 17:407.81.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:917 (May 2015), amended LR 43:2135 (November 2017), LR 46:1378 (October 2020), LR 47:

§549. Math for Professionals Certificate

A. An ancillary math for professionals certificate is issued to an applicant who has an undergraduate degree from a university accredited in accordance with 34 CFR 602 and/or evidence of a math and/or science work-related background.

B. Math for professionals certificate allows an individual to teach one or more mathematics courses.

C. Eligibility requirements:

1. meets at least one of the following:

a. earned 30 credit hours of mathematics;

b. earned a graduate degree in mathematics, engineering, or science content area; or

c. successful passing of the Praxis Secondary Mathematics: Content Knowledge test.

2. recommendation and support of current employing school system. Written request is required from the Louisiana employing authority indicating that the person will be employed in the area upon issuance of certification;

3. complete a district developed classroom readiness/training program, based on state guidelines.

D. Renewal requirements. Valid for three years initially and may be renewed thereafter for a period of five years at the request of an LEA. For renewal of the certificate, a candidate must successfully meet the standards of effectiveness for at least three years during the initial or renewal period in accordance with LAC 28:CXLVII (Bulletin 130) and R.S. 17:3902.

E. The holder of such certification is not eligible for tenure.

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.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:220 (February 2009), amended LR 39:1463 (June 2013), LR 40:281 (February 2014), LR 44:2000 (November 2018), LR 45:228 (February 2019), LR 46:1378 (October 2020), LR 47:

§553. Mentor Teacher (MT) Ancillary Certificate

A. Beginning September 1, 2020, the mentor teacher ancillary certificate will be required for individuals who serve as a mentor of undergraduate or post-baccalaureate teacher residents.

B. Provisional MT Certification. Individuals serving as mentors who have not successfully completed a BESE-approved mentor training program or mentor assessments will be issued a nonrenewable provisional mentor teacher ancillary certificate, valid for one calendar year from the date of issuance while the holder completes a BESE-approved mentor training program or mentor assessments.

C. Provisional certification eligibility requirements:

1. hold, or be eligible to hold, a valid type C, level 1 or higher Louisiana teaching certificate; or

2. if teaching in a charter school without a valid type C, level 1 or higher certificate, have at least two years of successful teaching in accordance with LAC 28:CXLVII (Bulletin 130) and R.S. 17:3902; or

3. if teaching in a nonpublic school without a valid type C, level 1, or higher certificate earn at least two years of effective ratings per local personnel evaluations; and

4. all out-of-state experience must be verified as successful by the out-of-state employing authority or SEA; and

5. enroll in a BESE-approved mentor training program.

D. MT Ancillary Certification. Individuals who have completed a BESE-approved mentor teacher training program and earn a passing score on the Louisiana mentor teacher assessment series will be issued a mentor teacher ancillary certificate. For teachers holding a valid type C, Level 1 or higher Louisiana teaching certificate, see §1369 of this Part. The LDE will begin issuing mentor teacher ancillary certificates no later than July 1, 2019.

E. MT Ancillary certification eligibility requirements:

1. if teaching in a charter school without a valid type C, level 1 or higher certificate, have at least two years of successful teaching in accordance with LAC 28:CXLVII (Bulletin 130) and R.S. 17:3902; or

2. if teaching in a nonpublic school without a valid type C, level 1, or higher certificate earn at least two years of effective ratings per local personnel evaluations; and

3. all out-of-state experience must be verified as successful by the out-of-state employing authority or SEA;

4. successfully complete a BESE-approved mentor teacher training program; and

5. earn a passing score on the Louisiana mentor teacher assessment series.

6. Individuals who successfully complete LDE mentor teacher training from November 1, 2017 through July 31, 2020, are eligible for the mentor teacher ancillary certificate after passing the Louisiana mentor teacher assessment series.

7. Individuals who hold National Board certification are eligible for mentor teacher ancillary certification after passing the coaching-related components of the Louisiana mentor teacher assessment series.

8. Individuals who currently hold or are eligible to hold National Institute for Excellence in Training (NIET) Teacher Evaluator Training Certification may apply for the ancillary certificate, which makes the individual eligible to serve as a mentor of undergraduate or post-baccalaureate teacher residents.

9. Certified CLASS® observers may apply for the ancillary certificate and upon issuance are eligible to serve as mentors of undergraduate or post-baccalaureate residents.

F. MT Ancillary Certificate Renewal Guidelines. Mentor teacher ancillary certificates are valid for five years and may be renewed at the request of the employing authority.

1. Teachers in charter schools who do not hold a level 1, 2, or 3 certificate must successfully meet the standards of effectiveness for at least three years during the five-year renewal period in accordance with LAC 28:CXLVII (Bulletin 130) and R.S. 17:3902.

2. Teachers in nonpublic schools who do not hold a level 1, 2, or 3 certificate must earn effective ratings per local personnel evaluations for at least three years during the five-year renewal period in order to renew the mentor teacher ancillary certificate.

G. For the 2020-2021 and 2021-2022 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. Mentor teacher waivers will be granted on a case-by-case basis through the application process established by the LDE and at no fee to the applicant, school system, or teacher preparation provider;

2. The waiver will be issued by the LDE for educators highly recommended by the mentor's principal and who possess one or more of the following qualifications:

- a. Two years of Highly Effective Compass ratings;
- b. National Board Certification;
- c. Statewide or national distinction for excellence in teaching;
- d. Experience as a TAP mentor, master teacher, executive master teacher or certified TP evaluator;
- e. Content leader experiences, as evidenced by participation in Content Leader training or redelivery of professional development; or
- f. Master's or doctorate in education and exemplary experience hosting student teachers.

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), amended LR 45:1460 (October 2019), LR 46:1379 (October 2020), LR 47:

§555. Content Leader (CL) Ancillary Certificate (Optional)

A. The content leader ancillary certificate is an optional certificate that districts may require. The LDE will begin issuing content leader ancillary certificates to candidates no later than July 1, 2019.

B. CL Ancillary Certificate eligibility requirements:

1. if teaching in a charter school without a valid type C, level 1 or higher certificate, have at least two years of

successful teaching in accordance with LAC 28:CXLVII (Bulletin 130) and R.S. 17:3902; or

2. if teaching in a nonpublic school without a valid type C, level 1, or higher certificate, earn at least two years of effective ratings per local personnel evaluations; and

3. all out-of-state experience must be verified as successful by the out-of-state employing authority or SEA;

4. successfully complete a BESE-approved content leader training program; and

5. have a passing score on the Louisiana content leader assessment series (see §303 of this Part).

C. Individuals who have successfully completed LDE content leader training from November 1, 2017 through July 31, 2020, in accordance with Paragraph 1 of this Subsection, are eligible for content leader ancillary certification.

D. Renewal Guidelines. The content leader ancillary certificate is valid for a period of five years and may be renewed at the request of the employing authority.

1. Teachers in charter schools who do not hold a level 1, 2, or 3 certificate must successfully meet the standards of effectiveness for at least three years during the five-year renewal period in accordance with LAC 28:CXLVII (Bulletin 130) and R.S. 17:3902.

2. Teachers in nonpublic schools who do not hold a level 1, 2, or 3 certificate must earn effective ratings per local personnel evaluations for at least three years during the five-year renewal period in order to renew the mentor teacher ancillary certificate.

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 45:231 (February 2019), amended LR 45:1460 (October 2019), LR 47:

Subchapter D. Special Considerations for Teachers Called to Active Military Duty

§557. Introduction

A. A teacher employed on a Louisiana certificate of any type who is called to active military duty will not be penalized for the time spent in active service. The educator must present copies of official documents indicating beginning and ending dates of active military duty when applying for renewal or extension of the certificate.

B. For the period of military service:

1. non-practicing status may be requested by the educator for the time in active service; and

2. additional time commensurate with the amount of time spent in active duty will be added to the validity period on the temporary or regular certificate, for the school year(s) or portion thereof spent in active military service.

C. Upon completion of the validity period, the renewal guidelines for temporary and/or regular certificates are effective.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1806 (October 2006), amended LR 47:

Chapter 7. Ancillary School Service Certificates

§701. Introduction

A. An individual must have an official license or certificate from the state to provide services to children in a Louisiana school setting. An ancillary certificate allows a

qualified person who is not a certified teacher to provide such services. The holder of an ancillary certificate is authorized to perform only those services that are specifically stated on the certificate in Louisiana school systems.

B. Non-Practicing Status for all Ancillary Teaching Certificates or Operational Role Status for Ancillary Teaching Certificates may be issued by the LDE in accordance with §505.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1807 (October 2006), amended LR 34:432 (March 2008), LR 47:

Subchapter A. General Ancillary School Certificates

§703. Child Nutrition Program Supervisor

A. For certificates issued July 1, 2020 and beyond, minimum eligibility requirements:

1. LEAs with a student enrollment of 2,499 or less:
 - a. at least 8 hours of food safety training is required either not more than five years prior to the date of employment or completed within 30 calendar days of the date of employment; and
 - i. a bachelor's degree, or equivalent educational experience, with an academic major or concentration in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field; or
 - ii. a bachelor's degree, or equivalent educational experience, with any academic major or area of concentration, and either a state-recognized certificate for school nutrition directors or at least one year of relevant food service experience; or
 - iii. an associate's degree, or equivalent educational experience, with an academic major or concentration in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field, and at least one year of relevant school nutrition program experience; or
 - iv. a high school diploma or state-issued high school equivalency credential and three years of relevant food service experience;
2. LEAs with a student enrollment of 2,500 - 9,999:
 - a. at least 8 hours of food safety training is required either not more than five years prior to the date of employment or completed within 30 calendar days of the date of employment; and
 - i. a bachelor's degree, or equivalent educational experience, with an academic major or concentration in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field; or
 - ii. a bachelor's degree, or equivalent educational experience, with any academic major or area of concentration, and a state-recognized certificate for school nutrition directors; or
 - iii. a bachelor's degree in any academic major and at least two years of relevant school nutrition program experience; or
 - iv. an associate's degree, or equivalent educational experience, with an academic major or concentration in food and nutrition, food service management, dietetics, family

and consumer sciences, nutrition education, culinary arts, business, or a related field, and at least two years of relevant school nutrition program experience;

3. for Child Nutrition Program supervisors in LEAs with a student enrollment of 10,000 or more:

a. at least 8 hours of food safety training is required either not more than five years prior to the date of employment or completed within 30 calendar days of the date of employment and:

i. a bachelor's degree, or equivalent educational experience, with academic major or concentration in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field; or

ii. a bachelor's degree, or equivalent educational experience, with any academic major or area of concentration, and a state-recognized certificate for school nutrition directors; or

iii. a bachelor's degree in any major and at least five years of experience in management of school nutrition programs.

B. Renewal Guidelines. Valid for one year and renewable each year thereafter upon presentation of completion of twelve hours of annual continuing education/training. The annual training must include, but is not limited to, administrative practices including training in school meal application, certification and verification, and meal counting and claiming procedures, as applicable, and any other specific topics, as needed, to address program integrity or other critical issues. Continuing education/training required under this paragraph is in addition to the food safety training required in the first year of employment under §703 of this Part.

C. Reinstatement of a Lapsed Certificate. If a certificate holder allows a period of one calendar year to elapse where not employed as a child nutrition program supervisor, the applicant must verify evidence of having met the hiring standards under §703 of this Part.

D. Provisional Certificate. A provisional certificate may be issued to an individual employed as an acting child nutrition program supervisor.

1. Eligibility Requirements. For provisional certificates issued September 1, 2021 and beyond, the minimum requirements include:

- a. High school diploma (or equivalent);
- b. 2 years of relevant school nutrition programs experience; and
- c. at least 8 hours of food safety training either not more than five years prior to the date of employment or completed within 30 calendar days of the date of employment.

2. Renewal Guidelines. Valid for one year initially and renewable each year thereafter upon presentation of 12 hours of annual food service continuing education/training. A provisional certificate may be issued for a maximum of five years.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1807 (October 2006), amended LR 33:280 (February 2007), LR 34:432 (March 2008), LR 46:1379 (October 2020), LR 47:

§705. Counselor K-12 (Counselor in a School Setting)

A. Eligibility Requirements Prior to June, 30, 2017. For candidates who completed all courses and degree requirements by June 30, 2017, the endorsement add-on requirements include:

1. graduate degree in school counseling from an institution accredited in accordance with 34 CFR 602 or a graduate degree with the equivalent hours and courses required for a graduate degree in school counseling; and

2. graduate training that includes 24 semester hours of professional courses distributed so that at least one course will be taken in each of the following basic areas:

a. principles and administration of school counseling programs;

b. career and lifestyle development;

c. individual appraisal;

d. counseling theory and practice;

e. group processes;

f. human growth and development;

g. social and cultural foundations in counseling; and

h. supervised practicum in a school setting.

B. Eligibility requirements after June 30, 2017:

1. completion of a standards-based graduate degree program in counseling from a college or university accredited in accordance with 34 CFR 602 and approved by the Council for Accreditation of Counseling and Related Educational Program (CACREP), and candidates completing counseling programs not in the specialty area of school counseling must complete six credit hours of school counseling courses from a CACREP-accredited program;

2. practicum/internship requirements:

a. complete a practicum in counseling from a CACREP-accredited program to include 100 contact hours; and

b. complete an internship in counseling from a CACREP-accredited program to include 600 contact hours in a school setting; and

3. pass the PRAXIS examination in school guidance and counseling (0421 or 5421).

C. Renewal Requirements. Certification is issued for a period of five years. For purposes of maintaining a valid counseling certificate, any school counselor receiving initial or renewal certification after July 1, 2013, must successfully meet the standards of effectiveness for at least three years during the five-year validity period in accordance with Bulletin 130 and R.S. 17:3902.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1807 (October 2006), amended LR 38:1400 (June, 2012), LR 39:1463 (June 2013), LR 45:1055 (August 2019), LR 47:

§711. School Librarian

A. School Librarian eligibility requirements:

1. master's degree in library science from an institution accredited in accordance with 34 CFR 602; and

2. passing score on Praxis Library Media Specialist examination.

B. Renewal requirements:

1. candidates must successfully meet the standards of effectiveness for at least three years during the five-year period of validity pursuant to Bulletin 130 and R.S. 17:3902;

2. the Louisiana employing authority must request renewal of an ancillary school librarian certificate; and

3. valid for five years.

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 32:1808 (October 2006), repromulgated LR 33:1617 (August 2007), amended LR 36:489 (March 2010), LR 39:1463 (June 2013), LR 46:1380 (October 2020), LR 47:

§715. School Nurse

A. Type C School Nurse—valid for three years.

1. Eligibility requirements:

a. current Louisiana licensure as a registered professional nurse; and

b. minimum of two years of experience as a registered nurse.

2. Renewal Guidelines. May be renewed once for a three year period, upon presentation of a copy of current Louisiana licensure as a registered professional nurse and upon request of Louisiana employing authority.

B. Type B School Nurse—valid for five years.

1. Eligibility requirements:

a. current Louisiana licensure as a registered professional nurse; and

b. three years of experience as a type C school nurse.

2. Renewal Guidelines. May be renewed for a five year period, upon presentation of a copy of current Louisiana licensure as a registered professional nurse and upon request of Louisiana employing authority.

C. Type A School Nurse—valid for five years.

1. Eligibility requirements:

a. current Louisiana licensure as a registered professional nurse;

b. baccalaureate degree in nursing or a health-related field from a college or university accredited in accordance with 34 CFR 602; and

c. five years of experience as a certified type B school nurse.

2. Renewal Guidelines. May be renewed for a five year period, except for those with a current certificate that is valid for life of continuous service. upon presentation of a copy of current Louisiana licensure as a registered professional nurse and upon request of Louisiana employing authority.

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 32:1808 (October 2006), amended LR 36:1998 (September 2010), LR 37:883 (March 2011), LR 38:44 (January 2012), LR 38:2366 (September 2012), LR 46:1380 (October 2020), LR 47:

Subchapter B. School Therapists

§725. Overview

A. School Art Therapist—Valid as long as holder remains in the same school system.

1. Eligibility requirements:

a. verify successful completion of accredited art therapy degree program, and current registration or membership in the American Art Therapy Association; and

b. meet requirements of the educational program:

- i. three semester hours, Introduction to Education of Exceptional Children; and
- ii. three semester hours, Psychology of Exceptional Children; and
- c. 50 percent of preclinical experience must have been directed toward a population aged zero through 21 years, in both institutional and school settings.

2. Renewal Guidelines. The LEA must request renewal with any change of employment to another school system.

B. Dance Therapist—valid as long as holder remains in same school system.

1. Graduate Level

a. Eligibility requirements:

- i. graduate degree in dance therapy;
- ii. requirements of the educational program:
 - (a). three semester hours, Introduction to Education of Exceptional Children; and
 - (b). three semester hours, Psychology of Exceptional Children;
- iii. current registration or membership in the American Dance Therapy Association.

b. Renewal Guidelines: The Louisiana employing authority must request a renewal with any change of employment to another school system.

2. Bachelor's Level

a. Eligibility requirements:

- i. bachelor's degree in dance therapy;
- ii. requirements of the educational program:
 - (a). three semester hours, Introduction to Education of Exceptional Children; and
 - (b). three semester hours, Psychology of Exceptional Children;
- iii. practicum for two semesters in both a clinical and a school setting with fifty percent of the practicum involving work with a population aged zero through 21 years; and
- iv. current registration or membership the American Dance Therapy Association.

b. Renewal Guidelines. The LEA must request renewal with any change of employment to another school system.

C. Music Therapist—valid as long as holder remains in same school system.

1. Eligibility requirements:

- a. evidence of successful completion of an accredited music therapy degree program, and registration by the National Association of Music Therapy, Inc.;
- b. meet the course requirements of the music therapy component of the degree program to include:
 - i. three semester hours, Introduction to Education of Exceptional Children;
 - ii. three semester hours, Psychology of Exceptional Children; and
 - iii. recreational music; and
 - iv. school music; and
- c. 50 percent of pre-clinical and clinical experiences should be directed toward a population aged zero through 21 years, in both institutional and school settings.

2. Renewal Guidelines. The LEA must request renewal with any change of employment to another school system.

D. Occupational Therapy

1. Certified Licensed Occupational Therapist Assistant (COTA)—valid for five years; renewable.

a. Eligibility Requirements. A valid COTA license to practice occupational therapy in Louisiana in compliance with R.S. 37:3001-3014, as administered by the Board of Medical Examiners; and

b. must work under the supervision of a Licensed Occupational Therapist.

c. Renewal Guidelines. Applicant must present copy of current licensure, and renewal request submitted by the LEA.

2. Occupational Therapist Provisional Certification—valid for two years.

a. Eligibility Requirements. A temporary license to practice occupational therapy in Louisiana in compliance with R.S. 37:3001-3014, as administered by the Louisiana State Board of Medical Examiners.

b. Renewal Guidelines—nonrenewable.

3. Occupational Therapist Full Certificate—valid for five years; renewable.

a. Eligibility Requirements. A valid license to practice occupational therapy in Louisiana in compliance with R.S. 37:3001-3014, as administered by the Board of Medical Examiners.

b. Renewal Guidelines. Applicant must present copy of current licensure, and renewal request submitted by the LEA.

E. Physical Therapy

1. Physical Therapist Assistant (PTA)—valid for five years.

a. Eligibility Requirements. A valid PTA license to assist in the practice of physical therapy in compliance with R.S. 37:2401-2424, as administered by the Louisiana State Board of Physical Therapy Examiners.

b. A PTA must work under the supervision of a licensed physical therapist.

c. Renewal Guidelines. Applicant must present a copy of current licensure, and renewal request submitted by the LEA.

2. Physical Therapist Provisional Certification—valid for two years.

a. Eligibility Requirements. A temporary license to practice physical therapy in compliance with R.S. 37:2401-2424, as administered by the Louisiana State Board of Physical Therapy Examiners.

b. Renewal Guidelines—nonrenewable.

3. Physical Therapist Full Certificate—valid for five years.

a. Eligibility Requirements: a valid Louisiana license to practice physical therapy in compliance with R.S. 37:2401-2424, as administered by the Louisiana State Board of Physical Therapy Examiners.

b. Renewal Guidelines: Applicant must present a copy of current licensure, and renewal request submitted by the LEA.

F. Certified Behavior Analyst

1. Assistant Behavior Analyst (BCaBA)

a. Eligibility requirements:

i. bachelor's degree from a college or university accredited in accordance with 34 CFR 602;

- ii. current assistant level certification issued by the Behavior Analyst Certification Board (BACB) or other nationally credentialing bodies as approved by the BACB;
- iii. the word assistant designates that direct supervision by a BCBA is required; and
- iv. a written request from the Louisiana employing authority indicating that the person will be employed upon certification issuance.

b. **Renewal Guidelines.** This certificate is valid provided the holder maintains current level certification issued by the Behavior Analyst Certification Board (BACB) or other nationally credentialing bodies as approved by the BACB. A worker who changes employing school systems must provide a copy of current certification issued by BACB to serve as a behavior analyst.

2. Behavior Analyst (BCBA)

- a. Eligibility requirements:
 - i. graduate degree from a college or university accredited in accordance with 34 CFR 602;
 - ii. current behavior analyst certification issued by the Behavior Analyst Certification Board (BACB) or other nationally credentialing bodies as approved by the BACB; and
 - iii. a written request from the LEA indicating that the person will be employed upon certification issuance.

b. **Renewal Guidelines.** This certificate is valid provided the holder maintains current level certification issued by the Behavior Analyst Certification Board (BACB) or other nationally credentialing bodies as approved by the BACB. A worker who changes employing school systems must provide a copy of current certification issued by BACB to serve as a behavior analyst.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1811 (October 2006), amended LR 34:433 (March 2008), LR 37:884 (March 2011), LR 37:2135 (July 2011), LR 46:1380 (October 2020), LR 47:

Chapter 11. Standards for Secondary Career and Technical Trade and Industrial Education Personnel

§1101. Introduction

A. Career and technical trade and industrial education (CTTIE) certificates authorize full-time or part-time employment for instructors of courses aligned to an area of expertise. The applicant being certified under the requirements found in this Part may teach CTTIE courses as listed on the LDE Teach Louisiana website (<http://www.teachlouisiana.net>).

B. Non-Practicing Status or Operational Role Status for CTTIE Certificates shall be in accordance with §505 of this Part.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1812 (October 2006), amended LR 35:2752 (December 2009), LR 40:1329 (July 2014), LR 46:1380 (October 2020), LR 47:

§1103. Career and Technical Certificate Types Issued Prior to July 1, 2006

A. Vocational Technical Industrial Education (VTIE) Certificates—Issued prior to July 1, 2004

1. Vocational Temporary (VT)—valid for one year; renewable annually while holder completes required coursework.

2. Vocational Permanent (VP)—lifetime certificate for continuous service.

B. Career and Technical Trade and Industrial Education (CTTIE) Certificates—issued between July 1, 2004, and June 30, 2006.

1. CTTIE Temporary Certificate (CT)—valid for one year; renewable annually while holder completes required coursework.

2. CTTIE Permanent Certificate (CP)—lifetime certificate for continuous-service.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1812 (October 2006), amended LR 35:2752 (December 2009), LR 47:

§1105. Career and Technical Certificate Types

A. CTTIE-Provisional—a one-year, non-renewable certificate issued while instructor completes requirements for CTTIE-1.

B. CTTIE-1 Certificate—an entry-level industry-based teaching certificate, valid for three years initially and may be extended for a period of one year at the request of the LEA. CTTIE-1 certificates are limited to two such extensions. CTTIE teachers must successfully meet the standards of effectiveness pursuant to Bulletin 130 and R.S.17:3902 to advance to CTTIE-2.

C. CTTIE-2 Certificate—valid for five years initially and may be renewed thereafter for a period of five years at the request of the employing LEA.

1. For renewal of the CTTIE-2 certificate, candidates must successfully meet the standards of effectiveness for at least three years during the five-year initial or renewal period pursuant to Bulletin 130 and R.S. 17:3902.

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 35:2752 (December 2009), amended LR 38:3137 (December 2012), LR 40:1330 (July 2014), LR 47:

§1107. CTTIE Certificate-Eligibility Requirements

A. CTTIE certificates are issued to instructors who teach courses listed on the Teach Louisiana website aligned to the area of expertise.

B. CTTIE Provisional Eligibility Requirements

1. Applicants shall hold a high school diploma, or have passed an equivalency test approved by the LDE.

2. Applicants shall have a minimum of four years of full time work experience or 7,680 hours of experience aligned to the CIP (Classification of Instructional Programs) area in the selected career and technical field, of which at least one year of full time work experience or 1,920 hours of experience must have been acquired within the five calendar years immediately prior to certification:

- a. Technical Diploma or Associate degree, or out-of-state equivalent, registered apprenticeship, or LWC approved training provider aligned to work experience and CIP area will be given credit for two years or 3,840 hours of occupational experience if the training is in the field for which the applicant is applying;

b. Graduates with a bachelor's degree aligned to work experience and CIP area from a college or university accredited in accordance with 34 CFR 602 will be given credit for two years or 3,840 hours of experience;

c. Graduates with an advanced degree aligned to work experience and CIP area from a college or university accredited in accordance with 34 CFR 602 will be given credit for three years or 5,760 hours of occupational experience;

d. Graduates with a technical degree in the selected field and a bachelor's degree aligned to work experience and CIP area from a college or university accredited in accordance with 34 CFR 602 will be given credit for three years or 5,760 hours of occupational experience;

e. Graduates with a bachelor's degree aligned to work experience and CIP area from a college or university accredited in accordance with 34 CFR 602 and an industry based certification (IBC) in the selected field will be given credit for three years or 5,760 hours of occupational experience;

f. Applicants holding current approved industry-based certification, aligned to work experience and CIP area will be given credit for two years or 3,840 hours of work experience. An industry-based certification may not be combined with educational attainment to qualify for a waiver from all required work experience.

g. Applicants with an earned baccalaureate degree, and who hold an industry-based certification (IBC) in the selected instructional field aligned to work experience and CIP area may also apply years of teaching experience in that field toward the required work experience.

h. Applicants with prior teaching experience at a postsecondary institution, registered apprenticeship, or LWC approved training provider in the selected instructional field may apply those years of teaching at a postsecondary institution toward the required work experience. All out-of-state experience must be verified as successful by the out-of-state employing authority or SEA.

3. In addition to CTTIE certification, a current license must be held when a state or national license is required in the workplace. A state or national license will be recognized as an industry-based certification.

a. Instructors providing content aligned to an industry-based certification must carry the IBC in which instruction will occur.

b. If a certifying agency requires specialized certification to instruct content, the instructor must carry the required certification.

C. CTTIE-1 Eligibility Requirements

1. Applicants shall hold a high school diploma, or have passed an equivalency test approved by the LDE.

2. Applicants shall have a minimum of four years of full time work experience or 7,680 hours of experience aligned to the CIP area in the selected career and technical field, of which at least one year of full time work experience or 1,920 hours must have been acquired within the five calendar years immediately prior to certification:

a. Technical Diploma or Associate degree, or out-of-state equivalent, registered apprenticeship, or LWC approved training provider aligned to work experience and CIP area will be given credit for two years or 3,840 hours of

occupational experience if the training is in the field for which the applicant is applying;

b. graduates with a baccalaureate degree aligned to work experience and CIP area from a college or university accredited in accordance with 34 CFR 602 will be given credit for two years or 3,840 hours of experience;

c. graduates with an advanced degree aligned to work experience and CIP area from a college or university accredited in accordance with 34 CFR 602 will be given credit for three years or 5,760 hours of occupational experience;

d. graduates with a technical degree in the selected field and a baccalaureate degree aligned to work experience and CIP area from a college or university accredited in accordance with 34 CFR 602 will be given credit for three years or 5,760 hours of occupational experience;

e. graduates with a baccalaureate degree aligned to work experience and CIP area from a college or university accredited in accordance with 34 CFR 602 and an industry based certification (IBC) in the selected field, will be given credit for three years or 5,760 hours of occupational experience;

f. applicants holding current approved industry-based certification aligned to work experience and CIP area will be given credit for two years or 3,840 hours of work experience, but an industry-based certification may not be combined with educational attainment to qualify for a waiver from all required work experience;

g. applicants with a baccalaureate degree and who hold an industry-based certification (IBC) in the selected instructional field aligned to work experience and CIP area may also apply years of teaching experience in that field toward the required work experience;

h. applicants with prior teaching experience at a postsecondary institution, registered apprenticeship, or LWC approved training provider in the selected instructional field may apply the years of teaching at a postsecondary institution toward the required work experience with all out-of-state experience verified as successful by the out-of-state employing authority or SEA.

3. In addition to CTTIE certification, a current license must be held when a state or national license is required in the workplace. A state or national license will be recognized as an industry-based certification.

a. Instructors who will be providing content aligned to an industry-based certification must carry the IBC in which instruction will occur.

b. If a certifying agency requires specialized certification to instruct content, the instructor must carry that certification.

4. Applicants shall complete a new instructor workshop prior to issuance of CTTIE-1. The LDE shall make available a list of new instructor course providers. Applicants with at least three years of effective K-12 teaching experience as defined by Bulletin 130 or three years of post-secondary teaching experience are not subject to the New Instructor Workshop completion requirement.

D. CTTIE-2 Eligibility Requirements

1. Eligibility Requirements:

a. hold or meet eligibility requirements for a CTTIE-1;

b. successfully meet the standards of effectiveness for at least three years during the five-year renewal period pursuant to Bulletin 130 and R.S. 17:3902 with all out-of-state experience verified as successful by the out-of-state employing authority or SEA; and

c. accrue three years of teaching experience in an approved educational setting.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1813 (October 2006), amended LR 35:2752 (December 2009), LR 36:2843 (December 2010), LR 38:2366 (September 2012), LR 40:1330 (July 2014), LR 45:1460 (October 2019), LR 46:1381 (October 2020), LR 47:

§1109. CTTIE Areas of Specialization

A. Nurse Aide Training and Competency Evaluation Program (NATP/NATCEP)/ Certified Nursing Assistant (CNA) Eligibility Requirements:

1. Applicant shall be a professional nursing program graduate with current Louisiana licensure as a registered nurse (RN) or licensed practical nurse (LPN).

2. All instructors shall have one of the following: CTTIE, VTIE, master's degree or above, or a CNA train the trainer certificate and meet nurse aide training and competency evaluation program (NATP/NATCEP) regulations, as mandated by the Louisiana Department of Health (LDH), Health Standards Section.

3. LPNs may serve as a certified nursing assistant/NATP instructor under the direct supervision of an RN. LPNs, under the general supervision of the primary instructor, may provide classroom and skills training instruction and supervision with two years of experience in provision of long term care services.

B. Certified Nursing Assistant, Program Coordinator Eligibility Requirements. The program coordinator shall have the following experience and qualifications:

1. current Louisiana licensure as a registered nurse (RN);

2. a minimum of two years of nursing experience, of which at least one year must be in the provision of long term care facility services such as a nursing home or skilled nursing facility;

3. completion of VTIE, CTTIE, CNA train-the-trainer program or a graduate degree; and

4. meet requirements mandated by the Louisiana Department of Health (LDH), Health Standards Section;

C. Emergency Medical Technician

1. An emergency medical technician (EMT) instructor must be approved by the Bureau of EMS.

D. Sports Medicine Eligibility Requirements

1. Sports medicine instructors shall have at least a Bachelor of Science degree and have a valid current state and/or national certification as an athletic trainer and meet all CTTIE requirements.

2. Applicants pursuing a graduate degree in athletic training who are working as an athletic trainer graduate assistant at a university accredited in accordance with 34 CFR 602 may count the work experience hours toward meeting the required work hours for the CTTIE application. CTTIE application must include a letter from the director of athletics at the university with the actual number of hours worked and assigned duties.

E. Jobs for America's Graduates (JAG) Louisiana Job Specialist eligibility requirements:

1. a bachelor's degree from a state-approved college or university accredited in accordance with 34 CFR 602, plus two years of full-time work experience, or 3,840 hours of work experience within four years of date of application; or

2. a valid standard Louisiana teaching or school counselor certification.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1813 (October 2006), amended LR 35:2752 (December 2009), LR 36:2843 (December 2010), LR 38:2366 (September 2012), LR 40:1331 (July 2014), LR 46:1381 (October 2020), LR 47:

Chapter 13. Endorsements to Existing Certificates

Subchapter B. Special Education Level and Area Endorsements

§1325. Requirements to add Deaf or Hard of Hearing K-12

A. Individuals holding a valid early childhood certificate for PK-K or PK-3, elementary certificate for grade levels 1-4, 1-5, 1-6, or 1-8, upper elementary or middle school certificate for grade levels 4-8, 5-8, or 6-8, secondary certificate for grade levels 6-12, 7-12, or 9-12, special education certificate, or an All-Level K-12 certificate in art, dance, foreign language, health, physical education, health and physical education, or music must earn the following:

1. 21 semester credit hours that pertain to children who are deaf or hard of hearing:

2. introduction to special education;

3. physiological, psychosocial, historical, sociological, and cultural aspects of deafness;

4. language development that includes linguistic principles and assessment strategies in language acquisitions for deaf and hard of hearing;

5. speech and speech reading;

6. educational audiology, auditory assistive devices and technology;

7. instructional strategies and curriculum development for deaf and hard of hearing students; and

8. communication methodology; and

9. three semester hours of internship of students who are deaf or hard of hearing or three years of successful teaching experience of students who are deaf or hard of hearing with all out-of-state experience verified as successful by the out-of-state employing authority or SEA;

10. Proficiency in signed, cued, or oral communication evidenced by one or more of the following means:

a. signed:

i. Intermediate on the Educational Sign Skills Evaluation: Teacher (ESSE:T);

ii. Advanced on the Signed Communication Proficiency Interview (SCPI); or

iii. Level III of the Educational Interpreter Performance Assessment;

b. cued—mini-proficiency, as measured on the Basic Cued Speech Proficiency Rating Test (BCSPR c1983, Beupre); or

c. oral—successfully passing an additional course in Methods in Oral/Auditory Education; and

11. Passing score for Praxis exams—Special Education: Core Content Knowledge and Applications and Special Education: Education of Deaf and Hard of Hearing.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1817 (October 2006), amended LR 37:552 (February 2011), LR 40:281 (February 2014), LR 45:1460 (October 2019), LR 46:1382 (October 2020), LR 47:

§1327. Requirements to add Mild/Moderate (1-5), (4-8), and (6-12)—Mandatory 7/1/2010

A. Mild/Moderate: 1-5—Individuals holding a valid early childhood certificate in PK-K or PK-3, elementary certificate in grade levels 1-4, 1-5, 1-6, or 1-8, or Early Interventionist certificate must earn the following:

1. 18 semester hours to include the following coursework:

a. Assessment and Evaluation of Students with Disabilities. Three semester hours in a course designed for teachers to learn to select, adapt, and use instructional interventions and behavioral strategies with students in a variety of settings to apply knowledge and skills in a 45-hour field-based experience using theoretical approaches, screening/ identification, educational placement considerations, and assessment and evaluation;

b. Fundamentals of Instructional Technology. Three semester hours of instructional, utility, and management software applications for school use for development of instructional materials, incorporation of commercially available software into lesson and unit structure, addressing the use of technology as it relates to UDL (Universal Design for Learning) and how UDL can be used to meet the needs of all students with language development issues;

c. Behavior Support and Intervention. Three semester hours to address the knowledge, skills and dispositions necessary for teachers to proactively and systematically address student needs that underlie the presence of problem behaviors in schools and class rooms;

d. Collaborative Teaming. Three semester hours that focuses on developing effective partnerships with parents, family members, general educators, and related service providers;

e. Instructional Practices in Special Education. Three semester hours that provides teachers with the ability to select and utilize appropriate instructional strategies, assistive technologies, and instructional materials to address the strengths and needs of diverse learners in grades 1-5; and

f. Reading and Literacy. Three semester hours regarding all aspects of state reading competencies at the elementary level, to include literacy intervention for students with disabilities;

2. Passing score for Praxis exams—Special Education: Core Knowledge and Mild to Moderate Applications.

B. Mild/Moderate: 1-5. Individuals holding a valid upper elementary or middle school certificate grade levels 4-8, 5-8, or 6-8, secondary certificate grade levels 6-12, 7-12, or 9-12, all-level special education certificate in significant disabilities, visually impaired, or deaf or hard of hearing, or an all-level K-12 certificate in art, dance, foreign language, health, physical education, health and physical education, or music must earn the following:

1. 18 semester hours to include the following coursework:

a. Assessment and Evaluation of Students with Disabilities. Three semester hours in a course is designed for teachers to learn to select, adapt, and use instructional interventions and behavioral strategies with students in a variety of settings and to apply knowledge and skills in a 45-hour field-based experience using theoretical approaches, screening and identification, educational placement considerations, and assessment and evaluation;

b. Fundamentals of Instructional Technology. Three semester hours of instructional, utility, and management software applications for school use, development of instructional materials, incorporation of commercially available software into lesson and unit structure, the use of technology for UDL (Universal Design for Learning), and how UDL can be used to meet the needs of all students with language development issues;

c. Behavior Support and Intervention. Three semester hours regarding the knowledge, skills, and dispositions necessary to proactively and systematically address student needs that underlie the presence of problem behaviors in schools and class rooms;

d. Collaborative Teaming. Three semester hours that focuses on developing effective partnerships with parents, family members, general educators, and related service providers;

e. Instructional Practices in Special Education. Three semester hours that provide teachers with the ability to select and utilize appropriate instructional strategies, assistive technologies, and instructional materials to address the strengths and needs of diverse learners in grade levels 1-5; and

f. Reading and Literacy. Three semester hours regarding all aspects of state reading competencies at the elementary level, to include literacy intervention for students with disabilities; and

2. passing score for Praxis exams—Special Education: Core Knowledge and Mild to Moderate Applications (0543 or 5543), Principles of Learning and Teaching (PLT): K-6, and Elementary Education: Content Knowledge Exam (0014 or 5014) prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001).

C. Mild/Moderate: Middle Grades 4-8 and Secondary 6-12. Individuals holding a valid early childhood certificate in PK-K or PK-3, elementary certificate in grade levels 1-4, 1-5, 1-6, or 1-8, or early interventionist certificate must earn the following:

1. 18 semester hours to include the following coursework:

a. Assessment and Evaluation of Students with Disabilities. Three semester hours in a course designed for teachers to learn to select, adapt, and use instructional interventions and behavioral strategies with students in a variety of settings, and to apply knowledge and skills in a 45-hour field-based experience using theoretical approaches, screening and identification, educational placement considerations, and assessment and evaluation;

b. Fundamentals of Instructional Technology. Three semester hours in instructional, utility, and management

software applications for school use, development of instructional materials, incorporation of commercially available software into lesson and unit structure, and the use of technology regarding UDL (Universal Design for Learning) and how UDL can be used to meet the needs of all students with language development issues;

c. Self-Determination and Transition. Three semester hours in self-determination and development, implementation and evaluation of self-management instructional programs for students with an emphasis on using self-management and learning strategies to facilitate self-determination and provides an understanding of the special education transition process as specified by federal and state guidelines with the focus on the design and implementation of transition planning that meets student physical, affective, cognitive, and communicative needs across the contexts of school, community, family life, career and vocation, and recreation/leisure;

d. Behavior Support and Intervention. Three semester hours of the knowledge, skills, and dispositions necessary for teachers to proactively and systematically address student needs that underlie the presence of problem behaviors in schools and class rooms;

e. Collaborative Teaming. Three semester hours that focus on developing effective partnerships with parents, family members, general educators, and related service providers; and

f. Instructional Practices in Special Education. Three semester hours to provide teachers with the ability to select and utilize appropriate instructional strategies, assistive technologies, and instructional materials to address strengths and needs of diverse learners in grades 6-12 with concentration in areas of literacy and numeracy; and

2. Passing score for Praxis exams:

a. Mild/Moderate (4-8)

i. Special Education: Core Knowledge and Mild to Moderate Applications (0543 or 5543);

ii. Principles of Learning and Teaching (PLT): 5-9; and

iii. Middle School Content Exam(s)

b. Mild/Moderate (6-12)

i. Special Education: Core Knowledge and Mild to Moderate Applications (0543 or 5543);

ii. Principles of Learning and Teaching (PLT): 7-12; and

iii. Secondary Core Content Exam(s).

D. Mild/Moderate: Middle Grades 4-8 and Secondary 6-12. Individuals holding a valid upper elementary or middle school certificate in grade levels 4-8, 5-8, or 6-8 must earn the following:

1. 18 semester hours to include the following coursework:

a. Assessment and Evaluation of Students with Disabilities. Three semester hours in a course is designed to learn to select, adapt, and use instructional interventions and behavioral strategies with students in a variety of settings and to apply knowledge and skills in a 45-hour field-based experience using theoretical approaches, screening and identification, educational placement considerations, and assessment and evaluation;

b. Fundamentals of Instructional Technology. Three semester hours of instructional, utility, and management

software applications for school use regarding development of instructional materials and incorporation of commercially available software into lesson and unit structure to address the use of technology for UDL (Universal Design for Learning) and how UDL can be used to meet the needs of all students with language development issues;

c. Self-Determination and Transition. Three semester hours regarding self-determination and development, implementation, and evaluation of self-management instructional programs for students with an emphasis on using self-management and learning strategies to facilitate self-determination that provides the teacher with an understanding of the Special Education transition process as specified by federal and state guidelines and the focus on the design and implementation of transition planning that meets student physical, affective, cognitive, and communicative needs across the contexts of school, community, family life, career and vocation, and recreation and leisure;

d. Behavior Support and Intervention. Three semester hours to address the knowledge, skills, and dispositions necessary for teachers to proactively and systematically address student needs that underlie the presence of problem behaviors in schools and class rooms;

e. Collaborative Teaming. Three semester hours to focus on developing effective partnerships with parents, family members, general educators, and related service providers; and

f. Instructional Practices in Special Education. Three semester hours to provide teachers with the ability to select and utilize appropriate instructional strategies, assistive technologies, and instructional materials to address strengths and needs of diverse learners in grades 6-12 with concentration in areas of literacy and numeracy; and

2. Passing score for Praxis exams:

a. Mild/Moderate (4-8)—Special Education: Core Knowledge and Mild to Moderate Applications (0543 or 5543); and/or

b. Mild/Moderate (6-12):

i. Special Education: Core Knowledge and Mild to Moderate Applications (0543 or 5543);

ii. Principles of Learning and Teaching (PLT): 7-12; and

iii. Secondary Core Content Exam(s).

E. Mild/Moderate: Middle Grades 4-8 and Secondary 6-12. Individuals holding a valid secondary certificate in grade levels 6-12, 7-12, or 9-12, all-level special education certificate for significant disabilities, visually impaired, or deaf or hard of hearing), or an all-level K-12 certificate in art, dance, foreign language, health, physical education, health and physical education, or music must earn the following:

1. 18 semester hours to include the following coursework:

a. Assessment and Evaluation of Students with Disabilities. Three semester hours in a course is designed to learn to select, adapt, and use instructional interventions and behavioral strategies with students in a variety of settings and to apply knowledge and skills in a 45-hour field-based experience using theoretical approaches, screening and identification, educational placement considerations, and assessment and evaluation;

b. Fundamentals of Instructional Technology. Three semester hours of instructional, utility, and management software applications for school use regarding development of instructional materials and incorporation of commercially available software into lesson and unit structure to address the use of technology for UDL (Universal Design for Learning) and how UDL can be used to meet the needs of all students with language development issues;

c. Self-Determination and Transition. Three semester hours regarding self-determination and development, implementation, and evaluation of self-management instructional programs for students with an emphasis on using self-management and learning strategies to facilitate self-determination that provides the teacher with an understanding of the Special Education transition process as specified by federal and state guidelines and the focus on the design and implementation of transition planning that meets student physical, affective, cognitive, and communicative needs across the contexts of school, community, family life, career and vocation, and recreation and leisure;

d. Behavior Support and Intervention. Three semester hours to address the knowledge, skills, and dispositions necessary for teachers to proactively and systematically address student needs that underlie the presence of problem behaviors in schools and class rooms;

e. Collaborative Teaming. Three semester hours to focus on developing effective partnerships with parents, family members, general educators, and related service providers; and

f. Instructional Practices in Special Education. Three semester hours to provide teachers with the ability to select and utilize appropriate instructional strategies, assistive technologies, and instructional materials to address strengths and needs of diverse learners in grades 6-12 with concentration in areas of literacy and numeracy; and

2. Passing score for Praxis exams:

a. Mild/Moderate (4-8):

i. Special Education: Core Knowledge and Mild to Moderate Applications (0543 or 5543); and

ii. Principles of Learning and Teaching (PLT): 5-9; and

iii. Middle School Content Exam(s); or

b. Mild/Moderate (6-12)--Special Education: Core Knowledge and Mild to Moderate Applications (0543 or 5543) and Secondary Content Exam(s).

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 35:1485 (August 2009), amended LR 37:553 (February 2011), LR 39:1464 (June 2013), LR 41:648 (April 2015), LR 41:1271 (July 2015), amended LR 46:1382 (October 2020), LR 47:

Subchapter C. All Other Teaching Endorsement Areas

§1333. Introduction

A. Information on endorsements for administrative and supervisory areas can be found in Chapter 15 of this Part.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1818 (October 2006), amended LR 47:

§1347. Computer Literacy

A. Eligibility requirements:

1. valid OS, Level 1 or higher teaching certificate; and
2. nine semester hours of coursework in educational technology or computer science.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1819 (October 2006), amended LR 47:

§1349. Counselor K-12 (Counselor in a School Setting)

A. Individuals who completed all courses and degree requirements by June 30, 2017, will have the endorsement added to certificates based upon graduate training that included 24 semester hours of professional courses distributed so that at least one course will be taken in each of the basic areas listed below:

1. Principles and Administration of School Counseling Programs;
2. Career and Lifestyle Development;
3. Individual Appraisal;
4. Counseling Theory and Practice;
5. Group Processes;
6. Human Growth and Development;
7. Social and Cultural Foundations in Counseling; and
8. Supervised Practicum in a School Setting, or three years of successful experience as a school counselor.

B. Eligibility requirements after June 30, 2017:

1. valid Louisiana teaching certificate;
2. completion of a standards-based graduate degree program in counseling from a college or university accredited in accordance with 34 CFR 602 approved by the Council for Accreditation of Counseling and Related Educational Program (CACREP) or candidates who completed counseling programs other than the specialty area of school counseling must complete six credit hours of school counseling courses from a CACREP-accredited program;

3. practicum/internship requirements:

a. complete a practicum in counseling from a CACREP-accredited program to include 100 contact hours; or

b. complete an internship in counseling from a CACREP-accredited program to include 600 contact hours in a school setting; and

4. completion of the Praxis examination in school guidance and counseling (0421 or 5421).

C. Renewal Requirements. For purposes of maintaining a valid counselor endorsement, any school counselor receiving certification after July 1, 2013, is required to successfully meet the standards of effectiveness for at least three years during the five-year renewal period in accordance with Bulletin 130 and R.S. 17:3902.

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.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1819 (October 2006),

amended LR 33:1618 (August 2007), LR 38:1401 (June, 2012), LR 39:1465 (June 2013), LR 45:1056 (August 2019), LR 47:

§1369. Mentor Teacher

A. A certification to serve as a mentor of undergraduate or post-baccalaureate teacher residents may be added to a standard teaching certificate for teachers meeting the eligibility requirements.

B. Eligibility requirements:

1. hold, or be eligible to hold, a valid type C, level 1, or higher Louisiana teaching certificate;
2. successfully complete a BESE-approved mentor teacher training program; and
3. earn a passing score on the Louisiana mentor teacher assessment series.

C. Individuals who successfully complete LDE mentor teacher training from November 1, 2017 through July 31, 2020, are eligible for the mentor teacher add-on endorsement after passing the Louisiana mentor teacher assessment series.

D. Individuals who hold National Board certification are eligible for mentor teacher add-on endorsement after passing the coaching-related components of the Louisiana mentor teacher assessment series.

E. Individuals who hold or are eligible to hold a Louisiana Administrative or Supervisory Credential as listed in Chapter 15 of this Part may apply for the Mentor Teacher add-on endorsement, and allows the eligible individual to serve as a mentor of undergraduate or post-baccalaureate teacher residents without meeting the eligibility requirements for a mentor teacher endorsement outlined in §1369 of this Part.

F. Individuals who currently hold or are eligible to hold National Institute for Excellence in Training (NIET) Teacher Evaluator Training Certification may apply for the Mentor Teacher add-on endorsement, and allows the individual eligible to serve as a mentor of undergraduate or post-baccalaureate teacher residents without meeting the eligibility requirements for a mentor teacher endorsement outlined in §1369 of this Part.

G. Certified CLASS® observers may apply for the Mentor Teacher add-on endorsement, which allow the individual eligible to serve as a mentor of undergraduate or post-baccalaureate teacher residents without meeting the eligibility requirements for a mentor teacher endorsement outlined in §1369 of this Part.

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 47:

§1371. Content Leader

A. The content leader endorsement is an optional endorsement that districts may require.

B. Eligibility requirements for the content leader endorsement:

1. hold, or be eligible to hold, a valid type C, level 1, or higher Louisiana teaching certificate with all out-of-state experience verified as successful by the out-of-state employing authority or SEA.
2. successfully complete a BESE-approved content leader training program; and
3. earn a passing score on the Louisiana content leader assessment series in §303 of this Part).

C. Individuals who have successfully completed LDE content leader training from November 1, 2017 through July 31, 2020, in accordance with Paragraph 1 of this Subsection, are eligible for content leader ancillary certification.

Chapter 15. Administrative and Supervisory Credentials

Subchapter A. The Educational Leadership Certificate

§1503. Introduction

A. The educational leadership certification structure provides for four levels of leader certification: teacher leader; educational leader level 1; educational leader level 2; and educational leader level 3. The teacher leader certificate is an option for a teacher to be identified as a teacher leader and is not a state required credential for a specific administrative position. The educational leader level 1 certificate is an entry-level certificate for individuals seeking to qualify for school and/or district leadership positions such as assistant principals, principals, parish or city supervisors of instruction, supervisors of child welfare and attendance, special education supervisors, or comparable school/district leader positions. An individual advances from a level 1 to a level 2 certificate after successfully meeting standards of effectiveness for three years pursuant to Bulletin 130 and R.S. 17:3902, and completing the required years of experience. The level 3 certificate qualifies an individual for employment as a district superintendent. The LDE will issue a letter of eligibility for an EDL certificate to requesting educators not currently serving in an educational leadership role.

B. Educational leadership preparation programs and induction programs must be aligned with state and national standards in accordance with LAC 28:CXXXVII.301 in Bulletin 125.

C. Medical Excuse and Exceptions. Exceptions to policy will be considered in the case of serious medical condition or unavailability of required coursework or exams, when not in violation of law. When serious medical problems of the teacher or immediate family exist, a doctor statement is required with a letter of assurance from the teacher that the unmet policy requirements will be completed within one year of the exception being granted. The final authority for approval and policy flexibility is at the discretion of the LDE.

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, 17:411, and 17:3902.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1822 (October 2006), amended LR 33:819 (May 2007), LR 38:42 (January 2012), LR 38:3138 (December 2012), LR 39:1465 (June 2013), LR 45:231 (February 2019), LR 47:

§1505. Educational Leader Certificate Level 1 (EDL 1)

A. The EDL 1 certificate is needed for school and district educational leadership positions such as assistant principal, principal, parish or city supervisor of instruction, supervisor of child welfare and attendance, special education supervisor, or comparable school/district leader positions. The EDL certificate is issued upon the request of the LEA upon employment to serve as an educational leader. An EDL 1 certificate may be obtained through either a master's degree pathway or through one of three alternate pathways.

1. Graduate Degree Pathway. To receive an entry-level EDL 1, the candidate must:

a. hold or be eligible to hold a Louisiana type B or level 2 teaching certificate or have a comparable level out-of-state teaching certificate and three years of teaching experience in the area of certification;

b. complete a competency-based graduate degree preparation program in the area of educational leadership from an institution of higher education accredited in accordance with 34 CFR 602, which may be inclusive of BESE-approved mentor teacher or content leader training;

i. If the graduate degree program was not in Educational Leadership then a letter from the dean of education or the dean of the graduate school will be considered and must be submitted verifying that the master's degree program is aligned with the National Policy Board for Educational Administration's Professional Standards for Educational Leaders (PSEL). The final authority for approval is at the discretion of the LDE; and

c. have a passing score on the BESE approved school leaders licensure assessment, in accordance with state requirements.

2. Alternate Pathway 1. The alternate pathway 1 is for individuals who already hold a graduate degree and seek issuance of an EDL 1. The candidate must:

a. hold or be eligible to hold a Louisiana type B or level 2 teaching certificate or have a comparable level out-of-state teaching certificate and three years of teaching experience with all out-of-state experience verified as successful by the out-of-state employing authority or SEA;

b. have previously completed a graduate degree program from an institution of higher education accredited in accordance with 34 CFR 602;

c. meet competency-based requirements, as demonstrated by completion of an individualized program of educational leadership from an institution of higher education accredited in accordance with 34 CFR 602 developed based on a screening of candidate competencies upon entering into a graduate alternative certification program and service as a mentor teacher, content leader, or BESE-approved mentor teacher or content leader training may fulfill a maximum of 40 percent of an individualized program; and

d. earn a passing score on the BESE approved school leaders licensure assessment in accordance with state requirements.

3. Alternate Pathway 2. The alternate pathway 2 is for individuals who already hold a graduate degree in education and seek issuance of an EDL 1. The candidate must:

a. hold or be eligible to hold, a Louisiana type B or level 2 teaching certificate or have a comparable level out-of-state teaching certificate and three years of teaching experience with all out-of-state experience verified as successful by the out-of-state employing authority or SEA;

b. have previously completed a graduate degree program in education from an institution of higher education accredited in accordance with 34 CFR 602;

c. provide documented evidence of leadership experiences of 240 clock hours or more at the school and/or district level, including service as a mentor teacher or content leader of up to 100 clock hours; and

d. have a passing score on the BESE approved school leaders licensure assessment in accordance with state requirements.

4. Alternate Pathway 3. The alternate pathway 3 is for persons who already hold a baccalaureate degree from an institution of higher education accredited in accordance with 34 CFR 602 and are seeking to receive an EDL 1 through a competency-based educational leader practitioner (residency) program found in LAC 28:XLV (Bulletin 996, Chapter 7). The candidate must:

a. hold, or be eligible to hold, a Louisiana type B or level 2 teaching certificate or have a comparable level out-of-state teaching certificate and three years of teaching experience with all out-of-state experience verified as successful by the out-of-state employing authority or SEA;

b. demonstrate strong knowledge of instruction through a rigorous screening process by an approved program provider;

c. complete a competency-based educational leader practitioner/residency preparation program in the area of educational leadership from a non-university provider or an institution of higher education accredited in accordance with 34 CFR 602 with service as a mentor teacher, content leader, or BESE-approved mentor teacher or content leader training allowed fulfill a maximum of 40 percent of the competency-based program; and

d. have a passing score on the BESE approved school leaders licensure assessment in accordance with state requirements.

5. EDL 1 Extensions

a. An EDL 1 is valid for three years initially and may be extended thereafter for a period of one year at the request of an LEA. EDL 1 certificates are limited to two such extensions.

b. Individuals who hold an educational leader certification and are employed in a leadership capacity at the school level must successfully meet the standards of effectiveness as a leader for at least three years during the five-year initial or renewal period in order to renew.

c. Individuals who hold an educational leader certification and are employed in a leadership capacity at the district level must earn effective ratings as a leader per local personnel evaluations for at least three years during the five-year initial or renewal period in order to renew.

6. Districts may require participation in an education leader induction administered by the LEA.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1823 (October 2006), amended LR 33:819 (May 2007), LR 38:43 (January 2012), LR 38:3138 (December 2012), LR 39:1465 (June 2013), LR 43:1313 (July 2017), LR 45:231 (February 2019), LR 45:526 (April 2019), LR 45:1461 (October 2019), LR 46:1383 (October 2020), LR 47:

§1507. Educational Leader Certificate Level 2 (EDL 2)

A. To receive an EDL 2, the individual must:

1. hold or be eligible to hold a EDL 1 certificate, Louisiana provisional principal certification, or comparable level out-of-state educational leader certificate;

2. have three years of teaching experience;

3. if applicable, have all out-of-state experience verified as successful by the out-of-state employing authority or SEA;

4. participate in an education leader induction administered, if required by the LEA;

5. for individuals who are employed in a leadership capacity at the school level, meet the standards of effectiveness as an educational leader for three years pursuant to LAC 28:CXLVII (Bulletin 130) and R.S. 17:3902; and

6. for individuals who are employed in a leadership capacity at the district level, earn effective ratings per local personnel evaluations for three years.

B. **Renewal Requirements.** An EDL 2 is valid for five years initially and may be renewed thereafter for a period of five years at the request of an LEA. For renewal of EDL 2 certificate:

1. Individuals who hold an educational leader certification and are employed in a leadership capacity at the school level must successfully meet the standards of effectiveness as a leader for at least three years during the five-year initial or renewal period.

2. Individuals who hold an educational leader certification and are employed in a leadership capacity at the district level must earn effective ratings as a leader per local personnel evaluations for at least three years during the five-year initial or renewal period.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1823 (October 2006), amended LR 33:820 (May 2007), LR 38:43 (January 2012), LR 38:3138 (December 2012), LR 39:1465 (June 2013), LR 41:2129 (October 2015), LR 45:526 (April 2019), LR 45:1461 (October 2019), LR 47:

§1509. Educational Leader Certificate Level 3 (EDL 3)

A. This certificate is required in order to serve as a school system superintendent or assistant superintendent.

1. Eligibility requirements:

a. hold or be eligible to hold an EDL 2 or one of the Louisiana administrative/supervisory certifications that preceded the educational leadership certification structure;

b. three years of teaching experience;

c. five years of successful administrative or management experience in education at the level of assistant principal or above with assistant principal experience limited to a maximum of two years of the five years of experience with all out-of-state experience verified as successful by the out-of-state employing authority or SEA; and

d. earn passing score on the BESE approved school superintendent assessment, in accordance with state requirements.

B. **Renewal Requirements.** An EDL 3 is valid for five years initially and may be renewed thereafter for a period of five years at the request of an LEA:

1. Individuals who hold an educational leader certification and are employed in a leadership capacity at the school level must successfully meet the standards of effectiveness as a leader for at least three years during the five-year initial or renewal period.

2. Individuals who hold an educational leader certification and are employed in a leadership capacity at the

district level must earn effective ratings as a leader per local personnel evaluations for at least three years during the five-year initial or renewal period.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1824 (October 2006), amended LR 38:3139 (December 2012), LR 41:2129 (October 2015), LR 45:526 (April 2019), LR 45:1462 (October 2019), LR 47:

Subchapter B. Out-of-State Administrative Certification Structure

§1523. Out-of-State Superintendent (OSS)

A. The out-of-state superintendent (OSS) certificate is valid only for the employing Louisiana public school district requesting issuance, is valid for five years from date of first appointment as a superintendent, and is renewable every five years.

1. Eligibility requirements:

a. employment by a Louisiana public school system to serve as a superintendent or an assistant superintendent;

b. a valid teaching certificate from another state with authorization to serve as a school superintendent;

c. a graduate degree from an institution of higher education accredited in accordance with 34 CFR 602;

d. five years of successful administrative or management experience in education at the level of assistant principal or above with assistant principal experience limited to a maximum of two years of experience in that position; and

e. three years of successful teaching experience with all out-of-state experience verified as successful by the out-of-state employing authority or SEA.

2. **Renewal Requirements.** For renewal of an OSS certificate, candidates who are employed in a leadership capacity at the school level must successfully meet the standards of effectiveness as a leader for at least three years during the five-year initial or renewal period pursuant to Bulletin 130 and R.S. 17:3902. Individuals who are employed in a leadership capacity at the district level must earn effective ratings per local personnel evaluations as a leader for at three years during the five-year initial or renewal period.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1825 (October 2006), amended LR 38:3140 (December 2012), LR 45:527 (April 2019), LR 45:1462 (October 2019), LR 46:1383 (October 2020), LR 47:

Subchapter D. All Other Supervisory Endorsements

§1547. Supervisor of Student Teaching

A. This is no longer a required endorsement that must appear on a certificate.

B. To qualify to perform this supervisory service, a teacher must meet one of the following eligibility criteria:

1. valid Type A or Level 3 Louisiana certificate in the field of the supervisory assignment;

2. valid Type B or Level 2 Louisiana certificate in the field of the supervisory assignment and successfully complete the three semester-hour course in the supervision of student teaching;

3. valid Type B or Level 2 Louisiana certificate in the field of the supervisory assignment and successfully complete assessor training through the Louisiana Teacher Assistance and Assessment Program; or

4. valid Type B or Level 2 Louisiana certificate and National Board Certification in the field of the supervisory assignment.

C. On September 1, 2023, the mentor teacher endorsement or ancillary certificate will replace the supervisor of student teaching certificate. The supervisor of student teaching certificate will no longer be issued effective December 31, 2020.

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.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1829 (October 2006), amended LR 37:2136 (July 2011), LR 45:232 (February 2019), LR 46:1384 (October 2020), LR 47:

Chapter 23. Approved Courses to Reinstate Lapsed Certificates

§2301. Period of Validity

A. The period of validity for a Louisiana teaching certificate is subject to the provision that the certificate holder does not allow a period of five or more consecutive calendar years of disuse to accrue, and/or the certificate is not renewed by the State Board of Elementary and Secondary Education acting in accordance with law. As applicable to certificate validity, the term disuse is defined as a period of five consecutive calendar years in which a certificated individual is not a teacher of record for at least one semester, or 90 consecutive days. If such a period of disuse occurs, the certificate has lapsed. *Lapse* does not apply to certificates renewable via the standards of effectiveness pursuant to Bulletin 130 and R.S. 17:3902.

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 33:2058 (October 2007), amended LR 47:

§2303. Reinstatement of a Lapsed Certificate

A. Reinstatement of a lapsed certificate is made only on evidence that the holder has earned six semester hours of credit in approved courses from an institution of higher education accredited in accordance with 34 CFR 602. The credit must be earned within the five-year period immediately preceding request for reinstatement of the certificate. Reinstatement does not apply to certificates renewable via the standards of effectiveness pursuant to Bulletin 130 and R.S. 17:3902.

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 33:2058 (October 2007), amended LR 46:1385 (October 2020), LR 47:

Sandy Holloway
President

2109#006

DECLARATION OF EMERGENCY

Department of Insurance Office of the Commissioner

Emergency Rule 47—Suspension of Certain Statutes Regarding Cancellations, Terminations, Non-Renewals, and Nonreinstatements, Premium Payments, Claim Filings and Related Provisions Regarding Any and All Insurance Matters Affecting Insureds in Louisiana Caused by the State of Emergency Declared by Governor John Bel Edwards on August 26, 2021, Due to Hurricane Ida

On August 26, 2021, President Joseph R. Biden declared a State of Emergency in Louisiana due to the devastation caused by Hurricane Ida and its aftermath. Contemporaneously, Governor John Bel Edwards declared a State of Emergency in Louisiana for the same reasons. Furthermore, President Joseph R. Biden invoked the Stafford Act and declared a national emergency regarding Hurricane Ida and its aftermath which has caused devastation to the lives and property of the citizens of Louisiana, and the residual effect of that storm poses a significant risk to the health, safety and welfare to a substantial number of the citizens of our state.

The Department of Insurance hereby exercises the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), as further specified by R.S. 22:11, and pursuant to the authority granted by R.S. 22:1 et seq., adopts Emergency Rule 47 until September 27, 2021, unless terminated sooner, which is issued to address the statewide public health emergency declared to exist in the state of Louisiana. Emergency Rule 47 became effective August 26, 2021, and shall continue in effect until September 27, 2021, unless terminated sooner, as allowed under the Administrative Procedure Act. Proclamation No. JBE 2021-165 issued on August 26, 2021 by Governor John Bel Edwards declared a State of Emergency extending from August 26, 2021, through September 27, 2021, unless terminated sooner.

Emergency Rule 47 is issued to address the devastation caused by Hurricane Ida and its aftermath that has created emergency conditions threatening the health, safety and welfare of the citizens of Louisiana who are insureds and who either reside in or have insured property located in one of the following twenty-five (25) parishes, to wit: Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, and West Feliciana. Emergency Rule 47 is issued under the authority of the Commissioner of Insurance for the State of Louisiana, pursuant to the following: Proclamation No. JBE 2021-165 issued on August 26, 2021 by Governor John Bel Edwards declaring a State of Emergency extending from August 26, 2021, through September 27, 2021; and R.S. 22:11.

Accordingly, Emergency Rule 47 shall apply to any and all types of insurers as set forth in R.S. 22:48, and any and all kinds of insurance as set forth in R.S. 22:47, including, but not limited to all property and casualty insurers, all life insurers, all annuity insurers, and all health maintenance organizations (HMOs), managed care organizations (MCOs), preferred provider organizations (PPOs), pharmacy benefit managers (PBMs), and third party administrators (TPAs) acting on behalf of an HMO, MCO, PPO, and any and all other insurance related entities licensed by the commissioner or doing business in Louisiana (collectively known as “health insurance issuers”) and their insureds, policyholders, members, subscribers, enrollees and certificate holders.

Hurricane Ida and its aftermath has created a mass disruption to the normalcy previously enjoyed in Louisiana and is an immediate threat to the public health, safety, and welfare of Louisiana citizens. To minimize these threats, the State of Louisiana has had to impose significant measures that will certainly have a negative economic impact on the state, resulting in financial hardship for the citizens of Louisiana regarding all matters related to all types of insurers and all kinds of insurance and threatening access to adequate insurance coverage following an event of this magnitude when such insurance coverage is especially important. In order to respond to the ongoing emergency and to protect and safeguard the public health, safety, and welfare of the citizens of this state, it is necessary to issue Emergency Rule 47.

Title 37
INSURANCE
Part XI. Rules

Chapter 47. Emergency Rule 47—Suspension of Certain Statutes Regarding Cancellations, Terminations, Non-Renewals, and Nonreinstatements, Premium Payments, Claim Filings and Related Provisions Regarding Any and All Insurance Matters Affecting Insureds in Louisiana Caused by the State of Emergency Declared by Governor John Bel Edwards on August 26, 2021, Due to Hurricane Ida

§4701. Benefits, Entitlements, Protections and Applicable Parishes

A. The benefits, entitlements and protections of Emergency Rule 47 shall be applicable to insureds, policyholders, members, subscribers, enrollees and certificate holders (hereinafter “insureds”) who, as of 12:01 a.m. on August 26, 2021, have an insurance policy, insurance contract, or certificate of coverage for any of the kinds of insurance enumerated in §4703, as delineated below, and who meet one of the following criteria.

1. Any person who, as of August 26, 2021, resided in one of the following twenty-five (25) parishes, to wit: Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, and West Feliciana. Said person is entitled to the protections of Emergency Rule 47 for the kinds of insurance set forth in §4703.A and B.

2. For the kinds of insurance enumerated in §4703.B, any person whose primary place of employment was in, or whose permanent employer had assigned said person to a business located in, one of the twenty-five (25) parishes identified in §4701.A.1, shall be eligible for the benefits, entitlements and protections of Emergency Rule 47 if said person verifies such employment status by written documentation to his health insurance issuer. No health insurance issuer shall unreasonably withhold eligibility to insureds upon receipt of such written documentation.

3. For the kinds of insurance enumerated in §4703.A, any insured who does not reside in one of the twenty-five (25) parishes enumerated in §4701.A.1, but has filed with an authorized insurer or surplus lines insurer a notice of loss on a property claim for damage caused by Hurricane Ida and its aftermath to property located in one of the twenty-five (25) parishes enumerated in §4701.A, shall be entitled to contact the insurer and request the benefits, entitlements, and protections of Emergency Rule 47. These insurers are directed to work with their insureds who have filed a notice of loss on a property claim for damage caused by Hurricane Ida and its aftermath and provide accommodation as applicable, relevant and appropriate.

B. Emergency Rule 47 shall apply to any authorized insurer as defined in R.S. 22:46(3) operating in Louisiana, and to any approved unauthorized insurer, eligible unauthorized insurer, or domestic surplus lines insurer as defined in R.S. 22:46(17.1) operating in Louisiana (sometimes hereinafter referred to as a surplus lines insurer).

C. Emergency Rule 47 shall apply to every health and accident insurer, health maintenance organization (HMO), managed care organization (MCO), preferred provider organization (PPO), pharmacy benefit manager (PBM), and third party administrator (TPA) acting on behalf of a health insurance issuer, HMO, MCO, PPO, and any and all other insurance related entities licensed by the commissioner or doing business in Louisiana (collectively known as “health insurance issuers”).

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§4703. Applicability and Scope

A. Emergency Rule 47 shall apply to any and all kinds of insurance set forth in R.S. 22:47, including, but not limited to, life, vehicle, liability, workers’ compensation, burglary and forgery, fidelity, title, fire and allied lines, steam boiler and sprinkler leakage, crop, marine and transportation, miscellaneous, homeowners’, credit life, credit health and accident, credit property and casualty, annuity, surety, and industrial fire. The applicability of Emergency Rule 47 to health and accident insurance is specified in §4703.B.

B. Emergency Rule 47 shall apply to any and all kinds of health and accident insurance, including, but not limited to, group and individual health and accident insurance, limited benefit insurance, Medicare supplement insurance, Medicare select insurance, HMOs, PPOs, MCOs except those subject only to licensure and financial solvency regulation pursuant to R.S. 22:1016, excess loss insurance, stop loss insurance, disability income insurance, short-term health insurance, long-term care insurance, and any and all other health insurance.

C. Section §4715 and Section §4727.B of Emergency Rule 47 shall apply to only those kinds of insurance provided for in §4703.A and those types of insurers specified in §4701.B.

D. Sections §4713, §4719, §4721, §4725, §4727.A, §4731, §4733, and §4735 of Emergency Rule 47 shall apply only to those kinds of insurance provided for in §4703.B and those health insurance issuers specified in §4701.C.

E. All provisions of Emergency Rule 47 not expressly limited in §4703.C and D shall apply to all types of insurers and all kinds of insurance as defined in §4701 and §4703.

F. Nothing in §4703 shall be interpreted to apply the provisions of Emergency Rule 47 to policies of insurance issued for the benefit of insureds not subject to the Benefits, Entitlements, and Protections enumerated in §4701.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§4705. Cancellation, Nonrenewal, and Nonreinstatement

A. Emergency Rule 47 hereby suspends any notice of cancellation, notice of nonrenewal, nonreinstatement or any other notice related to any of the types of insurance enumerated in §4703 that was in force and effect at 12:01 a.m. on August 26, 2021, and any such notice shall be null and void and have no force of effect. Furthermore, any such notice shall be reissued de novo to the insured in accordance with existing statutory requirements after the expiration of Emergency Rule 47 as provided for in §4749.

B. Insurers may issue a notice of cancellation for non-payment of premium during the pendency of Emergency Rule 47. When any such notice is issued during the pendency of Emergency Rule 47, the applicable notice period required by statute or the policy may begin to run, but in no event may the insurer cancel the insurance policy for non-payment of premium until after the expiration of Emergency Rule 47.

C. No policy shall be cancelled or nonrenewed solely because of a claim that is filed during or is caused by Hurricane Ida or its aftermath.

D. Unless otherwise expressly authorized in writing by the commissioner, the cancellation, nonrenewal or nonreinstatement of any insurance policy related to any of the types of insurance enumerated in §4703 is hereby suspended and shall not be allowed until after the expiration of Emergency Rule 47 as provided for in §4749.

E. All cancellation, nonrenewal, or nonreinstatement provisions, including, but not limited to, R.S. 22:272, 22:887, 22:977, 22:978, 22:1068, 22:1074, 22:1266, 22:1267, and 22:1335 are hereby suspended, except to the extent such provisions apply to acts or practices constituting fraud or intentional misrepresentations of material fact.

F. As set forth in §4737, Emergency Rule 47 shall not prevent an insurer from cancelling or terminating an insurance policy for fraud or material misrepresentation on the part of the insured.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§4707. Renewal

A. The renewal conditions of all kinds of insurance enumerated in §4703 that are subject to renewal after the effective date of Emergency Rule 47 are suspended and shall be deferred until the expiration of Emergency Rule 47 as provided for in §4749. All policies subject to renewal after the effective date of Emergency Rule 47 shall continue in full force and effect at the previously established premium until the expiration of Emergency Rule 47 as provided for in §4749. The previously established premium for renewals by authorized insurers shall be based on the rate structure, rating plan and manual rules that are approved by the Commissioner of Insurance, regardless of whether their effective date was before or during Emergency Rule 47. The previously established premium by authorized insurers for renewals of commercial deregulated insurance policies shall be based on the rate structure, rating plan and manual rules set forth in any filing submitted to the Commissioner of Insurance before or during Emergency Rule 47.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§4709. Written Request for Cancellation by Insured

A. Except as provided for in §4737 herein, a cancellation shall not occur prior to the expiration of Emergency Rule 47 unless upon the documented written request or written concurrence of the insured. This written consent may be in electronic format.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§4711. New Policies

A. Emergency Rule 47 shall not apply to any new insurance policy for any of the kinds of insurance enumerated in §4703 if said insurance policy is issued on or after August 26, 2021.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47: _____

§4713. Claims Notification

A. All claims notification procedures, including, but not limited to, R.S. 22:975(A)(3)-(5), Regulation 33, and Regulation 74, are suspended.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§4715. Premium Offset

A. All insurers subject to Emergency Rule 47 receiving a claim from an insured owing a premium may offset the premium owed by the insured against any claim payment made to the insured under the insurance policy. Section §4715 shall not apply to health insurance issuers as defined in §4701.C.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§4717. Obligation of Insured to Pay Premium

A. Unless otherwise cancelled in accordance with the provisions of §4709 herein, nothing in Emergency Rule 47 shall be construed to exempt or excuse an insured from the obligation to pay the premiums otherwise due for actual insurance coverage provided.

B. Those insureds entitled to the benefits, entitlements and protections of Emergency Rule 47 are advised that this suspension is not a waiver, but only an extension or grace period to facilitate your payment of the premium.

C. Insurers are directed to work with and assist their affected insureds who reside in the impacted parishes with the payment of the premium that would have become due during this moratorium period by either establishing for the insured a payment plan for the unpaid premium or providing to the insured a further extension for the payment of the unpaid premium.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§4719. Timely Payment of Health Claims

A. Only to the extent necessary to permit the pending of claims during a premium payment delinquency by the insured, the provisions of R.S. 22:1832-1834 and Regulation 74 related to timely payment of claims are hereby suspended.

B. For any policy of insurance described in §4703.B which, as a result of nonpayment of premium, would be subject to cancellation or termination but for the suspension ordered in §4705, the health insurance issuer may pend all claims which would not have been denied under such cancellation or termination until the health insurance issuer receives the delinquent premium payment or until such time the health insurance issuer is subsequently entitled to cancel or terminate the policy for non-payment of premium.

C. The health insurance issuer shall notify providers of the possibility for denied claims when and insured is in the grace period.

D. Once a health insurance issuer receives the delinquent premium payment during the grace period, all pending claims associated for the time period to which such payment applies shall be processed and adjudicated. The health insurance issuer shall notify the health care provider that the claim is no longer pending and is being processed and adjudicated for payment. Furthermore, the suspension provided for in §4719.A shall be automatically lifted and all applicable timely payment requirements reinstated upon the date of the payment of premium.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47: _____

§4721. Nonpayment of Health Claims

A. In the event a health insurance issuer pends a claim, as permitted pursuant to §17931, and is subsequently entitled to cancel or terminate a policy for nonpayment of premium, the health insurance issuer shall pay any remaining claims for which payment is required under §17931.B. After the

first month of the grace period has lapsed, the health insurance issuer may deny payment on pended claims for services rendered to the insured during the period of nonpayment.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§4723. Insureds Obligation to Cooperate in Claim Process

A. Emergency Rule 47 shall not relieve an insured who has a claim filed before or during the pendency of Emergency Rule 47 from compliance with the insured's obligation to provide information and cooperate in the claim adjustment process relative to the claim.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§4725. Physician Credentialing

A. The commissioner hereby suspends physician credentialing pursuant to R.S. 22:1009 such that there are no credentialing requirements with regard to any and all licensed physicians who provide medical services to insureds identified in §4701.A or §4701.B between 12:01 a.m. on August 26, 2021, and the expiration of Emergency Rule 47 as provided for in §4749.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§4727. New Rate or Premium

A. For all health insurance issuers specified in §4701.C, any rate increases that were filed prior to the effective date of Emergency Rule 47, or any rate increase that did not require a filing with the commissioner regarding which notice had already been sent to the group policyholder prior to the effective date of Emergency Rule 47, may be implemented as scheduled. No other rate increase may be implemented unless approved by the commissioner.

B. For all other insurers, as specified in §4701.B, Emergency Rule 47 shall not affect the right of any insurer to file for and/or implement a new rate or premium for any insurance policy for the types of insurance enumerated in §4703.A if the new rate or premium has been approved by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§4729. Imposition of Interest, Penalty, or Other Charge

A. The commissioner hereby suspends the imposition of any interest, penalty, or other charge and declares that no interest, penalty, or other charge shall accrue or be assessed against any insured as the result of the suspensions ordered in Emergency Rule 47.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§4731. Continuation of Health Coverage

A. The commissioner hereby suspends R.S. 22:1046. In furtherance thereof, a health insurance issuer who has issued a group health insurance policy shall provide to all members or certificate holders under said group policy the option for the continuation of coverage, which said option shall begin on the day after the end the expiration of Emergency Rule 47 as provided for in §4749. This section is only applicable in those situations where the employer to whom the group policy had been issued remains in business and continues to offer said group health insurance to active employees for the duration of Emergency Rule 47.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§4733. Prescription Drug Coverage

A. Health insurance issuers shall allow insured individuals to obtain refills of their prescriptions even if the prescription was recently filled, consistent with approval from patients' health care providers and/or pharmacists. This provision does not apply to prescription drugs with a high likelihood of abuse, such as opioids that are restricted to 7-day prescriptions.

B. The commissioner hereby suspends any provisions in the Louisiana Insurance Code which place restrictions on replacement prescriptions pertaining to mail order prescriptions. Mail order prescriptions shall be mailed to an alternate address if requested by the insured.

C. All health insurance issuers shall waive any and all restrictions relative to out-of-network access to pharmacy services or prescriptions.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§4735. Telemedicine Access

A. Health insurance issuers shall waive any coverage limitations restricting telemedicine access to providers included within a plan's telemedicine network.

B. Health insurance issuers shall waive any requirement that the patient and provider have a prior relationship in order to have services delivered through telemedicine.

C. Health insurance issuers shall cover mental health services provided by telemedicine consultation to the same extent the services would be covered if provided through an in-person consultation. This shall not be interpreted to require coverage of telemedicine services that cannot be appropriately provided remotely.

D. Health insurance issuers shall waive any requirement limiting coverage to provider-to-provider consultations only and shall cover telemedicine consultations between a patient and a provider to the extent the same services would be covered if provided in person.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§4737. Fraud or Material Misrepresentation

A. Emergency Rule 47 shall not prevent an insurer from cancelling or terminating an insurance policy for fraud or material misrepresentation on the part of the insured.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§4739. Exemption from Compliance

A. Notwithstanding any other provision contained herein, the commissioner may exempt any insurer from compliance with Emergency Rule 47 upon the written request by the insurer setting forth in detail each and every reason for the exemption and then only if the commissioner determines that compliance with Emergency Rule 47 may be reasonably expected to result in said insurer being subject to undue hardship, impairment, or insolvency.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§4741. Sanctions for Violations

A. The commissioner retains the authority to enforce violations of Emergency Rule 47. Accordingly, any insurer enumerated in Emergency Rule 47 or any other entity doing business in Louisiana and/or regulated by the commissioner who violates any provision of Emergency Rule 47 shall be subject to regulatory action by the commissioner under any applicable provisions of the Louisiana Insurance Code.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§4743. Sixty Day Period to Initiate Adjustment of Property Claims

A. In accordance with R.S. 22:1892(A)(3), Hurricane Ida and its aftermath qualifies as a catastrophic loss event that requires insurers to initiate loss adjustment of a property damage claim within thirty (30) days after notification of loss by the insured claimant.

B. In furtherance of R.S. 22:1892(A)(3), the severity of the devastation caused by Hurricane Ida and its aftermath qualifies for an additional thirty (30) days for insurers to initiate loss adjustment of a property claim after notification of loss by the insured claimant.

C. Therefore, insurers shall have a total of sixty (60) days to initiate loss adjustment of a property damage claim after notification of loss by the insured claimant.

D. This declaration is based on the representation that the additional time period is necessary due to the large volume of claims resulting directly from Hurricane Ida and its aftermath, and with the admonition that insurers will promptly identify, evaluate, and resolve these claims. Insurers must continue to provide timely service to their insured claimants by promptly acknowledging receipt of claims and making appropriate assignments for the adjustment of claims.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§4745. Authority

A. The commissioner reserves the right to amend, modify, alter, extend, or rescind all or any portion of Emergency Rule 47.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§4747. Severability Clause

A. If any section or provision of Emergency Rule 47 or its application to any person or circumstance is held invalid, such invalidity or determination shall not affect other section or provision or the application of Emergency Rule 47 to any person or circumstance that can be given effect without the invalid section or provision or application, and for these purposes the sections and provisions of Emergency Rule 47 and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§4749. Effective Date

A. Emergency Rule 47 became effective at 12:01 a.m. on August 26, 2021 and shall continue in full force and effect until either 11:59 p.m. on September 27, 2021 or 11:59 p.m. on the cessation date of the Governor's Proclamation No. JBE 2021-165, inclusive of any renewal thereof, whichever occurs first.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

James J. Donelon
Commissioner

2109#014

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Gaming Control Board

Louisiana Sports Wagering
(LAC 42:III.102, 104, 105, 107, 120,
2737, and Part VI. Chapters 1 - 13)

The Gaming Control Board is exercising the emergency provision of the Administrative Procedure Act, specifically R.S. 49:953.1 and also R.S. 27:15 and 24, to promulgate an Emergency Rule to implement the initial administrative rules for the conducting, application, licensing, enforcement, and regulation of sports wagering.

During their 2021 Regular Session, the Louisiana Legislature adopted Act 440, which directs the Gaming Control Board to adopt emergency rules for the promulgation of the initial administrative rules pertaining to

sports wagering that shall be considered to constitute a matter of imminent peril to public health, safety, and welfare. The proposed Rule codifies Acts 80, 440, and 435 of the 2021 Regular Legislative Session and Act 215 of the 2020 Regular Legislative Session that enact the Louisiana Sports Wagering Act and authorizes the conducting, application, licensing, permitting, enforcement, collection of fees and taxes, and regulation of racehorse wagering and sports wagering.

The Gaming Control Board has determined that this Emergency Rule is necessary to comply with the legislative mandate in Act 440 of the 2021 Regular Session of the Louisiana Legislature. This Emergency Rule shall become effective August 23, 2021 and shall remain in effect for the maximum period allowed by the APA unless extended or rescinded.

Title 42

LOUISIANA GAMING

Part III. Gaming Control Board

Chapter 1. General Provisions

§102. Issuance and Renewal of Licenses by the Department

A. The department is authorized to issue to qualified applicants, non-key gaming employee permits and non-gaming vendors' licenses, and to renew licenses for the operation of video draw poker devices at facilities with no more than three video draw poker devices at their licensed establishment. The department is authorized to determine the applicants' qualifications in accordance with law, including but not limited to the provisions of the Louisiana Riverboat Economic Development and Gaming Control Act, R.S. 27:41 et seq., the Video Draw Poker Devices Control Law, R.S. 27:401 et seq., the Louisiana Economic Development and Gaming Corporation Act, R.S. 27:201 et seq., or the Louisiana Fantasy Sports Contests Act, R.S. 27:301, the Louisiana Pari-Mutuel Live Racing Facility Economic Redevelopment and Gaming Control Act, R.S. 27:351 et seq., the Louisiana Sports Wagering Act, R.S. 27:601, and rules promulgated in accordance therewith, when such provisions and rules are not in conflict with any provisions of the Louisiana Gaming Control Law, 1996 Acts, First Extraordinary Session, Number 7, enacting R.S. 27:1 et seq., and rules promulgated in accordance therewith.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:1140 (November 1996), amended LR 47:256 (February 2021), LR.

§104. Delegation to Chairman

A. - A.3. ...

4. issue a riverboat gaming operator license, a sports wagering license, a sports wagering platform provider, or a fantasy sports contest operator license, provided that the chairman may determine that conditions imposed on a conditionally licensed riverboat gaming operator, sports wagering licensee, sports wagering platform provider, or licensed fantasy sports contest operator have been met;

5. ...

6. approve transfers of ownership interests in a riverboat gaming operator licensee, the casino gaming operator, a sports wagering licensee, sports wagering platform providers, a fantasy sports operator or a qualified video poker truck stop facility.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Gaming Control Board, LR 22:1140 (November 1996), amended LR 25:80 (January 1999), amended LR 47:256 (February 2021), LR 47:

§105. Civil Penalties

A. The department is authorized to take enforcement action by imposing civil penalties against any entity that has a license, permit or casino contract, for violation of the provisions of the Louisiana Riverboat Economic Development and Gaming Control Act, R.S. 27:41 et seq., the Video Draw Poker Devices Control Law, R.S. 27:401 et seq., the Louisiana Economic Development and Gaming Corporation Act, R.S. 27:201 et seq., the Louisiana Fantasy Sports Contests Act, R.S. 27:301, the Louisiana Pari-Mutuel Live Racing Facility Economic Redevelopment and Gaming Control Act, R.S. 27:351 et seq., the Louisiana Sports Wagering Act, R.S. 27:601, or rules promulgated in accordance therewith, provided that such provisions and rules are not in conflict with any provisions of the Louisiana Gaming Control Law, 1996 Acts, First Extraordinary Session, Number 7, enacting R.S. 27:1 et seq., and rules promulgated in accordance therewith.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:1138 (November 1996), amended LR 47:256 (February 2021), LR 47:

§107. Standards of Conduct and Ethical Rules

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

C. As used in this rule, and for the purposes of R.S. 27:13, *Licensee* or *Permittee* shall mean any person who holds a license or permit issued pursuant to the provisions of the Louisiana Riverboat Economic Development and Gaming Control Act, R.S. 27:41 et seq., the Louisiana Economic Development and Gaming Corporation Act, R.S. 27:201 et seq., the Video Draw Poker Device Control Law, R.S. 27:401 et seq., the Louisiana Fantasy Sports Contests Act, R.S. 27:301, the Louisiana Pari-Mutuel Live Racing Facility Economic Redevelopment and Gaming Control Act, R.S. 27:351 et seq., the Louisiana Sports Wagering Act, R.S. 27:601, or the Louisiana Gaming Control Law, R.S. 27:1 et seq., specifically including, but not limited to, manufacturers, distributors, suppliers, vendors, device owners, service entities, persons furnishing services or goods material and integral to the operation of a riverboat, gaming employees, key employees, non-key employees, equity owners, contractors, and all establishments regardless of the number of gaming devices in operation at the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:1139 (November 1996), amended LR 47:256 (February 2021), LR 47:

§120. Application and Reporting Forms

A. - A.7.xix. ...

8. Sports Wagering

a. Sports Wagering License Application, DPSSP 6760, including, but not limited to:

- i. instructions;
- ii. application for sports wagering license;
- iii. applicant information;

- iv. ownership interests;
- v. general information;
- vi. records/books information;
- vii. professional services information;
- viii. gaming information (miscellaneous);
- ix. general applicant information;
- x. financial disclosure information;
- xi. affidavit of full disclosure;
- xii. applicant's request to release information;
- xiii. verification;
- xiv. release of all claims;
- xv. business tax information authorization request;
- xvi. federal business, trusts, estates, etc., consent to

disclosure of tax information;

xvii. federal internal revenue service gaming tax clearance certificate;

xviii. state business, trusts, estates, etc., consent to disclosure of tax information;

xix. Louisiana Department of Revenue and taxation tax clearance certificate.

b. Sports Wagering Platform Provider Permit Application, DPSSP 6761 including, but not limited to:

i. instructions;

ii. application for sports wagering platform provider permit;

iii. applicant information;

iv. ownership interests;

v. general information;

vi. records/books information;

vii. professional services information;

viii. gaming information (miscellaneous);

ix. general applicant information;

x. financial disclosure information;

xi. affidavit of full disclosure;

xii. applicant's request to release information;

xiii. verification;

xiv. release of all claims;

xv. business tax information authorization request;

xvi. federal business, trusts, estates, etc., consent to disclosure of tax information;

xvii. federal internal revenue service gaming tax clearance certificate;

xviii. state business, trusts, estates, etc., consent to disclosure of tax information;

xix. Louisiana Department of Revenue and taxation tax clearance certificate.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR. 26:340 (February 2000), amended LR 40:1379 (July 2014), LR 41:2176 (October 2015), LR 42:575 (April 2016), amended LR 47:256 (February 2021), LR 47:

§2737. Casino Gaming Payment Interception

A. The Department of Children and Family Services (DCFS) shall provide real-time or immediate electronic access to a database containing current information for persons having child support arrearages or overpayments. This access shall be available to the entities licensed or permitted under chapters 1, 4, 5, 7, or 10 of title 27 of the *Revised Statutes*.

1. Upon the availability of a single-point inquiry system, which allows for searches of one or more real-time databases containing debt information to entities licensed or permitted under chapters 1, 4, 5, 7, or 10 of title 27 of the *Revised Statutes* the requirements of this Section will apply to that system. Debts owed to DCFS maintain priority over debts from this system in accordance with R.S. 47:1676(D)(4)(d).

B.1. Prior to issuing payment of winnings (either cash [including any sports wagering winnings] or a second or later progressive slot machine annuity payment) in an amount requiring the filing of a W-2G or substantially equivalent form, the payor shall access the DCFS database and/or any other system implemented in accordance with Subsection A of this Section to determine if the winning patron is recorded as owing overdue child support or receiving child support overpayments, or owing other debts to the state.

2. If the patron is recorded as owing a debt in the system(s), the payor may deduct up to \$35 as an administrative fee and shall then intercept the amount noted from the patron's winnings. Any amount remaining following the deduction of the administrative fee, intercept amount, and any other deductions required by law shall then be paid to the winning patron.

3. If the winning patron's information is not recorded in the database, a licensee shall maintain a record of the negative search results for each payment made to a cash prize winner by attaching a print out of the negative results or similar "No Record Found" page generated by the database to the jackpot payout slip. A generated log of all searches made may be printed and maintained in the licensee's accounting records in lieu of attaching the negative results record to each jackpot payout slip.

4. If the winning patron's information is not recorded in the database(s), a permittee who issues a second or later progressive slot annuity payment shall maintain a copy of the negative results or other "No Record Found" page generated by the database for each payment made to a progressive slot jackpot annuitant.

5. If the winning patron's information is not recorded in the database(s), a sports wagering operator shall maintain a record of the negative search results for each payment made to a sports wagering winner via electronic record or by attaching a printout of the negative results or similar "No Record Found" page generated by the database to the winning ticket or some other division approved report listing all winners issued a W-2-G. A generated log of all searches made may be created and maintained in the sports wagering operator's accounting records in lieu of attaching the negative results record to each ticket. If available, the log shall be retained with the division approved report of winners issued a W-2-G.

C.1. - 2. ...

D.1. Licensee's and sports wagering operator's internal controls shall include, but not be limited to, the following:

a. - b. ...

c. procedures designed to prevent employees from willfully failing to withhold intercept payments identified in one or more state systems providing access to the casino or sports book operation or platform;

d. - k. ...

1. procedures for attaching or maintaining a copy of the winning patron's interception receipt to the jackpot slip, ticket, or division approved W-2-G report maintained by the cashier or sports wagering operator;

m. procedures for attaching the documentation required by Subsection F of this Section to the jackpot slip, ticket or division approved W-2-G report in the event the database is inaccessible;

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

F. Any licensee or permittee searching the database or withholding money in accordance with R.S. 27:24(A), R.S. 47:1676(D)(4), and this Section, shall submit a monthly report to the division by the twentieth day of the month detailing the total number of searches of the databases, the number of matches found, the amount of winnings withheld, the amount of administrative fees retained for the preceding month, and a breakdown of the amount withheld for each database.

G.1. In the event the database is off-line when a search is made, a licensee or sports wagering operator shall not be responsible for intercepting cash winnings provided it prints a copy of the screen notification that the system is inaccessible, records the name and prize amount for the winning patron, and timely notifies the appropriate database contact for each database down, of the error to ensure the technical difficulty is not with the licensee or sports wagering operator. The unavailability of the database shall not affect interception requirements for second or later progressive slot machine annuity payments.

2. Licensees and sports wagering operators may notify the appropriate database operator that the database is either off-line or experiencing other technical difficulties by electronic mail sent to an address provided by the appropriate database operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 37:1415 (May 2011), amended LR 41:1494 (August 2015), LR 47:

Part VI. Sports Wagering

Chapter 1. General Provisions

§101. Statement of Policy

A. The rules contained herein are promulgated for the purpose of facilitating implementation of the sports wagering act referred to as the Louisiana Sports Wagering Act, R.S. 27:601 et seq., to achieve the effective regulation of sports wagering, and to maintain the health, welfare, and safety of the public. These considerations shall control the application and interpretation of the rules. Any subsequent restatement, repeal, or amendment of these regulations shall be in accordance with the aforementioned considerations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§103. Definitions

A. The provisions of the Act relating to definitions, words and terms are hereby incorporated by reference and made a part hereof and will therefore apply and govern the interpretation of these regulations, unless the context otherwise requires or unless specifically redefined in a particular Section. Any word or term not defined in these regulations shall have the same meaning ascribed to it in the

Act. Any word not defined by the Act or these regulations shall be construed in accordance with its plain and ordinary meaning.

B. As used in this Chapter, the following words and terms shall have the following meanings:

Act—the provisions of the Louisiana Gaming Control Law, R.S. 27:1 et seq. and all provisions of the Louisiana Sports Wagering Act, R.S. 27:601 et seq.

Applicant—the same meaning as the term has in R.S. 27:602.

Application—the same meaning as the term has in R.S. 27:602.

Associated Persons—any person required by the Act or these regulations including, but not limited to, R.S. 27:28 and Section 2107 of Part III of this Title to submit to and meet suitability and any persons the board or division determines needs to submit to and meet suitability on the license including, but not limited to: directors; officers; and managers.

Board—the same meaning as that term in R.S. 27:11.

Business Year—the same meaning as the term has in Section 1701 of Part III of this Title.

Canceled Wager—a sports wager canceled by the operator due to an issue preventing the completion of the event or causing the subject of the bet to cease to exist.

Chairman—the chairman of the board.

Collegiate Sport or Athletic Event—a sport or athletic event offered or sponsored by or played in connection with a public or private institution that offers educational services beyond the secondary level.

Confidential Information—information related to the play of a sports wagering by players that is obtained as a result of or by virtue of a person's employment.

Division—the same meaning as the term has in R.S. 27:3.

Economic Interest—any interest in a licensee or permittee from which a person receives or is entitled to receive, by agreement or otherwise, a profit, gain, thing of value, loss, credit, security interest, ownership interest or other benefit. Economic interest includes voting shares of stock or otherwise exercising control of the date to day operations. Economic interest does not include a debt unless upon review of the instrument, contract, or other evidence of indebtedness, the board or division determines a finding of suitability is required based upon the economic relationship with the licensee or permittee.

Financial Statements or Financial Records—the same meaning as the term has in Section 1701 of Part III of this Title.

Gaming Employee—the same meaning as the term has in Section 1701 of Part III of this Title.

Gaming Employee Permit or Employee Permit—the same meaning as the term has in Section 1701 of Part III of this Title.

Gaming Equipment—the same meaning as the term has in Section 1701 of Part III of this Title, plus any equipment or devices that the board or division finds or determines to be used or expended in sports wagering operations or activities.

Gaming Supplier—the same meaning as the term has in R.S. 27:3.

Gaming Supplier Permit—the same meaning as the term has in Section 1701 of Part III of this Title.

Gaming Supplies—has the same meaning as the term has in Section 1701 of Part III of this Title, plus services provided to the licensee or permittee that the board or division finds or determines to be used or expended in sports wagering operations or activities.

Geofence or Geofencing—a virtual geographic boundary defined by global positioning system (GPS) or radio-frequency identification (RFID) or other technology that enables software to trigger a response when a mobile device enters or leaves a particular area.

Geolocation—the process or technique of identifying the geographical location of a person or device by means of digital information processed by digital means.

In-Game Wagering—a sports wager placed on the outcome of a sports event after the sports event has started and can continue during the course of live play of the sports event.

In-Play Bet or Live Bet—a sports wager placed after the sports event has started on some specific action during the game that does not include the final outcome of the event.

Inactive Account—a sports wagering account that has not been logged into or has had no activity for a period of three years.

Independent Integrity Monitoring Provider—an independent individual or entity permitted as a sports wagering service provider and approved by the board to receive reports of unusual wagering activity from an operator for the purpose of assisting in identifying suspicious wagering activity.

Key Gaming Employee—the same meaning as that term in in Section 1701 of Part III of this Title.

Layoff Bet—a sports wager placed by an operator with another operator for the purpose of offsetting sports wagers made by players pursuant to the Act.

Non-Gaming Supplier or Supplier of Goods or Services Other than Gaming Devices or Gaming Equipment—the same meaning as the term has in Section 1701 of Part III of this Title.

Non-Gaming Supplier Permit—the same meaning as the term has in Section 1701 of Part III of this Title.

Non-Key Gaming Employee—the same meaning as the term has in Section 1701 of Part III of this Title.

Non-Key Gaming Employee Permit—the same meaning as the term has in Section 1701 of Part III of this Title.

Parlay Bet—a sports wager that involves two or more sports wagers combined into one wager.

Prohibited Parish—a parish in which, at the election held pursuant to R.S. 18:1300.24, a majority of the qualified electors in the parish voting on the proposition to authorize sports wagering activities and operations in the parish voted against the proposition.

Prohibited Player—a person who is prohibited from placing a sports wager for reasons including, but not limited to: prohibited by R.S. 27:608; is under the age of 21; has self-restricted or self-excluded from the platform or operator or licensee; is employed by a sports wagering licensee or permittee; or is excluded or prohibited for any other reason.

Prohibited Sports Event—a sports event prohibited by R.S. 27:602 or by the board.

Promotional Play—non-cashable vouchers promotional chips, coupons, electronic credits, electronics promotions, scrips, or any other cash equivalent that is provided to the patron by the operator or licensee used for sports wagering.

Proposition Bet—a sports wager made regarding the occurrence or non-occurrence during a sports event of an event that does not directly affect the final outcome of the sports event.

Segregated Account—a financial account that segregates the funds of players such that the operator's operational funds may not be commingled.

Sports Governing Body—an organization that performs a regulatory or sanctioning function over the conduct of a sports event as recognized by the board (e.g. NFL, NBA, NCAA, Olympic Committee).

Sports Wagering Lounge or *Sports Book Lounge*—approved area on the premises of a sports wagering licensee where it offers wagering on sports events.

Sports Wagering Ticket or *Ticket*—a printed record issued or an electronic record maintained by the sports wagering platform that evidence a sports wager.

Spread—the predicted scoring differential between two persons or teams engaged in a sports event.

Straight Bet—a sports wager on a single game or single sports event that will be determined by a point spread, money line, or total score.

Suspicious Wagering Activity—unusual betting activity that cannot be explained and is indicative of match fixing, the manipulation of a sports event, misuse of inside information, money laundering, or other prohibited activity.

Unusual Wagering Activity—abnormal sports wagering activity exhibited by players and deemed by an operator as a potential indicator of suspicious wagering activity. Unusual wagering activity may include the size of a player's sports wager or increased sports wagering volume on a particular event or sports wager type.

Voided Wager—a sports wager voided by an employee of the licensee or operator and approved by a supervisor or higher pursuant to the internal controls or house rules.

Voucher—a printed sports wagering instrument, or digital representation thereof, used in a cashless wagering system that has a fixed dollar wagering value and is redeemable for cash or cash equivalents approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§105. Gaming Control Board; Duties and Powers

A. The board shall perform the duties and functions as authorized by the provisions of these regulations and the regulatory authority with respect to the regulation of sports wagering as provided by R.S. 27:1 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§107. Construction of Regulations

A. Severability

1. Nothing contained in these regulations shall be so construed as to conflict with any provision of the Act or any other applicable statute. If any regulation is held invalid by a final order of a court of competent jurisdiction at the state or

federal level, such provision shall be deemed severed and the court's finding shall not be construed to invalidate any other regulation.

B. Captions, pronouns, and gender

1. Captions appearing at the beginning of regulations are descriptive only, are for convenient reference to the regulations and in no way define, limit or describe the scope, intent or effect of the regulation. Masculine or feminine pronouns or neuter gender may be used interchangeably and the plural shall be substituted for the singular form and vice versa, in any place or places in the regulations where the context requires such substitution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

Chapter 3. Licensing

§301. Licenses, General

A. No person, business, or legal entity shall operate a sports book without first being licensed by the board.

B. Sports wagering licenses shall be applied for, issued, and regulated according to the Act, including, but not limited to R.S. 27:1 et seq., Part III of this Title, and this Part.

C. A license shall be issued in the name of the person responsible for a sports book.

D. Any license issued by the board or division is deemed to be a revocable privilege, and no person holding such a license is deemed to have acquired any vested rights therein.

E. All licenses shall be surrendered to the board or division upon their expiration or revocation at which time they will be destroyed unless needed for a pending investigation.

F. Licenses are not transferable or assignable. If the status of the sports wagering licensee should change such that the person no longer needs or is entitled to the license, then the license shall be canceled and any tangible item which evinces such a license shall be surrendered to the board or division within five days of the change of status. Any license surrendered shall be marked canceled or destroyed.

G. Application Process and Notification

1. Bid Process after Initial Licensing Period if More Applicants than Licenses Available

a. Consideration for licensure shall be in accordance with R.S. 27:604.

b. No application shall be accepted after the close of the applicable application period.

c. Applicants and associated persons who are required to submit to suitability shall submit fingerprints and all required forms within 30 days after the close of the application period. An applicant may request an extension of up to 30 days for good cause shown. If all required forms and fingerprints are not submitted timely, the applicant shall be deemed ineligible and disqualified from that application period.

d. Applicants shall be notified in writing if they are deemed eligible or ineligible.

e. After every applicant that submitted during the applicable application period has been either deemed eligible or ineligible, the eligible applicants shall be evaluated and the board shall consider the following factors:

i. greatest potential for revenue generation for the state;

ii. the character, reputation, experience, and financial integrity of the applicant and its associated persons who are required to submit to suitability;

iii. whether the applicant has adequate capitalization to establish and maintain a sports wagering operation for the duration of the license;

iv. the design of the sports book lounge; and

v. any other factor relevant to the security and integrity of the sports wagering industry in Louisiana.

f. The division shall conduct an investigation of the applicant and its associated persons to determine whether the applicant and its associated persons are suitable for licensure under the Act and these regulations.

g. Available licenses will be awarded at a public meeting of the board.

2. Notification of available license after initial issuance

a. Notification required by R.S. 27:604(B)(3)(a) to those entities listed in R.S. 27:604(B)(1) shall be satisfied by the board upon notifying the general manager(s) of said licensee(s) in writing.

b. Notification required by R.S. 27:604(B)(3) to those entities listed in R.S. 27:604(B)(2)(a) shall be satisfied by the board upon posting a statement about the availability of a license and the time period in which to apply on the board's website and in a public meeting of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§303. Permits, General

A. Permits for gaming suppliers, non-gaming suppliers, key gaming employees, and non-key gaming employees shall be applied for, issued, and regulated according to the Act, including, but not limited to R.S. 27:1 et seq., Part III of this Title, and this Part.

B. Permits are not transferable or assignable. If the status of the sports wagering permittee should change such that the person no longer needs or is entitled to the permit, then the permit shall be canceled and any tangible item which evinces such a permit shall be surrendered to the board or division within five days of the change of status. Any permit surrendered shall be marked canceled or destroyed.

C. Any permit issued by the board or division is deemed to be a revocable privilege, and no person holding such a permit is deemed to have acquired any vested rights therein.

D. All permits shall be surrendered to the board or division upon their expiration or revocation at which time they will be destroyed unless needed for a pending investigation.

E. Sports wagering platform providers

1. An applicant for a sports wagering platform provider permit shall submit its contract to operate all or a portion of a sports book on behalf of a licensee with the application. Any such contract must be contingent upon the permitting of the entity as a sports wagering platform provider.

2. A contract between a licensee and a sports wagering platform providers shall:

a. require the sports wagering platform provider to comply with the Act, these regulations, Federal and State laws, and all internal controls applicable to the sport's book; and

b. require the sports wagering platform provider comply with all requests of the board and division and grant the division access to all records, etc.

3. A sports wagering platform provider permittee shall provide the division with a readily available point of contact to ensure compliance.

F. Sports wagering service providers

1. Sports wagering service provider permits shall be a type of a gaming supplier permit in accordance with R.S. 27:29.2 and the fee for such a permit shall be in accordance with R.S. 27:623.

2. Entities that must submit as a sports wagering service provider include, but are not limited to, those providing geolocation, geofencing, patron identification, risk management, player account system, and integrity monitoring services.

3. An entity shall not engage in or provide support services for the operation of a sports book on behalf of an operator in this state without a sports wagering service provider permit and a contract to provide support services.

G. Sports wagering distributor

1. An entity may apply for a sports wagering distributor permit if it intends to market, buy, sell, lease, service, or repair sports wagering mechanisms in this state. Any such contract must be contingent upon the permitting of the entity as a sports wagering distributor.

2. An entity shall not market, buy, sell, lease, service, or repair sports wagering mechanisms in this state without a sports wagering distributor permit.

3. A sports wagering distributor permit shall be a type of gaming supplier permit in accordance with R.S. 27:29.2 and the fee for such a permit shall be in accordance with R.S. 27:624.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§305. Transfers of Interest; Loans and Restrictions

A. Any transfer of interest in a licensee or permittee shall be governed by and in accordance with the provisions of Chapter 25 of Part III of this Title.

B. All debt transactions shall be entered into in accordance with the provisions of Chapter 25 of Part III of this Title.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§307. Applications

A. General authority of board or division

1. The securing of a license, permit or approval required under the Act is a prerequisite for conducting, operating, or performing any activity regulated by the Act. Each applicant must file a complete application as prescribed by the board or division.

2. An applicant for a license or permit authorized by the Act is seeking the granting of a privilege, and the burden of proving qualification and suitability to receive the license or permit is at all times on the applicant.

3. Applicants shall demonstrate experience, reputation, competence, and financial responsibility consistent with the best interest of the Louisiana gaming industry and in compliance with the laws of this state.

4. An applicant accepts the risk of adverse public notice, embarrassment, criticism, or other action or financial loss that may result from action with respect to an application and expressly waives any claim for damages as a result thereof, except relating to willful misconduct by the board or division.

5. The filing of an application under the Act or these regulations constitutes a request for a decision upon the applicant's general suitability, character, integrity, and ability to participate or engage in or be associated with a licensee or permittee. By filing an application, the applicant specifically consents to the making of such a decision by the board or division.

6. Any false statement, including improperly notarized documents, contained in any report, disclosure, application, permit form, or any other document required by the Act or these regulations shall be a violation of these regulations and the Act.

7. Incomplete applications, including failure to pay fees may result in a delay or denial of a license.

B. Submission and filing of application

1. All original and renewal applications shall be submitted to the division by the United States Postal Service certified or registered mail, return receipt requested, private or commercial interstate carrier, electronic submission in accordance with Chapter 4 of Part III of this Title, hand delivery or other board-approved method of delivery.

2. Each application, including renewal applications, shall be deemed filed with the board or division when the application and fee have been received by the division, as evidenced by the date stamp on the application.

3. Renewal applications for licenses to conduct sports wagering shall be submitted to the division no later than 120 days prior to the expiration of the license.

4. Failure to timely file or submit an application may constitute grounds for delaying consideration of the application or for denial of the application or imposition of a civil penalty.

5. Entities currently licensed under La. R.S. 27:44, 27:205, or 27:353 who are applying for a Sports Wagering License must submit a Sports Wagering License Application, upon which its application for sports wagering shall be deemed complete for the purposes of the Act. The division reserves the right to request any other submissions that it deems necessary for these entities and their associated persons after the completed application is received.

C. Contents

1. An application is not complete nor is it considered filed with the division unless it is submitted with the required fee, is signed by the applicant, and contains all required information and documentation.

2. The applicant shall notify the division in writing of all changes to any information in the application within 15 business days of the effective date of the change.

3. An application may be amended upon approval of the board or division. A request to amend an application shall be in writing. A request to amend an application may have the effect of establishing the date of such amendment as the filing date of the application with respect to the time requirements for action on the application.

4. All applicants shall disclose any violation of law or regulation from any jurisdiction.

5. Applications shall be in accordance with the board's regulations and shall include all of the following:

a. the name of the applicant;

b. the applicant's primary place of business;

c. the names of all persons listed in, or required to submit to suitability pursuant to, the Act or these regulations including, but not limited to, R.S. 27:28(H)(1) and §2107 of Part III of this Title;

d. the names of employees and persons with substantial control of the applicant;

e. complete information and details with respect to the applicant and associated persons antecedents, habits, character, business activities, financial affairs, criminal history and business associates;

f. audited financial statements from the three most recently completed years;

g. company documents including, but not limited to, Articles of Organization, amendments, operating agreement, corporate certificates, Charters and Bylaws, Amended and Reinstated, meeting minutes, and Louisiana Secretary of State filings;

h. for operator applicants, a certification report from a designated gaming laboratory specified by the division or board indicating the sports wagering platform is in compliance with the Act, these regulations, division technical guidelines, Gaming Laboratories International Standard 33, and internal controls:

i. if an operator applicant does not have the certification report required in Subparagraph h of this Paragraph, an applicant may submit a sports wagering platform certification report from a jurisdiction in the United States where the applicant is currently licensed or permitted. The report must certify the platform to either the GLI 33 V1.1 standard or, at the discretion of the board, a standard deemed to be the equivalent of GLI-33 v1.1. This alternative certification report must include a list of all critical files and associated signatures and an appendix which lists the differences of any controlled items or processes required to be certified in Louisiana which were not certified in the jurisdiction in which the report was issued. Upon review of the certification report, the board will make a determination on whether to accept the certification or require additional information or documentation or testing;

(a) if an applicant submits the alternative certification report from another jurisdiction with its application, the applicant must, upon receipt, submit the certification report required in Subparagraph h of this Paragraph to the division in order to be eligible for licensing or permitting;

ii. additional information, documentation, testing, or certifications may be required by the division prior to operating the sports wagering platform or prior to licensing and permitting;

i. for sports wagering license applications, a detailed plan of design of its sports book lounge and other areas of its establishment where sports wagering mechanisms may be placed. If operating initially out of a temporary sports book lounge, the applicant shall also submit a construction schedule for its sports book lounge; and

j. such other information and details as the board or division may require in order to properly discharge its duties.

6. All applications shall contain a certification signed by a duly authorized representative of the applicant wherein the applicant certifies that:

a. the information contained therein is true and correct;

b. the applicant has read the Act and these regulations, and any other informational materials supplied by the division that pertain to sports wagering; and

c. the applicant agrees to comply with these regulations and the Act.

7. All applications shall contain an email address, a telephone number and permanent mailing address for receipt of correspondence and service of documents by the division.

8. A complete ownership chart with ownership percentage equaling 100%. Define all shareholders, parent companies, subsidiaries, holding companies, partnerships, and any joint ventures.

9. A corporate structure flow chart illustrating all directors, key officers, positions and title for each person listed on their ownership chart.

D. Associated Persons

1. The provisions of R.S. 27:27 [institutional investors or institutional lenders] and 27:28 [suitability standards] apply to applicants, licensees, and permittees.

2. Any person who has or controls directly or indirectly five percent or more ownership, income, or profit or economic interest in an entity which has or applies for a license or permit pursuant to the provisions of this Title, or who receives five percent or more revenue interest in the form of a commission, finder's fee, loan repayment, or any other business expense related to the sports wagering operation, or who has the ability or capacity to exercise significant influence over a licensee, a permittee, or other person required to be found suitable pursuant to the provisions of this Title, shall meet all suitability requirements and qualifications pursuant to the provisions of this Title.

3. In determining whether a person has significant influence for purposes of this Chapter, the board or division may consider, but is not limited to the following: management and decision-making authority; operational control; financial relationship; receipt of gaming revenue or proceeds; financial indebtedness; and gaming related associations.

4. Personal history questionnaires, personal financial questionnaires, and all other required forms shall be submitted for all associated persons along with the application.

5. Submissions will be required by, but not limited to, the following:

a. if the applicant is a corporation, each officer, director, and shareholder having a 5 percent or greater ownership interest;

b. if the applicant is a limited liability company, each officer, managing member, manager and any member having a 5 percent or greater ownership interest;

c. if the applicant is a general partnership or joint venture, each individual partner and co-venturer;

d. if the applicant is a limited partnership, the general partner and each limited partner having a 5 percent or greater ownership interest;

e. if the applicant is a registered limited liability partnership pursuant to R.S. 9:3431 et seq., the managing partner and each partner having a 5 percent or greater ownership interest; and

f. if such shareholder, owner, partner, or member from Paragraphs a through e of this Subsection is a legal entity, each officer, director, manager or managing member and each person with an indirect ownership or economic interest equal to or greater than 5 percent in the applicant.

6. Submissions may be required by any person who in the opinion of the board or division:

a. has significant influence over an applicant, licensee, or permittee;

b. receives or may receive any share or portion of the revenues associated with or generated from sports wagering or generated by gaming activities subject to the limitations provided in R.S. 27:28(H)(2)(b);

c. receives compensation or remuneration as an employee of an applicant, licensee or permittee in exchange for any service or thing provided to the applicant, sports wagering licensee or permittee; or

d. has any contractual agreement with applicant, licensee or permittee.

7. Failure to submit the documents required by this Section may constitute grounds for delaying consideration of the application or for denying the application.

E. Tax Clearances

1. The applicant and all persons required to submit to suitability pursuant to the Act or this Title shall provide tax clearances from the appropriate state agencies prior to the granting of a license or permit.

2. Failure to provide the tax clearances required by Subsection A of this Section may constitute grounds for delaying consideration or for denial of the application.

F. Fingerprinting

1. An initial application is not complete unless all persons required by the division have submitted to fingerprinting by or at the direction of the division.

2. Failure to submit to fingerprinting may constitute grounds for delaying consideration of the application or for denial of the application.

G. Truth of Information

1. All information included in an application shall be true, correct and a complete, accurate account of the information requested to the best of the applicant's knowledge as of the date submitted.

2. No applicant shall make any untrue statement of material fact in any application, form, statement, report or other document filed with the board or division.

3. An applicant shall not omit any material fact in any application, form, statement, report or other document filed with the board or division. The applicant shall provide all information that is necessary to make the information supplied in an application complete and accurate.

4. No applicant shall make any untrue statement in any written or verbal communication with the board or division.

H. Additional Information

1. All applicants shall provide all additional information requested by the division. If applicants fail to provide all additional information requested by the division, the application shall be considered incomplete.

2. Upon request of the board or division for additional information, the applicant shall provide the requested information within 10 days of receipt of written notice of the request or within such additional time as allowed by the board or division.

I. Application, Fees

1. All costs associated with conducting an investigation for suitability shall be borne by the applicant, licensee or permittee or the person who is the subject of the investigation.

2. An applicant shall pay all fees and costs associated with the application and investigation of the application as may be determined by the board.

3. Application fees for a sports wagering license or permit shall be charged and paid in accordance with the Act.

4. All costs associated with the application for and the investigation, granting, or renewal of licenses and enforcement of this Part shall be paid by the applicant.

J. Renewal Applications

1. The renewal application shall contain a statement made, under oath, by the applicant that any and all changes in the history and financial information provided in the previous application have been disclosed. This statement shall also be provided by each officer or director, each person with a 5 percent or greater economic interest in the applicant, and any person who, in the opinion of the board or division, has the ability to exercise significant influence over the activities of the applicant.

2. Renewal applications shall further contain:

a. a list of all civil lawsuits to which the applicant is a party instituted since the previous application;

b. a current list of all stockholders of the applicant, if the applicant is a corporation, or a list of all partners, if applicant is a partnership or limited partnership, or a list of all members if the applicant is a limited liability company, or a list of persons with a 5 percent or greater economic interest in the applicant. Applicants who are publicly traded corporations need not provide this information for any shareholder owning less than 5 percent of the applicant unless requested by the board or division;

c. a list of all administrative actions instituted or pending in any other jurisdiction against or involving the applicant, parent company of the applicant, or an affiliate related to gaming operations, sports wagering operations, fantasy sports operations, or alleged criminal actions or activities;

d. prior year's corporate or company tax return of the applicant;

e. a list of all charitable and political contributions made by the applicant during the last three years, indicating the recipient and amount contributed.

f. a complete ownership chart with ownership percentage equaling 100 percent. Define all shareholders, parent companies, subsidiaries, holding companies, partnerships, and any joint ventures; and

g. a corporate structure flow chart illustrating all directors, key officers, positions and title for each entity(s) listed on their ownership chart.

K. Withdrawal of Application

1. A request to withdraw an application shall be made in writing to the chairman or division at any time prior to

issuance of the determination with respect to the application. The board or division may deny or grant the request.

2. If a request to withdraw an application is granted, any temporary certificate of authority issued to the applicant shall be automatically rescinded without notice or further action of the board or division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§309. Suitability and Requirements

A. An applicant and its associated persons shall be required to submit to an investigation to determine suitability, and shall meet and maintain the suitability standards provided for the Act or these regulations, including, but not limited to, R.S. 27:28 and §2901 of Part III of this Title.

B. The board or division shall not issue a license, permit or finding of suitability to any person who fails to prove by clear and convincing evidence that he is suitable and qualified in accordance with the provisions of the Act and these regulations.

C. The applicant must prove by clear and convincing evidence that it has the competence and experience to conduct sports wagering, by demonstrating through training, education, business experience, or a combination thereof, the adequate business probity, competence, experience, and capability to conduct sports wagering.

D. The applicant shall demonstrate that the proposed financing of the applicant and business operation is adequate for the nature of operating sports wagering and is from a source suitable and acceptable to the board. Any lender or other source of money or credit that the board finds does not meet the standards set forth in this Subsection may be deemed unsuitable.

E. An application for a license to conduct sports wagering constitutes a request for a suitability determination, as described in R.S. 27:28, of the general character, honesty, integrity, and ability of any person associated with the applicant to participate or engage in, or be associated with sports wagering.

F. Before obtaining a license to offer sports wagering in this state, an applicant shall:

1. be a person domiciled in Louisiana or a domestic business entity with a certificate of existence from the Secretary of State and in good standing or a foreign corporation with a certificate of authority to transact business in this state from the Secretary of State and in good standing;

2. obtain and maintain all required local licenses and permits; and

3. provide the board with financial statements indicating any sports wagering revenues or gaming revenues for the previous three years.

G. An applicant, licensee, permittee, and all associated persons shall remain current in filing all applicable tax returns and in the payment of all taxes, interest and penalties owed to the state of Louisiana and the Internal Revenue Service, excluding items under formal appeal in accordance with applicable statutes and regulations, and items for which the Department of Revenue and Taxation or the Internal Revenue Service has accepted a payment schedule for taxes owed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§311. Continuing Suitability, Duty to Report

A. Suitability is an ongoing process. An applicant, licensee or permittee, or person required to submit to suitability by the Act or these regulations has a continuing duty to inform the board and division of any action which could reasonably be believed to constitute a violation of the Act or these regulations. This obligation to report is to be construed in the broadest possible manner; any question that exists regarding whether a particular action or circumstance constitutes a violation shall be decided in favor of reporting. The board and division shall be notified no later than 15 days from the date the applicant, licensee or permittee, or person knew or should have known of the possible violation. No person who so informs the board and division shall be discriminated against by an applicant, licensee or permittee because of supplying such information.

B. An applicant, licensee or permittee, or person required to submit to suitability by the Act or these regulations shall also have a continuing duty to inform the board and division of material changes in their affiliations, businesses, financial standing, operations, ownership relationships, corporate management personnel, officers or directors within 15 days of the change. However, in the case of a publicly traded company, this obligation shall be satisfied if such company files with the board and division copies of all form 10Ks, 10Qs, and 8Ks filed with the Securities and Exchange Commission within 15 days of the filing with the Securities and Exchange Commission.

C. An applicant, licensee or permittee, or person required to submit to suitability by the Act or these regulations shall also have a continuing duty to inform the board and division of all administrative actions instituted or pending in any other jurisdiction against or involving the applicant, licensee, permittee, or the parent corporation or affiliate of the applicant, licensee or permittee, within 15 days of receipt of notice of the administrative actions instituted or pending in any other jurisdiction.

D. Failure to report or provide notice required by this Section may constitute grounds for delaying consideration of the application or denial of the application, revocation, suspension, administrative action, or the imposition of a civil penalty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§313. Other Considerations for Licensing

A. The board may consider the following criteria when deciding whether to issue a license or a finding of suitability to conduct sports wagering or whether to continue licensing or finding a person suitable to participate in sports wagering. The various criteria set forth may not have the same importance in each instance. Other factors may present themselves in the consideration of licensing and a finding of suitability. The following criteria are not listed in order of priority:

1. applicant or licensee or permittee and its operation is properly financed;

2. adequate security. The board may consider whether the sports wagering platform is designed and secured in a manner that provides adequate security for all aspects of its operation and for players;

3. character and reputation. The board may consider the character and reputation of all persons identified with the ownership and operation of the applicant or licensee or permittee and their capability to comply with regulations and the Act; and

4. miscellaneous. The board may consider such other factors as may arise in the circumstances presented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§315. Surrender of a License

A. A license may not be surrendered without the prior approval of the board.

B. If a request to surrender a license is approved, the person is immediately eligible to apply for a license, unless the board or division has placed a condition that the applicant shall have to fulfill in order to reapply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§317. Temporary Certificate of Authority

A. The board may issue a temporary certificate of authority to an applicant for a sports wagering license, a sports wagering platform provider permit, or a sports wagering service provider permit pursuant to the Act and these regulations, if all of the following conditions are met:

1. the applicant has filed a complete application and all required fees to the board;

2. the applicant has substantially demonstrated to the satisfaction of the board that the applicant meets the requirements of the Act, these regulations, the board's rules including emergency rules, and the board's or division's orders;

3. for applicants for a sports wagering license, the applicant must be issued a Louisiana gaming license that is in good standing;

4. for applicants for a sports wagering platform provider or sports wagering service provider permit, the applicant must be issued a gaming license or permit for similar activity in Louisiana or another state of the United States of America and that license or permit must be in good standing; and

5. the applicant must agree in writing to the following conditions of the temporary certificate of authority issued pursuant to this Section:

a. the temporary certificate of authority does not create a right or privilege;

b. the board may rescind the temporary certificate of authority issued under this Section at any time, with or without notice to the applicant/holder and without a hearing if any of the following occur:

i. the board is informed that the suitability of the applicant or anyone required to submit to suitability in conjunction with the application may be at issue; or

ii. the applicant or anyone required to submit to suitability in conjunction with the application fails to

cooperate with the investigation into the qualifications and suitability of the applicant and its associated persons.

B. An applicant issued a temporary certificate of authority shall comply with all Federal and state laws, the Act, these regulations, and its internal controls.

C. A temporary certificate of authority shall expire six months after issuance, unless the board issues a ninety-day extension of the certificate upon a showing of good cause. Only one extension may be issued.

D. An applicant desiring a ninety-day extension of the expiration of the temporary certificate of authority shall submit a written request to the board setting forth the factors, with supporting documentation, showing good cause for the extension. Factors that may be considered include, but are not limited to:

1. the reason for any delay that was not the fault of the applicant or its associated persons;
2. the investigation is almost concluded; and
3. the applicant and division have reason to believe the application will be considered within the extension period.

E. The chairman may act on behalf of the board for purposes of this Section and may issue all ancillary approvals not inconsistent with the Act and these regulations that are necessary to properly effectuate the operation of sports wagering under a temporary certificate of approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

Chapter 5. Rules; Operations

§501. Sports Wagering Operator Requirements and Restrictions; Internal Controls; Comprehensive Rules

A. Licensees and operators may only conduct sports wagering expressly authorized by the Act, these regulations, or its internal controls.

B. Sports wagering authorized by the Act shall be conducted pursuant to the Act, these regulations, and a licensee's and operator's internal controls.

C. Licensees and operators shall comply with all provisions of the Act, these regulations, and its internal controls regarding child support arrearages including, but not limited to, R.S. 27:24 and Part III of this Title, particularly §2737 of Part III of this Title.

D. Licensees and operators shall not accept a sports wager from a prohibited player.

E. An applicant shall submit its internal controls with its application for licensing as a sports wagering licensee or for permitting as a sports wagering platform provider. Whenever internal controls are updated, they shall be immediately submitted to the division for approval to ensure the division is in possession of the current internal controls at all times.

F. Licensees and operators shall implement internal controls and commercially reasonable procedures for sports wagering to ensure compliance with all requirements of the Act and these regulations including, but not limited to:

1. prohibit a player from sports wagering while the player is located in a prohibited parish;
2. comply with all applicable tax laws and regulations including, without limitation, laws and regulations applicable to winnings and tax withholdings;

3. preventing the sharing or prohibited release of personal patron data and confidential information that could affect sports wagering with third parties until the information is made publicly available;

4. not knowingly accept a wager from a prohibited player, and shall comply with the limitations listed in 27:608;

5. verifying that a player is 21 years of age or older;

6. providing players with access to information on responsible play;

7. providing players with access to the player's play history and account details that are not confidential;

8. allowing individuals to restrict themselves from placing a sports wager upon request and provide reasonable steps to prevent the person placing a sports wager offered by an operator;

9. maintaining a reserve in an amount of not less than the greater of one hundred thousand dollars or the amount necessary to ensure the ability to cover the outstanding sports wagering liability, which is the sum of wagers on future events, unpaid winnings, and sports wagering account balances. Reserve funds may take the form of cash, cash equivalents, payment processor reserves, payment processor receivables, an irrevocable letter of credit, a bond, or a combination thereof. The reserve funds shall not be used for operational activities. The reserve may be satisfied by the licensee or the operator, but the reserve for sports wagering may not be used for or encumbered by other gaming activity;

- a. if an operator chooses to utilize a special purpose segregated account for the purpose of segregation or reserve funds, it shall submit to the division all information and documentation regarding the account and shall receive approval prior to using the account for such purposes;

10. ensuring that commercially reasonable measures are in place to deter, detect, and, to the extent reasonably possible, prevent cheating, collusion, and the use of cheating devices;

11. not offer sports wagering on any prohibited sports events;

12. withholding all winnings from players determined to be under the age of 21 or determined to have participated in sports wagering from within a prohibited parish;

13. allowing players to file complaints regarding the sports wagering operation and the handling of the player's sports wagering account;

14. requiring patrons to establish a sports wagering account prior to accepting wagers through a website or mobile application. Verifying the following for players requesting to open an account, in accordance with the information provided by players under §507.B.2 of this Chapter:

- a. identity; and

- b. date of birth.

15. publishing and facilitating parental control procedures to allow parents or guardians to exclude minors from access to a sports wagering platform;

16. determining the geographical location of a player when placing a sports wager;

17. reporting of problem gamblers;

18. operational controls for sports wagering accounts;

19. surveillance plans for all sports book lounges and other areas where sports wagering mechanisms are located;

20. setting up and maintaining user access control for a sports wagering platform and ensuring proper segregation of duties at the sports book and sports wagering platform;

21. procedures for identifying and reporting fraud and suspicious wagering activity;

22. anti-money laundering compliance standards, including limitations placed on anonymous sports wagering at sports wagering mechanisms;

23. detailing procedures for W-2G issuance when triggered, review of the DCFS arrearages database, the withholding of amounts owed, submission of amounts withheld to DCFS, and reporting requirements;

24. automated and manual risk management procedures;

25. process for submitting and receiving approval for all types of sports wagers available to be offered by the operator;

26. description of process for accepting sports wagers and issuing payouts, including additional controls for accepting sports wagers and issuing payouts in excess of \$10,000;

27. description of process for accepting multiple sports wagers from one player within a 24 hour cycle, including process to identify player structuring of sports wagers to circumvent recording and reporting requirements; and

28. detailed procedures for reconciliation of assets and documents contained in a sports book lounge, cashier's drawer, sports wagering mechanism, and online sports wagering, which shall include the drop, fill, and count procedures for sports wagering mechanisms.

G. Operators shall report all winnings withheld and remit all withheld amounts to the division. Winnings withheld from underage and excluded patrons shall be sent to the division immediately for submission to the Problem Gambling Fund. Unclaimed winnings that expire after 180 days shall be paid to the division in the same manner as expired tickets at the next quarterly due date.

H. Operators shall provide information regarding the player's ability to file a complaint with the division, provide the information necessary to file such a complaint.

I. Operators shall ensure that all information required by the Act, these regulations, or its internal controls to be provided to players is easily accessible through the sports wagering platform or printed copies, is clear and concise in language, and provides methods to contact the operator with questions.

J. Operators shall adopt comprehensive rules governing sports wagering transactions with its patrons. The operator's rules shall comply with R.S. 27:607(C) and shall be submitted to the division for approval. The comprehensive rules shall include, at a minimum:

1. the method for calculation and payment of winning wagers;

2. the effect of schedule changes for sports events;

3. the method of notifying players of odds or proposition changes;

4. acceptance of wagers at terms other than those posted;

5. expiration dates for winning tickets in accordance with the Act;

6. circumstances under which the operator will cancel a bet;

7. treatment of errors, late bets, and related contingencies;

8. method of contacting the operator with complaints or questions;

9. description of those persons who are prohibited from wagering with the operator;

10. instructions on how to self-restrict, self-limit, and self-exclude, including hyperlinks to such;

11. the method and location and posting and publishing the comprehensive rules; and

12. the methods for redeeming a winning ticket, including by mail if the operator allows such.

K. Operator may allow layoff bets in accordance with R.S. 27:611. The operator placing a layoff bet shall inform the operator accepting the layoff bet that it is being placed by another operator and shall disclose its identity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§503. Sports Wagering Platforms; Identification of Licensee; Duties of Licensee and Operators

A. To ensure the protection of players, a sports wagering platform shall identify the person that is the operator and, if different, the person that is the licensee.

B. Operators shall provide a set of terms and conditions readily accessible to the player on its sports wagering platforms.

C. Operators shall provide a readily accessible privacy policy to the player on its sports wagering platforms. The privacy policy shall state the information that is required to be collected, the purpose for information collection, and the conditions under which information may be disclosed. Any information about a player's sports wagering account that is not subject to disclosure pursuant to the privacy policy shall be kept confidential, except where the release is required by law or requested by the board or division. Player information shall be securely erased from hard disks, magnetic tapes, solid state memory, and other devices before the device is decommissioned. If erasure is not possible, the storage device must be destroyed.

D. An operator shall ensure that wagering on its sports wagering platform complies with the Act, these regulations, and any orders of the board. An operator shall comply with AML standards, Federal and state law, and the limitations set forth in R.S. 27:608.

E. Operators shall have procedures that do all of the following prior to operating in this state:

1. prevent unauthorized withdrawals from a sports wagering account by the operator or others;

2. make clear that funds in a sports wagering account are not the property of the operator and are not available to the operator's creditors;

3. ensure any amounts won by a player from a sports wager is deposited into the player's account immediately upon verifying the results of the wager. In no case shall it take over 48 hours to apply the patron's winnings to their sports wagering account, unless the wager is part of an investigation;

4. ensure players can withdraw the funds maintained in their sports wagering accounts in accordance with the Act and these regulations;

5. allows a player to permanently close his sports wagering account at any time for any reason;

6. offers players access to their play history and account details;

7. provide a secure location the placement, operation, and play of sports wagering equipment; and

8. prevent all persons from tampering with or interfering with the operation of sports wagering or sports wagering equipment.

9. ensure that a surveillance system covers all areas of the licensed facility in which sports wagering is conducted.

F. An operator shall establish procedures for a player to report complaints to the operator regarding whether his sports wagering account has been misallocated, compromised, or otherwise mishandled, and a procedure for the operator to respond to those complaints. Operators shall maintain a record of all complaints for a period of five years.

1. A player who believes his account has been misallocated, compromised, or otherwise mishandled may notify the board or division. Upon notification, the board or division shall investigate the claim and may take any action the board deems appropriate pursuant to the provisions of the Act or these regulations.

G. If a session is terminated due to player inactivity, the player's device must display to the player that the session has timed out and inform him of the steps needed to be taken to reestablish the session. If the session is terminated due to a player inactivity timeout, no further participation is permitted unless and until a new session is established by the player. This process shall include, at a minimum, the manual entry of the player's secure password or an alternate form of authentication approved by the board.

H. With the approval of the board, operators shall cooperate with investigations conducted by sports governing bodies or law enforcement agencies. However, an operator shall not share any information that would interfere or impede a criminal investigation or an investigation of the board or division. Information shared under this Subsection by an operator or a sports governing body is confidential, unless disclosure is required by the board or division or court order for enforcement or legal purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§505. Prohibited Parish; Geolocation, Geofencing; Proxy Servers

A. No operator nor any operator's employee shall allow a player to place a sports wager while located in a prohibited parish.

B. Operators shall implement and abide by protocols and procedures to ensure a player is not utilizing remote desktop software, rootkits, virtualization, proxy servers, virtual private network, spoofing, or other means to disguise their physical location or their computer or device's physical location when conducting a sports wagering transaction. Operators shall use, at a minimum:

1. geolocation and geo-fencing techniques and capability; and

2. commercially reasonable standards for the detection and restriction of remote desktop software, rootkits, virtualization, proxy servers, virtual private networks, spoofing, or other means of disguising one's location.

C. Operators shall prohibit the placing of a sports wager if a player is utilizing any means to disguise his identity or physical location or his computer or device's physical location or attempting to act as a proxy for another player.

D. Operators shall detect and block patrons that make malicious or repeated unauthorized attempts to access the online sports wagering system. This includes players utilizing any means to disguise their identity or physical location or their computer's or device's physical location or acting as a proxy for another player in order to place a sports wager. The player's sports wagering account shall be flagged and reviewed, and the operator shall follow protocols to reach a final determination about the player's sports wagering account and future access and account privileges. Operators shall maintain a record of all information, documentation, or evidence of such activity.

E. Operators shall immediately notify the division of any sports wagers made when the player was located in a prohibited parish and shall provide the division with all information, documentation, and other evidence of such sports wager.

F. Operators who send or receive sports wagers through electronic means shall ensure that any transfer of that sports wager is initiated and received and completed within the state of Louisiana, and that only incidental intermediate routing of the sports wager, if any, occurs outside of the state, unless otherwise determined by the board in accordance with applicable Federal and state laws. Operators shall be responsible for periodically reviewing their information and technology systems and networks to ensure compliance with this Subsection.

G. Operators who violate this Section shall be subject to administrative action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§507. Sports Wagering Account; Player Registration Required

A. A person shall register with an operator prior to placing a sports wager on a sports wagering platform through a website or mobile application. Operators shall not allow any person to place a sports wager on its sports wagering platform through a website or mobile application unless that person is registered and maintains a sports wagering account. Nothing in this Section shall prohibit an operator from accepting anonymous wagers at a sports wagering mechanism on the licensed premises in accordance with the Act, these regulations, and internal controls.

1. Operators shall include sports wagering account procedures necessary to setup and register for an account in the internal controls submitted for approval prior to implementation.

B. With respect to registration, an operator shall do all of the following:

1. implement security standards to prevent the placing of sports wagers by a person whose identity have not been verified in accordance with the Act, these regulations, or internal controls;

2. ensure that all persons provide the following information before establishing a sports wagering account and placing a sports wager;

- a. legal name;
- b. date of birth;
- c. social security number, or the last four digits thereof, or an equivalent identification number for a noncitizen person such as a passport or taxpayer identification number;
- d. residential address; a post office box is unacceptable;
- e. electronic mail address;
- f. telephone number; and
- g. any other information necessary to verify the person's identity.

3. utilize commercially reasonable steps to confirm that a person registering for an account is at least 21 years of age before such person places a sports wager; and

4. clearly and conspicuously publish parental control procedures to facilitate parents or guardians to exclude minors from access to a sports wagering platform.

5. maintain a patron file including, at a minimum, the information obtained in establishing a sports wagering account, the method used to verify the person's identity; and the date of verification. The person's Social Security or identification number, passwords, PINs, and personal financial information shall be encrypted.

C. During the registration process, a person shall agree to the privacy policy and the following applicable terms and conditions of service:

1. registration information provided by the person to the operator is accurate;
2. the person has been informed, and acknowledges, that as a player he is prohibited from allowing any other person access to or use of his sports wagering account;
3. specify the handling of funds where the sports wager is canceled;
4. specify the handling of funds for sports events that are voided or canceled;
5. clearly define the rules by which any unrecoverable malfunctions of hardware or software are addressed;
6. advise the player to keep his password and login ID secure;
7. advise the player on requirements regarding forced password changes, password strength, and other related items;
8. no individual less than 21 year of age is permitted to maintain a sports wagering account or place a sports wager;
9. the method by which players will be notified of updates to the terms and conditions and privacy policy;
10. the conditions under which an account is declared inactive and explain what actions will be undertaken on the account once this declaration is made including the forfeiting of any monies remaining in the sports wagering account; and

11. clearly define what happens to any winnings from a sports wager prior to and after any self-imposed, licensee-imposed, or operator-imposed exclusion.

D. An operator shall not allow any business entity or any entity other than an individual person to register for a sports wager account or to place a sports wager.

- E. Players may fund a sports wagering account through:
1. cash or check at the licensee's premises;
 2. online and mobile payment systems that support online money transfers;
 3. winnings remaining in their sports wagering account;
 4. adjustments or refunds pursuant to these regulations;
 5. promotional play;
 6. reloadable prepaid card, which has been verified as being issued to the player and is non-refundable; and
 7. any other method approved by the board or division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§509. Limitation on Active Accounts; Obligations to Players

A. An operator shall:

1. limit each authorized player to one active and continuously used account and username;
2. implement rules procedures to suspend all accounts of any player that establishes or seeks to establish more than one username or more than one account, whether directly or by use of another person as a proxy;
3. publish parental control procedures to facilitate parents or guardians to exclude minors from access to a sports wagering platform. The procedures shall include a link or toll-free number to call for help in establishing such parental controls;
4. make clear conspicuous statements that are not inaccurate or misleading concerning the conduct of sports wagering;
5. permit any player to permanently close an account registered to the player, on any and all sports wagering platforms supported by the operator, at any time and for any reason;
6. implement measures to protect the privacy and online security of players, their sports wagering account, and their personal financial information and personal patron data per §2811 of Part III of this Title;
7. not allow a player to transfer funds from a sports wagering account to another player's sports wagering account;
8. employ a mechanism that can detect and prevent any sports wagering or withdrawal activity initiated by a player that would result in a negative balance of a sports wagering account; and
9. allow a player to withdraw the funds maintained in his sports wagering account within five business days of the request being made. For purposes of this Paragraph, a request for withdrawal is considered honored if it is processed by the operator but delayed by a payment processor, credit card issuer, or by the custodian of a financial account through no fault, action or inaction of the operator. If an operator has requested documentation from a player in order to facilitate the withdrawal, the time waiting for such documentation shall not be factored into the five business days for approval.
 - a. An operator may decline to honor a player's request to withdraw funds only if the operator believes in good faith that the player engaged in fraudulent conduct or

other conduct that would put the licensee or operator in violation of the Act or these regulations. In such cases, the operator may withhold the funds for a reasonable investigatory period until the investigation is resolved, if the operator conducts its investigation in a reasonable and expedient fashion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§511. Credit and Checks

A. Operators shall comply with Part III of this Title, specifically including §2729, and these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§513. Charging for Inactive Accounts

A. An operator shall not charge a player for an inactive sports wagering account.

B. No player shall be charged for failure to deposit certain amounts of cash or cash equivalent into a sports wagering account.

C. Operators shall follow state law as it regards unclaimed property for inactive accounts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§515. Protection for Problem or Compulsive Gamblers

A. Self-Restriction

1. Operators shall allow a player to restrict themselves from placing a sports wager or accessing a sports wagering account for a specific period of time, minimum of which shall be thirty days, as determined by the player and shall implement procedures to prevent the person from placing sports wagers.

2. Operators shall develop and maintain an online self-restriction form and a process to exclude any person from placing a sports wager who completes and submits the form to the operator or licensee and shall provide a mechanism on its sports wagering platforms to the online self-restriction form. Operators shall retain each submitted online self-restriction form and restrict such persons from placing a sports wager and may close the player's sports wagering account for the specified time.

3. Online self-restriction is different than submitting for the state's self-exclusion list. When a player chooses the option of self-restriction, the operator shall notify the requester of the option to also self-exclude with the state and the link to the self-exclusion form on the board's website.

B. Self-imposed limits.

1. Operators shall implement and maintain procedures that allow players to limit themselves from:

- a. placing a sports wager for a set period of time;
- b. paying more than a certain amount of money for a sports wager; and
- c. depositing more than a set amount of funds into their sports wagering account.

2. Players shall have the option to adjust the self-limits to make them more restrictive as often as they choose, but shall not have the option to make the time period or limits less restrictive within 72 hours of setting. Any change

must provide a prompt to ensure the player is aware of the change and the player must then confirm the change.

C. Operators shall enforce the limitations placed upon sports wagering accounts by:

1. providing a plan to honor requests from players to self-restrict or self-limit or self-excluding;

2. providing a plan to ensure that, immediately upon a player self-restricting or self-excluding, no sports wagers or deposits are accepted from that player until the self-restriction expires or is removed or the self-exclusion is terminated;

3. providing a plan to allow a player that self-restricts or self-excludes to access and withdraw remaining funds from his sports wagering account; and

4. ensuring self-restricted and self-excluded persons do not receive marketing or advertisement during the period of self-restriction or self-exclusion.

D. Operators shall train employees on problem and compulsive gambling. Such training shall include, but not be limited to: training on policies and best practices for assisting players who may be problem or compulsive gamblers.

E. Operators shall provide the information necessary for a person to self-exclude.

F. Operators shall provide quarterly reports to the division as to how many persons have self-restricted or self-exclude.

G. Operators shall comply with all requirements of the Act, these regulations, and internal controls and, specifically, Chapter 3 of Part III of this Title.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§517. Advertising, Mandatory Signage

A. Licensees and operators shall not advertise sports wagering to a person by phone, email, or any other form of individually targeted advertisement or marketing material if the person has self-restricted or is excluded pursuant to the provisions of the Act or these regulations, or if the person is otherwise barred from participating in sports wagering (including, but not limited to, advertisements targeted to persons under the age of 21).

B. Advertisements and marketing material shall not depict minors.

C. Licensees and operators shall not advertise or run promotional activities at any primary or secondary schools, as defined by Louisiana law and including elementary, middle, and high schools, or sports venues exclusively used for primary or secondary schools.

D. Licensees and operators shall ensure that all advertisements of sports wagering do not target prohibited players, persons under the age of 21, or self-restricted or excluded persons.

E. Licensees and operators shall not misrepresent the frequency or extent of winning in any advertisement.

F. Licensees and operators shall provide on its sports wagering platform, any websites, and in any print advertisement of sports wagering for such the toll-free telephone number available for information and referral services regarding compulsive or problem gambling as required in R.S. 27:27.3.

G. Licensees and operators shall comply with the provisions of §2927 of Part III of this Title.

H. Operators shall ensure that all advertising, public relations activities, and marketing campaigns comply with this Section and do not: contain false or misleading information; fail to disclose conditions or limiting factors associated with the advertisement; use a font, type size, location, lighting, illustration, graphic depiction or color obscuring conditions or limiting factors associated with the advertisement; consist of indecent or offensive graphics or audio, or both; encourage players to chase their losses or re-invest their winnings; or suggest that sports wagering is a means of solving financial problems.

I. Advertisements, public relations activities, and marketing campaigns shall: provide information on compulsive gambling treatment or counseling; promote a problem gambling hotline be socially responsible; and give a balanced message with regard to winning and losing.

J. Licensees or operators shall delete or modify any advertisement which does not confirm to the requirements of this Section or is necessary for the immediate preservation of public peace, health, safety, and welfare of Louisiana residents.

K. Licensees or operators shall retain a copy of all advertising and marketing materials intended to promote any sports wagering operation in the State of Louisiana, which shall be made available to the division upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§519. Promotions

A. Licensees and operators shall comply with Section 2953 of Part III of this Title.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§521. Sports Events

A. Operators shall not offer sports wagering on sports events or subjects prohibited by the Act, these regulations, or the board.

B. Special event or competition of relative skill.

1. An operator shall not accept sports wagers on any other event unless the board has approved the other event in writing, the other event has been sanctioned by an organization included on the list of sanctioning organizations maintained by the board, or the other event is listed on the list of pre-approved other events.

2. A request for approval to accept wagers on any other event shall be made by an operator at least 7 days prior to such event on such forms approved by the board, and shall include:

a. a full description of the event and the manner in which wagers would be placed and winning wagers would be determined

b. a list of jurisdictions where the event is currently approved for wagering;

c. a full description of any technology which is necessary to determine the outcome of the event;

d. such other information or documentation which demonstrates that the sports event meets the requirements of §523 of this Chapter and that:

i. the event would be effectively supervised;

ii. there are integrity safeguards in place;

iii. the outcome of the event would be verifiable;

iv. the outcome of the event would be generated by a reliable and independent process;

v. the outcome of the event would be unlikely to be affected by any sports wager placed;

vi. the event would be conducted in compliance with any applicable laws; and

vii. the granting of the request for approval would be consistent with the Act, these regulations, internal controls, and the public policy of the state;

e. the name of the sports governing body or sanctioning organization in charge of administering the sports event and any integrity commissions responsible for oversight of the event; and

f. such additional or supplemental information as the board or division may require.

3. The decision whether to grant approval to accept wagers on any other event shall be based on all relevant information including, but not limited to, the factors in this Section or determined by the board or division and shall be at the sole discretion of the board.

4. Operators shall submit updated house rules, as necessary, for each newly approved sports event prior to offering it to the public for wagering.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§523. Sports Wagers

A. An operator shall not accept any sports wager on a sports event unless it has received approval from the board to conduct that type or category of sports wager. A type of sports wager refers to the method of determining the outcome of the sports wager. The category refers to the kind of event being wagered on. For all particular categories or sports wager types approved by the Act or these regulations or later approved by the board for its first use may be used on multiple events by all operators without further approval.

1. If an operator would like to offer a new category of sports event, it must submit the request to the board on the approved form at least seven days in advance of the proposed date of accepting sports wagers on such a category. The request shall include: a full description of the sports event and the manner which sports wagers would be placed and winning wagers would be determined; a full description of any technology which would be utilized to offer the sports event; information or documentation that demonstrates that the sports event meets the requirements of Subsection B of this Section and any other information requested by the board or division.

2. If an operator accepts a sports wager on an unapproved sports event, the operator shall void and refund all sports wagers associated with that sports event. If any sports wagers for unapproved sports events cannot be refunded in full, the operator shall immediately provide the board with a report detailing such sports wagers and the reasons therefore.

3. The board and division maintain the right to disapprove of the source of data for any reason including, but not limited to, the type of sports wager and method of data collection.

B. Sports Wagers; Restrictions

1. Operators shall only offer and accept sports wagers in accordance with the Act and these regulations and on sports events where:

- a. the outcome of the event can be verified, and the operator shall disclose the source of verification;
- b. the event would be effectively supervised;
- c. there are integrity safeguards in place;
- d. the outcome can be generated by a reliable and independent process;
- e. the outcome of the event is unlikely to be affected by any sports wager placed; and
- f. the outcome is conducted in conformity with all applicable Federal and state laws, the Act, these regulations, and internal controls.

2. Sports wagers shall only be made through a player's sports wagering account, cash, cash equivalents, or promotional play.

3. Operators shall adopt procedures to obtain personally identifiable information from any person who places any single sports wager in an amount of \$10,000 or greater on a sports event. Subsequent to accepting a sports wager in excess of \$10,000 or making a payout in excess of \$10,000 on a winning sports wager, the Operator shall record or maintain records that include: the date and time of the sports wager or payout; the amount of the sports wager or payout; the player's legal name; the ticket number or other identifying number for the sports wager or payout; and the name and signature of the employees accepting or approving the sports wager or payout on the sports wager.

4. Operators shall not knowingly allow, and shall take reasonable steps to prevent, the circumvention of reporting requirements through a player making a structured sports wager, including multiple sports wagers or a series of sports wagers that are designed to accomplish indirectly that which could not be accomplished directly. A sports wager or wagers need not exceed the dollar thresholds at any single operator in any single day in order to constitute prohibited structuring. No operator shall encourage or instruct the player to structure or attempt to structure sports wagers. This Section does not prohibit an operator from informing a player of the regulatory requirements imposed upon the operator, including the definition of structured sports wagers. An operator shall not knowingly assist a player in structuring or attempting to structure sports wagers.

5. Operators shall prohibit an employee who is serving alcoholic beverages to customers from taking sports wagers during the same work shift. Operators shall take reasonable steps to prevent an intoxicated or impaired person from placing a sports wager.

6. Available sports wagers shall be displayed in a manner visible to the public and the operator's closed circuit television system. The display shall include: the event date/time; event participants; the odds; and a brief description of the event.

C. Categories

1. The board shall maintain a list of approved categories for which an operator may accept a sports wager.

D. Types

1. The board shall maintain a list of approved types of sports wagers that an operator may accept.

2. Parlay Bets

a. Each operator that offers to accept parlay card wagers shall fully, accurately, and unambiguously disclose on all parlay card wagering forms:

- i. the amounts to be paid to winners or the method by which such amounts are to be determined and, if the operator limits payouts to an aggregate amount under Subsection B of this Section, the aggregate amount and the establishments to which it applies;
- ii. the effect of ties;
- iii. the minimum and maximum betting limits, if any;
- iv. the procedure for claiming winnings, including but not limited to the documentation players must present to claim winnings, time limits, if any, for claiming winnings, whether winnings may be claimed and paid by mail and, if so, the procedure for claiming winnings by mail;
- v. the effects of a sports event wagered on not being played on the date specified and of other events that will cause selections to be invalid;
- vi. the rights, if any, reserved by the operator, including but not limited to reservation of the right to refuse any wager or delete or limit any selection prior to the acceptance of a wager, or to withhold payouts of specified amounts until the outcome of each proposition offered by the parlay card has been determined;
- vii. the requirement that the point spreads printed on the parlay card wagering form when the wager is accepted will be used to determine the outcomes of the wagers; and
- viii. that the operator's comprehensive rules apply to parlay cards unless otherwise stated on the parlay card wagering form.

b. As used in this Subsection, "parlay card" means a sports wagering form offering exactly the same propositions on exactly the same terms.

i. An operator may limit the aggregate amount to be paid to winners on a parlay card in proportion to the amounts won, provided that the aggregate limit must not be less than the amount disclosed on the parlay card (the "base amount") plus twice the amount wagered on the parlay card at all establishments to which the aggregate limit applies.

ii. When an operator knows or reasonably should know that actual payouts on a parlay card will be limited by an aggregate amount, the operator shall cease accepting sports wagers and making payouts on the parlay card. After the outcome of the final game, match, or event covered by the parlay card has been determined, the operator shall pay each winner at least that proportion of the payout amount stated on the parlay card that the aggregate limit bears to total payouts (including payouts made prior to the suspension of payouts) that would otherwise have been made but for the limit.

iii. When an operator ceases accepting sports wagers and making payouts on a parlay card, the operator may accept wagers on the parlay card on those propositions whose outcomes have not been determined if the parlay card, patron receipts, and related documentation are distinguishable from the card, receipts, and documentation as to which the book has ceased accepting wagers, in which case the parlay card shall be considered a different parlay card for purposes of this Subsection.

iv. If an operator pays the winner of a parlay card wager more than 10 percent of the base amount established before the outcome of every proposition offered by the parlay card has been determined, the operator must pay every winner of a wager on that parlay card the proper payout amount stated on the parlay card in full and without regard to any aggregate limit established.

v. In specific cases the board may waive or impose requirements more restrictive than the requirements of this Subsection.

c. Prior to adopting or amending parlay card rules, a book shall submit such rules to the chairman for approval.

3. Proposition Bets

a. No sports wagers may be accepted or paid by an operator on the occurrence of injuries or penalties or the outcome of an athlete's disciplinary rulings, or replay reviews.

E. Tickets

1. Upon placing a sports wager, the player shall receive an unalterable virtual or printed wager record (ticket) which shall contain the information required in these regulations and, specifically, §901 of this Part.

2. Any sports wager placed with a sports wagering mechanism shall be evidenced by a ticket indicating: the information required in R.S. 27:609(B)(4)(a); the name of the licensee if different than the operator; and a statement that the patron must redeem the ticket at the establishment of the licensee that booked the wager within 180 days of the date of the event, that the failure to present a winning ticket within such time shall constitute a waiver of the right to the payment, and that the holder of the ticket shall thereafter have no right to enforce payment of the ticket.

F. Canceled Wagers

1. The operator's comprehensive rules shall clearly state what is to occur when a sports event is canceled or the subject of the bet ceases to exist. Any such cancellations of a sports wager shall be made available to the division.

2. Canceled wagers may only be made at the system level and in accordance with the requirements of this Subsection and these regulations.

3. All canceled wagers shall be refunded to the player as soon as practical and deducted from the adjusted gross sports wagering revenue if already included.

G. Voided Wagers

1. A sports wager is deemed void if the player is a prohibited person or located in a prohibited parish at the time the sports wager was made. An operator shall void sports wagers made by prohibited persons or a persons located in a prohibited parish immediately upon becoming aware or when the operator should have become aware the player is a prohibited person or located in a prohibited parish. The operator shall follow the Act and these regulations for the handling of any monies.

2. A sports wager is deemed void if the subject of the wager was not approved by the board prior to accepting the wager.

3. An operator may void a sports wager if the operator has reasonable basis to believe there was obvious error in the placement or acceptance of the sports wager. Errors include, but are not limited to: the sports wager was placed with incorrect odds; human error in the placement of the sports wager; the ticket does not correctly reflect the sports wager;

or equipment failure rendering a ticket unreadable. Wagers voided in this case must be approved by a supervisor or higher, pursuant to the internal controls or house rules.

4. Licensees and operators shall include procedures and conditions on which they will void wagers in their internal controls.

5. All voided wagers shall be refunded to the player and deducted from the adjusted gross sports wagering revenue if previously included. However, should a player self-exclude after placing a wager, the player shall not be entitled to a refund or any winnings; the monies shall be handled in accordance with internal controls.

6. No wagers shall be rescinded except in compliance with the Act, these regulations, internal controls, and house rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§525. Unusual and Suspicious Wagering Activity

A. Operators shall employ a system to identify irregularities in volume or odds and swings that could signal suspicious wagering activities that should require further investigation.

B. Operators shall have internal controls in place to identify unusual wagering activity and report such to an independent integrity monitoring provider or the division.

C. All independent integrity monitoring providers shall share information with each member and shall disseminate all reports of unusual activity to all member operators. All operators shall review such reports and notify the independent integrity monitoring provider whether they have experienced similar activity.

D. If an independent integrity monitoring provider finds that previously reported unusual wagering activity rises to the level of suspicious wagering activity, it shall immediately notify all other independent integrity monitoring providers, their member operators, the division, and all other regulatory agencies as directed by the division. All independent integrity monitoring providers receiving a report under this Section shall share such report with their member operators.

E. An operator must submit a yearly report to the division, which details its integrity monitoring system and summarizes any unusual wagering activity or other suspicious wagering activity notifications issued during that time period.

F. An operator receiving a report of suspicious wagering activity shall be permitted to cancel related wagers after receiving approval from the board or division and in accordance with approved procedures as set forth in internal controls.

G. If the division receives a suspicious wagering activity report from an independent integrity monitoring service provider, the division shall notify the relevant sports governing body as expeditiously as possible.

H. The division may require an operator to provide any hardware necessary to the division for evaluation of its sports wagering offering or to conduct further monitoring of data provided by its system.

I. All information and data received pursuant to this Section by the board or division related to unusual or suspicious wagering activity shall be considered confidential

and shall not be revealed in whole or in part, except upon the lawful order of a court of competent jurisdiction or, with any law enforcement entity, member club, sports governing body, or regulatory agency that the board deems appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§527. Sports Book Lounge or Sports Wagering Lounge

A. An applicant for a sports wagering operator license shall submit a detailed plan of design of its sports book lounge and other areas of its establishment where sports wagering mechanisms may be placed. If operating initially out of a temporary sports book lounge, the applicant shall also submit a construction schedule for its sports book lounge.

B. A licensee shall inform the board and division of any plans to alter, update, renovate, or otherwise change the sports book lounge from that detailed with the application or subsequently approved.

C. A sports book lounge shall:

1. be limited to persons who are 21 years of age or older who are not prohibited persons;

2. be of a such a design and size deemed acceptable by the board;

3. contain an area where the odds at which sports wagers may be placed are displayed;

4. if not located in an area restricted to person who are 21 and over, contain a conspicuously posted sign that includes a statement similar to "It is unlawful for any individual who is under 21 years of age to enter the sports book lounge or place a sports wager;"

5. contain a conspicuously posted sign providing the National Council on Problem Gambling's 24 hour toll-free number or a similar toll-free number approved by the board, as well as separately providing information regarding the prevention, treatment, and monitoring of compulsive gambling; and

6. include a sports book lounge booth that:

a. shall be designed and constructed to provide maximum security for the materials stored and the activities performed therein. Such design and construction shall be approved by the division;

b. includes manually triggered silent alarm systems, which shall be connected directly to the monitoring rooms of the licensed premises and security departments;

c. includes one or more ticket writer stations, each of which shall contain:

i. a writer's drawer and terminal through which financial transactions related to sports wagering will be conducted; and

ii. a permanently affixed number, which shall be visible to the CCTV surveillance system;

d. includes closed circuit television cameras capable of accurate visual monitoring and recording of any activities, including the capturing of the patron's facial image when conducting transactions at the counter;

e. has an alarm for each emergency exit door that is not a mantrap;

f. includes a secure location for the purpose of storing funds issued by a cage to be used in the operation of sports wagering. The secure location shall:

i. be located in an area not open to the public;

ii. have a door with a locking mechanism that shall be maintained and controlled by the sports wagering lounge booth supervisor; and

iii. have closed circuit television cameras capable of accurate visual monitoring and taping of all activities in the secure location; and

g. a sports book lounge booth shall maintain a funds operating balance as necessary to operate the booth. Funds transferred to and from the cage shall be secured and transferred in accordance with internal controls for funds movement on the casino floor. Prior to transporting the funds, security shall notify surveillance of the movement of funds. If movement does not require security, the employee transferring the funds shall notify surveillance. The funds will be transferred with appropriate documentation.

D. A sports book lounge located in the designated gaming area of a licensed premise of an entity licensed pursuant to R.S. 27:44, R.S. 27:205, or R.S. 27:353 may have slot machines or other authorized games with the approval of the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§529. Sports Wagering Mechanisms

A. Sports wagering mechanisms may only be located on a licensee's premises in areas restricted to persons who are 21 years of age or older.

B. Sports wagering mechanisms shall be linked to a sports wagering operator's sports wagering platform.

C. Sports wagering mechanisms or the platform shall be capable of generating a transaction report which documents each completed transaction. Unless otherwise approved by the board, the report shall include, at a minimum:

1. the date and time;

2. a description of the transaction;

3. the value of non-cash transactions;

4. the value of currency inserted;

5. the value of all vouchers dispensed and redeemed;

6. the value of all promotional play dispensed and inserted; and

7. the value of all sports wagering tickets dispensed and inserted.

D. A licensee or operator shall remove the bill validator boxes from all sports wagering mechanisms on a schedule approved by the division.

1. Any changes to the schedule require notification to the division at least five days prior to the change.

2. The licensee or operator shall notify the division within 24 hours of any drop occurring outside the approved schedule.

3. The sports wagering mechanism drop shall be monitored and recorded by surveillance in accordance with internal controls.

E. A licensee or operator's accounting department shall reconcile the sports wagering mechanisms on a daily basis pursuant to internal controls. Licensees or operators shall document all variances and investigate variances in an amount as declared in the licensee's approved internal controls. The report shall indicate the cause of the variance and shall contain any documentation required to support the stated explanation.

F. Sports wagering mechanisms shall not: dispense cash; allow deposits to a sports wagering account of more than \$10,000; issue or redeem promotional play or voucher with a value of more than \$3,000; accept wagers of \$3,000 or more unless made using funds in a sports wagering account; or redeem a ticket with a value of more than \$3,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

Chapter 7. Records; Accounting; Confidentiality

§701. Financial Statements and Records

A. Each operator, in such manner as the division may approve or require, shall keep accurate, complete, legible, and permanent records of all transactions pertaining to revenue that is taxable or subject to fees under the Act.

B. Each operator shall keep general accounting records on a double entry system of accounting, with transactions recorded on a basis consistent with generally accepted accounting principles, maintaining detailed, supporting, subsidiary records, including but not limited to:

1. records identifying:
 - a. revenues by day;
 - b. expenses;
 - c. assets; and
 - d. liabilities;
2. records required by the internal controls;
3. journal entries and all work papers, electronic or manual, prepared by the operator and their independent accountant;
4. financial statements and supporting documents; and
5. any other records the division requires.

C. Each licensee or its operators shall create and maintain records sufficient to accurately reflect income and expenses relating to its operations.

D. If a licensee or its operators fail to keep the records used to calculate gross revenue, net gaming proceeds, winnings paid out to patrons, and the amount of eligible promotional play wagers, or if the records are not adequate to determine these amounts, the division may compute and determine the amount of gross revenue, net gaming proceeds, winnings paid out to patrons, and the amount of eligible promotional play wagers based on an audit and statistical analysis conducted by the division.

E. Reporting net gaming proceeds.

1. Each licensee or its operators shall report the net gaming proceeds by providing the total gross revenue of all wagers placed by patrons, the total amount of all winnings paid out to patrons, and the total amount of all eligible promotional play wagers in accordance with requirements provided by the division. This report is due monthly by 10th of the following month. Daily records shall be maintained.

2. The payment of taxes in accordance with R.S. 27:625 shall be paid monthly and is due by the twentieth of the following month.

3. Taxes shall be deposited electronically in accordance with guidelines provided by the division. Overpayments may be deducted from future taxes owed, but shall not result in a refund to the licensee or operator unless caused by the division or if the licensee or operator is withdrawing from the state and returning its license or permit to operate.

F. Each licensee or its operators shall submit accounting controls to the division for review and approval prior to conducting sports wagering. These accounting controls shall include, at a minimum:

1. a process for documenting and verifying beginning of day cash balance;
2. processes for recording collection of sports wagers, payment of sports wager, and cancellation of sports wagers issued;
3. processes for handling cash within a sports book lounge or from a sports wagering mechanism, including segregation of duties related to counting and storage of cash;
4. the establishment of a segregated account related to sports wagering activities in the state of Louisiana; and
5. any other requirements as required by the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§703. Record Retention and Backup

A. Upon request and at a location designated by the division, each licensee and permittee shall provide the division with the records required to be maintained by this Chapter. Licensees and permittees shall retain all such records for a minimum of five years in a location approved by the division. In the event of a change of ownership, records of prior owners shall be retained in a location approved by the division for a period of five years unless a different period is authorized by the division. Electronic records may be maintained in other locations if access to the records is available on computers located at the principal place of business or other location approved by the division.

B. Each licensee or its operators shall conduct a complete system data backup to a primary off-site location a minimum of once a month. For purposes of this Section, the licensee or operator shall submit the name, location, and security controls of the primary off-site storage facility to the division. Licensees and operators shall submit changes to the location and security controls of the primary off-site storage facility at least 30 days prior to the change. Any changes less than 30 days in advance must include justification for the late submission. For licensees and operators using managed cloud service backups, the name of the cloud service and region where the primary copy of the data shall be provided at the time of licensure and at the time of any change thereafter. A complete system data backup includes, but is not limited to:

1. all revenue reports;
2. all sports wagers and results;
3. sports wagering account information; and
4. the geographical location of every player placing a sports wager on a sports wagering platform of the licensee or operator.

C. Each licensee or its operators shall have a written contingency plan in the event of a system failure or other event resulting in the loss of system data. The plan shall address backup and recovery procedures and shall be sufficiently detailed to ensure the timely restoration of data in order to resume operations after a hardware or software failure or other event that results in the loss of data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§705. Funds; Segregation of Funds

A. Operators shall:

1. segregate sports wagering account funds from operational funds; or

2. maintaining a reserve in an amount of not less than the greater of one hundred thousand dollars or the amount necessary to ensure the ability to cover the outstanding sports wagering liability, which is the sum of wagers on future events, unpaid winnings, and sports wagering account balances. Reserve funds may take the form of cash, cash equivalents, payment processor reserves, payment processor receivables, an irrevocable letter of credit, a bond, or a combination thereof. The reserve funds shall not be used for operational activities. The reserve may be satisfied by the licensee or the operator, but the reserve for sports wagering may not be used for or encumbered by other gaming activity.

B. The requirements of Subsection A of this Section may be satisfied by establishing a special purpose segregated account that is maintained and controlled by a properly constituted corporate entity that has a governing board that includes one or more independent corporate directors. The corporate entity must require a unanimous vote of all corporate directors to file bankruptcy and must have articles of incorporation that prohibit commingling of funds with those of the operator, except as necessary to reconcile the accounts.

1. Any and all information and documentation regarding its special purpose segregated account shall be provided to the division and each such account must be approved by the division prior to the implementation of such.

C. Documentation of the amount in cash reserves as of the last day of each month shall be provided to the division by the tenth day of the following month.

D. Each licensee or its operators shall continuously monitor and maintain a record of all sports wagering liabilities and its cash reserves to ensure compliance with the cash reserves requirement. If at any time the operator's total available cash and cash equivalent reserve is less than the amount required, the operator shall notify the division within 48 hours of the deficiency, the reason, and the resolution to correct the deficiency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§707. Audits and Reporting

A. Licensees or their operators shall comply with the provisions of the Act, Part III of this Title, and these regulations.

B. Annual financial statements shall be provided to the division not later than May 1 each year or 120 days after the end of the fiscal year if not December 31.

C. A licensee or operator shall submit to the division one copy of any report required to be filed with the Securities and Exchange Commission or other domestic or foreign securities regulatory agency by the licensee or operator, and their holding company, intermediate company, or parent company. These reports shall be delivered to the division within 15 days of the time of filing with such commission or

agency or within 15 days of the due date prescribed by such commission or regulatory agency, whichever comes first.

D. Each operator shall submit to the division annual audited financial statements reflecting all financial activities of the sports book operations subjected to an examination conducted according to generally accepted auditing standards by an independent Certified Public Accountant (CPA).

2. All audits and reports required by this Section shall be prepared at the sole expense of the operator.

E. Annual Review of Operations

1. Each licensee or, as applicable, their operator shall require the independent CPA, engaged for purposes of examining the financial statements, to submit to the operator two signed copies of a written report detailing the continuing effectiveness and adequacy of the internal controls.

2. The auditor shall include in this report any items discovered by the auditor or brought to the auditor's attention where the operator does not act in accordance with the internal controls and procedures provided to the division. The report should also include notification and explanation for all occasions when the operator denies a player's request to withdraw funds and all occasions when the operator discovers the use of unauthorized scripts on its sports wagering platform.

a. Denial of a withdrawal means the operator or its agent issues the decision to deny a player's request to withdraw. Issues not controlled by the operator, such as banking system issues, incorrect deposit account numbers, or other issues not controlled by the operator are not included.

b. Reportable script items includes unauthorized scripts discovered on the sports wagering platform whether used or not.

3. This report is due no later than 30 days after the due date of the audited financial statements required in Subsection C of this Section.

F. Each licensee or operator shall engage an independent Certified Public Accountant (CPA). The CPA shall examine the statements in accordance with generally accepted auditing standards. The CPA is prohibited from providing internal audit services. Should the CPA previously engaged as the principal accountant to audit the licensee's or operator's financial statements resign or be dismissed as the principal accountant, or if another CPA is engaged as principal accountant, the licensee or operator shall file a report with the division within 10 days following the end of the month in which the event occurs, setting forth the following:

1. the date of the resignation, dismissal, or engagement;

2. any disagreements with a former accountant, in connection with the audits of the two most recent years, on any matter of accounting principles, or practices, financial statement disclosure, auditing scope or procedure, which disagreements, if not resolved to the satisfaction of the former accountant, would have caused him to make reference in connection with his report to the subject matter of the disagreement; including a description of each such disagreement; whether resolved or unresolved;

3. whether the principal accountant's report on the financial statements for any of the past two years contained an adverse opinion or a disclaimer of opinion or was

qualified. The nature of such adverse opinion, disclaimer of opinion, or qualification shall be described; and

4. a letter from the former accountant furnished to the licensee or operator and addressed to the division stating whether the CPA agrees with the statements made by the licensee or operator in response to this Section.

G. Unless the division approves otherwise in writing, the statements required must be presented on a comparative basis. Consolidated financial statements may be filed by commonly owned or operated operations, but the consolidated statements must include consolidating financial information or consolidated schedules presenting separate financial statements for each licensee or operator. The CPA shall express an opinion on the consolidated financial statements as a whole and shall subject the accompanying consolidating financial information to the auditing procedures applied in the examination of the consolidated financial statements.

H. Each licensee or their operator shall submit to the division two originally signed copies of its audited financial statements and the applicable CPA's letter of engagement not later than May 1 or 120 days after the last day of the operator's business year if not December 31.

I. If an licensee or their operator changes its fiscal year, the licensee or their operator shall prepare and submit to the division audited financial statements covering the period from the end of the previous business year to the beginning of the new business year not later than 120 days after the end of the period.

J. Each operator shall submit a quarterly financial report including gross sports wagering revenues, net revenues, and taxes paid on net revenues. The report shall be forwarded to the division not later than 30 days after the last day of the applicable quarter.

K. The division may request additional information and documents from either the licensee, operator, or their CPA, regarding the financial statements or the services performed by the CPA. The division may review any and all work papers of the CPA at a time and place determined by the division. These requirements shall be included in agreements between the licensee, the operator, or its affiliates and the CPA.

L. The licensee or operator shall submit to the division, postmarked by the United States Postal Service or deposited for delivery with a private or commercial interstate carrier, or in another manner approved by the division, any audit report prepared by the Internal Revenue Service (IRS) and issued to the licensee or operator. The report is due within 30 days of receipt from the IRS.

M. Impairments to the independence of a CPA to perform a financial audit include, but are not limited to:

1. during the period of professional engagement to perform an audit, or at the time the opinion was issued, the auditing person:

a. had or was committed to acquire any direct or indirect financial interest in the licensee or operator;

b. was a trustee of any trust or executor or administrator of any estate if the trust or estate had or was committed to acquire any direct or indirect financial interest in the licensee or operator;

c. had any joint closely held business investment with the licensee or operator or any key person or owner thereof that was material in relation to the auditing person or the auditing person's firm's net worth; or

d. had any loan to or from the licensee or operator or any key person or owner thereof, when made under normal lending procedures, terms, and requirements, except:

i. loans that are not material to the net worth of the borrower;

ii. home mortgages; or

iii. other secured loans, except loans guaranteed by the auditing person's firm that are otherwise unsecured;

2. during the period covered by the licensee's or operator's financial statements, during the period of the professional engagement to perform an audit, or at the time the opinion is issued, the auditing person was:

a. connected with the licensee or operator as a promoter, underwriter, voting trustee, key employee, or in any capacity equivalent to that of a key employee; or

b. a trustee for any pension or profit-sharing trust of the licensee or operator;

3. functioning as if a key employee of the licensee or operator;

4. performing an audit of the independent CPA or independent CPA's firm's own work;

5. advocacy for the licensee or operator; or

6. having any other role with the licensee or operator or its affiliates other than as independent auditor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§709. Public and Confidential Records

A. Except as provided in Louisiana Revised Statutes Title 44:1 et seq. and R.S. 27:21, records of the board and division shall be public records.

B. Louisiana Revised Statutes Title 44:1 et seq., R.S. 27:21, and Chapter 39 of Part III of this Title shall govern this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

Chapter 9. Computer Systems and Sports Wagering Platforms; Security

§901. Computer Systems and Sports Wagering Platforms

A. Operators shall use a sports wagering platform to offer, conduct, or operate sports wagering in accordance with the Act and regulations set forth by the board.

1. Operators shall comply with, and the division or board adopts and incorporates by reference, the Gaming Laboratories International, LLC Standard, GLI-33: Standards for Event Wagering systems and its Appendices, version 1.1 and any future amendments and updates thereto. The GLI-33 standards are intended to supplement rather than supplant other technical standards and requirements under these rules.

2. A sports wagering platform utilized to conduct sports wagering shall meet the specifications of these rules and any additional technical specifications prescribed by the

board or the division. Failure to comply with the approved specifications, internal controls, or technical specifications may be grounds for administrative action by the board.

B. Operators shall submit all equipment and software utilized with the sports wagering platform to a designated gaming laboratory approved by the division for an initial certification to ensure the sports wagering platform is in operational compliance with the Act, these regulations, division technical guidelines, and internal controls. The certification report shall, at a minimum, identify system interfaces of service providers and the applicable methods, programs, protocols and security measures implemented by the operator to ensure compliance.

C. At the discretion of the division, additional testing or re-certification of the entire sports wagering platform may be required and shall be completed by a designated gaming laboratory approved by the division. The licensee or operator shall incur all costs associated with the testing of the sports wagering platform. Failure on the part of the licensee or operator to incur these costs may be grounds for administrative action by the division.

D. Upon placing a sports wager at a cashier or sports wagering mechanism, the player shall receive an unalterable virtual or printed wager record (ticket) which shall contain, at a minimum:

1. name and address of the operator, and licensee if different, issuing the ticket;
2. the date and time the sports wager was placed;
3. the date and time the sports event is expected to occur;
4. any patron choices involved in the sports wager including, but not limited to:
 - a. sports wager selection(s);
 - b. type of sports wager and line postings;
 - c. any special condition(s) applying to the sports wager;
 - d. pay out, applicable at the time the sports wager is placed;
5. total amount wagered, including any promotional play if applicable;
6. sports event and market identifiers;
7. a barcode or similar symbol or marking as approved by the division, corresponding to the unique wager identifier; and
8. the cashier or self wagering mechanism that generated the ticket.

E. If the sports wagering platform issues and redeems a sports book voucher, the system shall be capable of recording the following information for each voucher:

1. amount of voucher;
2. date, time, and location of issuance;
3. unique voucher identifier used for redemption, at least three digits of which shall be masked on all system menus, printed reports, and displays, except when accessed by users with supervisor or higher authority, for all unredeemed and unexpired vouchers;
4. expiration date of the voucher; and
5. date, time, and location of redemption, if applicable.

F. Sports book vouchers issued by a sports wagering platform shall contain the following information:

1. date, time, and location of issuance;

2. amount of the voucher;
3. unique voucher identifier;
4. expiration date of the voucher;
5. name of permit holder; and
6. an indication that the voucher can only be redeemed in exchange for a sports wager or cash.

G. A sports wagering platform system that offers in-play wagering shall be capable of the following:

1. the accurate and timely update of odds for in-play wagers;
2. the ability to notify the patron of any change in odds after a wager is attempted that is not beneficial to the patron;
3. the ability for the patron to confirm the wager after notification of the odds change; and
4. the ability to freeze or suspend the offering of wagers, when necessary.

H. A sports wagering platform shall be capable of performing the following functions:

1. creating wagers;
2. settling wagers;
3. reprinting tickets;
4. resettling wagers;
5. voiding wagers;
6. cancelling wagers; and
7. preventing the acceptance of wagers on prohibited sports events.

I. When a sports wager is voided or cancelled, the operator shall clearly indicate that the ticket is voided or cancelled, render it nonredeemable, and make an entry in the system indicating the void or cancellation and identity of the cashier or automated process.

J. A sports wagering platform shall prevent past posting of wagers and the cancellation of wagers after the outcome of an event is known.

K. In the event a patron has a pending sports wager and then the licensee or its operator becomes aware of the patron self-excluding, the wager shall be governed in accordance with the Act, these regulations, and internal controls.

L. A sports wagering platform shall, at least once every 24 hours, perform a self-authentication process on all software used to offer, record, and process wagers to ensure there have been no unauthorized modifications. In the event of an authentication failure, the sports wagering platform operator shall notify the appropriate casino licensee employees as provided in the internal controls using an automated process. The licensee shall notify the division of the authentication failure within 24 hours. The results of all self-authentication attempts shall be recorded by the system and maintained for a period of 90 days.

M. A sports wagering platform shall have controls in place to review the accuracy and timeliness of any data feeds used to offer or settle wagers. In the event that an incident or error occurs that results in a loss of communication with data feeds used to offer or redeem wagers, such error shall be recorded in a log capturing the date and time of the error, duration of the error, the nature of the error, and a description of its impact on the system's performance. Such information shall be maintained for a period of two years.

N. The sports wagering platform operator shall provide access to wagering transaction and related data as deemed

necessary by the division in a manner approved by the division.

O. A sports wagering platform shall be capable of preventing any wager in excess of \$10,000 or making a payout in excess of \$10,000 until authorized by a supervisor, unless pre-approved and in accordance with internal controls or house rules.

P. A sports wagering platform shall be capable of recording and storing the following information for each wager made:

1. description of the event;
2. wager selection;
3. type of wager;
4. amount of wager;
5. amount of potential payout or an indication that it is a pari-mutuel wager;
6. date and time of wager;
7. identity of the cashier accepting the wager;
8. unique wager identifier, which shall be masked on all system menus, printed reports, and displays, except when accessed by users with supervisor or higher authority, for all unredeemed and unexpired wagers;
9. expiration date of ticket;
10. patron name, if known;
11. date, time, amount, and description of the settlement;
12. location where the wager was made;
13. location of redemption; and
14. identity of cashier settling the wager if applicable.

Q. For all lost tickets that are redeemed, a sports wagering platform shall record and maintain the following information:

1. date and time of redemption;
2. employee responsible for redeeming the ticket;
3. name of patron redeeming the wager;
4. unique ticket identifier; and
5. location of the redemption.

R. For all sports wagering accounts, a sports wagering platform shall record and maintain the following information:

1. a unique player identification;
2. the player's identity details including, but not limited to: player's legal name; date of birth; and residential address;
3. any self-restrictions;
4. any previous accounts; and
5. the date and location from which the sports wagering account was registered or accessed.

S. Operators shall provide the following information upon demand by the board or division. As appropriate, the information shall include, at a minimum, month to date and year to date:

1. total sports wagering account deposits for the requested period;
2. total sports wagering account withdrawals for the requested period;
3. total sports wagers collected from players; and
4. total winnings paid to players.

T. A sports wagering platform shall be capable of recognizing valid tickets and vouchers that contain a duplicate unique wager identifier used for redemption and require the redemption by a ticket writer.

U. A sports wagering platform shall be capable of preventing the redemption of any vouchers or tickets when the data related to the vouchers or tickets has been manually altered outside of the approved system procedures.

V. All servers necessary for the processing of sports wagers, other than backup servers, shall be physically located in Louisiana, and shall be located in a restricted area with adequate security and surveillance in accordance with internal controls and as approved by the division. Other servers used in the operation of the sports book may be located outside of the state as long as they are not used to process sports wagers. The board may approve of the use of internet or cloud-based hosting of duplicate data or data not related to transactional wagering data upon written request of an operator or licensee.

W. All sports wagering mechanisms shall be submitted to a designated gaming laboratory for testing and required certification prior to being placed at a licensed premise. A designated gaming laboratory shall certify that the sports wagering mechanism meets or exceeds the most current board approved version of standards for sports wagering mechanisms, or equivalent standards as approved by the board, and the standards established by the board or the division.

X. System integrity and security assessment.

1. Operators of online sports wagering shall, within 90 days of commencing sports wagering operations in this state and annually thereafter, perform a system integrity and security assessment of sports wagering platforms and systems which shall be conducted by an independent professional selected by the licensee and subject to approval of the division. The scope shall include, at a minimum: a vulnerability assessment of digital platforms, mobile applications, internal, external, and wireless networks with the intent of identifying vulnerabilities of all devices, the sports wagering platform, and applications transferring, storing, and/or processing personal identifying information and other sensitive information connected to or present on the networks; a penetration test of all digital platforms, mobile applications, internal, external, and wireless networks to confirm if identified vulnerability of all devices, the sports wagering platform, and applications are susceptible to compromise; a review of the firewall rules to verify the operating condition of the firewall and the effectiveness of its security configuration and rule sets performed on all the perimeter firewalls and the internal firewalls; a technical security control assessment against the provisions adopted in these rules with generally accepted professional standards and as approved by the board; an evaluation of information security services, cloud services, payment services (financial institutions, payment processors, etc.), location services, and any other services which may be offered directly by the operator or involve the use of third parties; and any other specific criteria or standards for the sports wagering platform integrity and security assessment as prescribed by the board. The assessment report shall be submitted to the division no later than 30 days after the assessment is conducted (and in no event later than July 1) and shall include, at a minimum: scope of review; name and company of affiliation of who conducted the assessment; date of assessment findings; recommended corrective action,

if any; and the operator's response to the findings and recommended corrective action.

2. Consistent with Chapter 28 of Part III of this Title, licensees conducting sports wagering at its licensed premises shall perform a system integrity and security assessment of sports wagering platforms and systems used for conducting retail sports wagering, which shall be completed by an independent professional selected by the licensee and subject to approval of the division. No later than 36 months from its last assessment, the licensee shall submit the results of an independent system integrity and security assessment to the division for review, subject to the following requirements:

a. the testing organization must be independent of the licensee and casino operator;

b. results from the network security risk assessment shall be submitted to the division no later than 90 days after the assessment is conducted;

c. at the discretion of the division, additional network security risk assessments may be required; and

d. a licensee shall periodically, but no later than 36 months from its last assessment, assess the risk to operations, assets, patrons, employees, and other individuals or entities resulting from the operation of the casino's computer systems and the processing, storage, or transmission of information and data. The assessment shall be documented and recorded in a manner that can be displayed or printed upon demand by the board or division and shall be maintained for a period of five years. Licensees shall assess the collection of personnel and patron data annually to ensure that only information necessary for the operation of the business is collected and maintained. No unnecessary personal information shall be retained.

3. The licensee may submit for approval a request to the division to leverage the results of prior assessments within the past year conducted by the same independent professional against standards such as ISO/IEC 27001, ISO/IEC 27017, ISO/IEC 27018, the NIST Cybersecurity Framework (CSF), the Payment Card Industry Data Security Standards (PCI-DSS), or equivalent. Such leveraging shall be noted in the independent professional's report. This leveraging does not include critical components unique to the state which will require more current and separate assessments.

Y. Sports wagering platforms and systems shall provide a mechanism for the board or division to query and export, in a format approved by the board or division, all sports wagering platform data.

Z. The sports wagering platform and systems shall be designed in a way to comply with all Federal requirements including, but not limited to: suspicious wagering activity; Title 31; and W-2G reporting.

AA. Upon request by the division, sports wagering operators shall create test accounts for the division's use to conduct compliance inspections and testing of the sports wagering platform.

BB. The licensee may establish test accounts to be used to test the various components and operation of a sports wagering platform pursuant to its division approved internal control procedures which must address procedures for identifying test accounts, issuing funds, maintaining proper records for all test accounts and conducting audits of all test activity to ensure proper adjustments to gross sports

wagering revenue and any additional requirements specified by the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§903. Sports Wagering Platform Change Management Program

A. Prior to offering sports wagering, the licensee shall submit change control processes to the board or division for approval which detail evaluation procedures for identifying the criticality of updates and determining the updates that must be submitted to the independent testing laboratory for review and certification. These processes must be:

1. developed in accordance with the minimum guidelines for change management established by the division and any future amendments and updates thereto; and

2. certified prior to its deployment and is subject to an audit at any time by the division or its designee which may be a designated gaming laboratory.

B. The division may require on an annual basis that each product operating under the certified change control processes must be fully certified to the specifications set forth in these rules and other technical specifications as prescribed by the division or board and accompanied by formal certification documentation from the designated gaming laboratory. The licensee shall be allowed to seek approval for extension beyond the annual approval if hardship can be demonstrated. Granting of a hardship waiver is the sole discretion of the division.

C. The operator shall identify and classify all components of the sports wagering platform operated under the approved Change Management Program as part of the initial certification and configuration baseline of the platform and aid the designated testing laboratory as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§905. Information Security Management and Data Security

A. The licensee shall implement, maintain, regularly review and revise, and comply with a comprehensive Information Security Management System (ISMS), the purpose of which shall be to take reasonable steps to protect the confidentiality, integrity, and availability of personal identifying information of individuals who place a wager with the licensee, and shall contain administrative, technical, and physical safeguards appropriate to the size, complexity, nature, and scope of the operations and the sensitivity of the personal information owned, licensed, maintained, handled, or otherwise in the possession of the licensee. Additional ISMS specifications may be adopted by the division or board.

B. Licensees and operators shall comply with all applicable state and federal requirements for data security.

C. Logging of sports wagering platform data.

1. All sports wagering platforms shall be designed to ensure the integrity and confidentiality of all patron communications and ensure the proper identification of the sender and receiver of all communications. If communications are performed across a public or third-party

network, the system shall either encrypt the data packets or utilize a secure communications protocol to ensure the integrity and confidentiality of the transmission.

2. Sports wagering platforms shall employ a mechanism capable of maintaining a separate copy of all of the information required to be logged in this Section on a separate and independent logging device capable of being administered by an employee with no incompatible function. If the sports wagering platforms can be configured such that any logged data is contained in a secure transaction file, a separate logging device is not required.

3. Operators shall provide upon request, in a format required by the board, all online sports betting system data. Sports betting system data includes, but is not limited to, employee data and logs, geo-fence logs, player activity and betting information, and event logs related to the operator's Louisiana sports wagering operations.

4. Requirements for system specifications and sports wagering platform logging shall be detailed in internal controls.

D. The sports wagering platform shall provide a logical means for securing individual and player data and wagering data, including accounting, reporting, significant event, or other sensitive information, against alteration, tampering, or unauthorized access.

E. The licensee shall describe its process for the backup and recovery of the required sports wagering platform data in its approved internal controls. Any changes to the process shall be approved by the division prior to the changes being implemented on the platform.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§907. Defective and Malfunctioning Devices, Equipment, and Accessories

A. Operators shall document and maintain any system malfunction or deviation from the sports wagering platform and maintain the data for a minimum period of three years.

B. The sports wagering platform must have sufficient redundancy and modularity so that if any single component or part of a component fails, the functions of the internet sports betting platform and the process of auditing those functions can continue with no critical data loss. If 2 or more components are linked, the process of all internet sports betting operations between the components must not be adversely affected by restart or recovery of either component and upon restart or recovery, the components must immediately synchronize the status of all transactions, data, and configurations with one another.

C. A business continuity and disaster recovery plan must be in place to recover sports wagering operations conducted under the Act if the sports wagering platform's production environment is rendered inoperable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

Chapter 11. Procedures; Access; Investigations

§1101. Access to Premises and Records

A. The board and division, upon displaying proper credentials, shall be given immediate access to any premises, sports wagering platform, and geolocation systems to be used in the operation of an applicant or licensee or permittee for the purpose of inspecting or examining:

1. premises, sports wagering platforms, geolocation systems, etc. belonging to or under the control of or related to the operation of sports wagering and any activity relating to the provisions of the Act and these regulations;

2. records or documents required to be kept under the provisions of the Act and these regulations;

3. gaming equipment to be used in the licensed operation; or

4. the conduct of any gaming activity in the licensed operation.

B. The board and division are empowered to inspect, examine, audit, photocopy and if necessary seize, all papers, books, records, documents, information and electronically stored media of an applicant or licensee or permittee pertaining to the operation or activity on all premises where such information is maintained. The division shall provide an evidence receipt to the applicant or licensee or permittee providing a general description of all documents and items seized.

C. Board and division agents shall have unrestricted contemporaneous access to all records, data, documents and electronic media of a licensee or permittee and its operation.

D. Failure to allow access and inspection as provided in this Section may constitute grounds for delaying consideration of the application, denial of the application, or administrative action against the licensee or permittee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§1103. Refusal to Answer

A. Refusal to provide information to, answer questions of, or cooperate in any investigation by the division or board, or a claim of privilege with respect to any testimony or evidence, may constitute sufficient grounds for denial of the application or administrative action including revocation, suspension, and penalty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§1115. Assisting in or Notification of Violations

A. No licensee or permittee or their employee, agent, or representative shall assist another person in violating any provision of the Act or these regulations; any order, authorization or approval from the board or division; or the internal controls. Such assistance shall constitute a violation of these regulations.

B. It is incumbent upon a licensee or permittee and their employee, agent, or representative to promptly notify the division of any possible violation of any federal, state or municipal law, the Act, these regulations, any order,

authorization or approval from the board or division, or the internal controls.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

Chapter 13. Hearings; Administrative Actions; Penalties

§1301. Administrative Actions

A. The board or division may initiate administrative action authorized by the Act for any violation of the Act or of the rules after notice of the proposed administrative action and after opportunity to request a hearing before the board.

B. The board or division may initiate administrative action authorized by the Act for any violation of any condition, restriction, or limitation imposed by the board on a license or permit.

C. The board or division may initiate administrative action against a licensee, permittee, or person required to submit to suitability by the Act or these regulations who, or whose affiliate or parent company, has been subject to administrative action in another jurisdiction for gaming related activity.

D. The board or division may initiate administrative action authorized by the Act for violation of a licensee’s or permittee’s internal controls as approved by the division.

E. Administrative action includes revocation, suspension, finding of unsuitability, or conditioning of a license or permit, imposition of a civil penalty or such other costs as the board or division deems appropriate. The board or division may determine the appropriate sanction considering factors contained in the Act including, but not limited to:

1. the risk to the public and the integrity of sports wagering operations created by the conduct;
2. the seriousness of the conduct and whether the conduct was purposeful and with knowledge that the conduct was in violation of the Act or rules promulgated in accordance with the Act;
3. a justification or excuse for the conduct;
4. the history of the licensee or permittee with respect to gaming activity and the operation of sports wagering;
5. the corrective action taken to prevent similar misconduct from occurring in the future;
6. whether there was any material involvement, directly or indirectly, with the licensee or permittee by a disqualified person as defined in the Act; and
7. in the case of a civil penalty or fine, the amount of the fine in relation to the severity of the misconduct and the financial means of the licensee or permittee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§1303. Civil Penalties

A. Pursuant to R.S. 27:15, and these regulations, the board or division may impose a civil penalty as provided for in Part III of this Title and in the penalty schedule contained in this Section.

B. The penalty schedule lists a base fine and proscriptive period for each violation committed by the licensee or permittee. If the total amount of the penalty or penalties recommended by the division resulting from an inspection or

investigation exceeds \$300,000.00, the matter shall be forwarded to the board for administrative action.

C. The proscriptive period is the amount of time in which a prior violation is still considered active for purposes of consideration in assessment of penalties. A prior violation is a past violation of the same type which falls within the current violation's proscriptive period. The date of a prior violation shall be the date the licensee or permittee receives the significant action report or violation/inspection report. If one or more violations exist within the proscriptive period, the base fine shall be multiplied by a factor based on the total number of violations within the proscriptive period.

D. A violation of §2931 of Part III of this Title may result in a civil penalty in the same amount as provided in the penalty schedule for the respective violation.

E. Penalty Schedule

Section Reference	Description	Proscriptive Period (Months)	1st
Louisiana Administrative Code, Title 42, Part VI			
42:VI.501(D)	Prohibited Person Placing a Sports Wager	12	\$10,000
42:VI.505(A)	Person Placing a Sports Wager While Located in a Parish that Voted Against Sports Wagering	12	\$10,000

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

Ronnie S. Johns
Chairman

2108#001

DECLARATION OF EMERGENCY

**Department of Revenue
Policy Services Division**

**Income Tax Withholding on Gaming Winnings
(LAC 61:I.1525)**

In accordance with the emergency provisions of the Administrative Procedures Act, R.S. 49:953.1, and Act 211 of the 2021 Regular Session of the Louisiana Legislature, and R.S. 47:1511, the Department of Revenue, Policy Services Division, (“the department”) is, by emergency rule, adopting LAC 61:I.1525. The purpose of this regulation is to require any person paying gaming winnings under the provisions of Act 141 of the 2020 Regular Session of the Louisiana Legislature and Act 80 of the 2021 Regular Session of the Louisiana Legislature to withhold Louisiana income tax. This Emergency Rule is effective September 5, 2021, and will remain in effect for 120 days, unless renewed or revoked, or until the adoption of the final Rule, whichever comes first. The promulgation of this rule on an emergency basis is necessary to implement the required withholding as permits have been approved allowing the betting. Act 141 of the 2020 Regular Session of the Louisiana Legislature and Act 80 of the 2021 Regular Session of the Louisiana Legislature respectively authorize fantasy sports and sports wagering gaming. This Emergency Rule requires income tax withholding from every person or business that pays sports

betting and fantasy sports winnings in excess of \$1,200 at the highest rate provided for by R.S. 47:32(A). This Emergency Rule clarifies that any person paying gaming winnings is required to conform to the electronic filing requirements for LDR Form L-3 and accompanying IRS Form W-2G.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 15. Income: Withholding Tax

§1525. Income Tax Withholding on Gaming Winnings

A. - A.2. ...

3. Any person that pays sports betting and fantasy sports winnings in excess of \$1,200 shall issue an IRS Form W-2-G and withhold at the highest rate provided for by R.S. 47:32(A) regardless of the *Internal Revenue Code* withholding requirements on such sports betting and fantasy sports winnings.

B. - B.2.b. ...

3. Effective for taxable periods beginning on or after January 1, 2021, persons required to withhold and to remit income taxes on gaming winnings shall electronically file the LDR Form L-3 transmittal and accompanying IRS Form W-2G. Pursuant to the authority of R.S. 47:114(D)(2) and to provide simplicity on related federal filing requirements, the secretary grants an extension of time to file to February 28th to coincide with the federal due date.

a. Electronic Filing Options. The LDR Form L-3 and IRS Form W-2G shall be filed electronically in one of the manners as follows:

i. electronic filing using the LaWage electronic filing application via the LDR website, www.revenue.louisiana.gov; or

ii. any other electronic method authorized by the secretary.

4. Tax Preparer Undue Hardship Waiver of Electronic Filing Requirement

a. The secretary may waive the electronic filing requirement if it is determined that complying with the requirement would cause an undue hardship.

b. For the purposes of waiver of the electronic filing requirement, inability by the tax preparer to obtain broadband access at the location where LDR Forms L-3 and IRS Forms W-2G are prepared shall be considered an undue hardship and waiver of the requirement will be granted.

AUTHORITY NOTE: Promulgated in accordance with Act 80 of the 2021 Regular Session of the Louisiana Legislature, R.S. 47:32(A), R.S. 47:164, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 36:2877 (December 2010), amended by the Department of Revenue, Policy Services Division, LR 47:

Kimberly J. Lewis
Secretary

2109#64

DECLARATION OF EMERGENCY

Workforce Commission Office of Unemployment Insurance Administration

Invocation of the Statutory Savings Clause under
R.S. 23:1664 to Delay Implementation of Act 297
of the 2021 Regular Legislative Session
(LAC 40:IV.385)

The Louisiana Workforce Commission (LWC) is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., to promulgate a Rule to delay implementation of the provisions of Act 297 of the 2021 Regular Legislative Session (the enacted version of SB 244), that are inconsistent with Federal UI law, namely La. R.S. 23:1772(C), 23:1774(4), and any other related provision that requires LWC to waive UI taxes owed. The USDOL provided the LWC with notice that waiving employer liability for back UI taxes is “not permissible under federal unemployment compensation (UC) law.”

This Emergency Rule is necessary to invoke the statutory savings clause under R.S. 23:1664, which addresses federal-state cooperation and compliance in the administration of Louisiana’s UC program. A delay in promulgating this Rule would have an adverse impact on the Louisiana Workforce Commission’s eligibility for federal funding because Act No. 297, which was signed into law by the Governor on June 14, 2021, and is effective on January 1, 2022, is not in conformity with 26 U.S.C. §3304 of the Federal Unemployment Tax Act (FUTA) and 42 U.S.C. §503, the State Unemployment Tax Act (SUTA) Dumping Prevention Act, as required under La. R.S. 23:1664. It is imperative that the LWC proceed expediently and take immediate action with this Rule because of the adverse impact COVID-19 has had on the UC trust fund balance and businesses in the state. It is also imperative that the LWC promulgate this Rule to prevent imminent peril to the public health, safety, and welfare. Failure to adopt this Rule on an emergency basis may imperil LWC’s ability to receive federal funding for failure to meet conformity requirements.

This declaration of emergency is effective November 8, 2021, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act, R.S. 49:953.1 et seq., or until adoption of the final Rule, whichever occurs first.

Title 40

LABOR AND EMPLOYMENT

Part IV. Employment Security

Chapter 3. Employment Security Law

§385. Invocation of the Statutory Savings Clause under R.S. 23:1664 to Delay Implementation of Act No. 297 of the 2021 Regular Legislative Session

A. Pursuant to the Fresh Start Proper Worker Classification Initiative and the Louisiana Voluntary Disclosure program under Act No. 297 (the enacted version of SB 244), employer liability for SUTA dumping penalties

and fraud penalties is waived under the safe harbor provision. However, employer liability for SUTA dumping penalties and fraud penalties must not be waived under 26 U.S.C. §3304 of the Federal Unemployment Tax Act (FUTA) and under 42 U.S.C. §503, the State Unemployment Tax Act (SUTA) Dumping Prevention Act. The enactment of Act No. 297 would also require the Louisiana Workforce Commission to waive employer liability for back UI taxes. Waiving employer liability for back UI taxes is not permissible under federal unemployment compensation (UC) law and regulations. Pertinent provisions of Act No. 297 are not in conformity with federal law and regulations. The LWC only seeks to delay the provisions that are inconsistent with Federal UI law, namely R.S. 23:1772(C), 23:1774(A)(4), and any other related provision that requires the LWC to waive UI taxes owed. The LWC does not seek to delay enactment of the portion of Act No. 297 that pertains to employee misclassification. Pursuant to R.S. 23:1664, which addresses federal-state cooperation and compliance in the administration of Louisiana's UC program and requires that the administrator take such actions as may be necessary to meet the requirements of FUTA as interpreted by the U.S.

Department of Labor, the Louisiana Workforce Commission seeks to invoke the savings clause under La. R.S. 23:1664 and delay implementation of Act No. 297 until the statute is amended during the 2022 Regular Legislative Session. A delay in promulgating this Rule would have an adverse impact on the LWC's eligibility for federal funding because Act No. 297 is not in conformity with federal UC law.

AUTHORITY NOTE: Promulgated in accordance with Act No. 297, La. R.S. 23:1664, La. R.S. 36:310, 26 U.S.C. §3304 and 42 U.S.C. §503.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Unemployment Insurance Administration, LR 47:

Inquiries concerning the proposed enactment may be sent to Assistant Secretary Robert Wooley, UI Administration, 1001 North 23rd Street, Baton Rouge, LA 70802 or at Rwooley@lwc.la.gov.

Ava Cates
Secretary

2109#020

Rules

RULE

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

Minimum Examination Performance Levels Required (LAC 7:XXIX.111)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., and pursuant to the authority set forth in R.S. 3:3801(F), the Department of Agriculture and Forestry (“Department”) and the Horticulture Commission has amended LAC 7:XXIX.111 to allow an exam applicant who fails to complete or pass an examination for licensure to reapply for examination after a period of seven days instead of two weeks. Horticulture licensing exams are now administered using computer-based software instead of written paper exams. The software system automatically grades the exams and generates an exam score as soon as the applicant completes the exam, omitting the need for manual grading. The automated system has also dispensed with the mailing of paper exams between satellite test-taking sites at the department’s district offices and LDAF Headquarters, further reducing the timeframe for administering and processing exams. Reducing the time interval for reapplication would benefit test-takers and prospective licensees insofar as it could potentially lessen the time that they must wait to obtain their license. This Rule is hereby adopted on the day of promulgation.

Title 7

AGRICULTURE AND ANIMALS

Part XXIX. Horticulture Commission

Chapter 1. Horticulture

§111. Minimum Examination Performance Levels Required

A. Any person taking an examination for licensure must score a 70 percent or above to pass the examination.

B. An applicant who fails to complete or pass an examination for licensure must wait at least seven days before reapplying to take the examination.

C. A passing score on an examination is valid for five years, after which time the applicant must apply to retake the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3807 and R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 20:153 (February 1994), LR 35:1229 (July 2009), LR 37:3464 (December 2011), LR 40:759 (April 2014), , amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Horticulture Commission, LR 44:2127 (December 2018), LR 47:1274 (September 2021).

Mike Strain, DVM
Commissioner

2109#063

RULE

Board of Elementary and Secondary Education

Bulletin 137—Louisiana Early Learning
Center Licensing Regulations
(LAC 28: CLXI.103, 303, 701, 703, 709, 903, 1103,
1105, 1305, 1507, 1509, 1515, 1711, 1715, 1717,
1719, 1721, 1723, 1725, 1727, 1805, 1811, 1813,
1901, 1903, 1907, 1911, 1919 and 2105)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 137—Louisiana Early Learning Center Licensing Regulation. In accordance with Louisiana R.S. 17:407.40, the Board of Elementary and Secondary Education (BESE) shall conduct a comprehensive review of all standards, rules, and regulations for licenses every three years. As required, the Department of Education (LDE) launched a workgroup comprised of providers and child advocates to review and provide input on updates to Bulletin 137—Louisiana Early Learning Center Licensing Regulations. Draft revisions of Bulletin 137 regarding early learning center licensing, child health and safety, and technical edits were endorsed by the Early Childhood Care and Education (ECCE) Advisory Council in January 2021. This Rule is hereby adopted on the day of promulgation.

Title 28

EDUCATION

Part CLXI. Bulletin 137—Louisiana Early Learning Center Licensing Regulations

Chapter 1. General Provisions

§103. Definitions

* * *

CBC—Repealed.

* * *

Child Day Care Center—in accordance with R.S. 17:407.33(3), any place or center operated by any institution, political subdivision, society, agency, corporation, person or persons, or any other group for the purpose of providing care, supervision, and guidance of seven or more children, not including those related to the caregiver, unaccompanied by parent or legal custodian, on a regular basis for at least 12 1/2 hours in a continuous 7-day week.

1. If a child day care center provides transportation or arranges for transportation to and from the center, either directly or by contract with third parties, all hours that a child is being transported shall be included in the calculation of the hours of operation.

2. A child day care center that remains open for more than 12 1/2 hours in a continuous 7-day week, and in which no individual child remains for more than 24 hours in one continuous stay shall be known as a full-time child day care center.

3. A child day care center that remains open after 9 p.m. shall meet the appropriate regulations established for nighttime care.

* * *

Criminal Background Check (CBC)—Repealed.

* * *

Key Orientation Training Module 1—a self-paced, online training provided by the department for new early learning staff that addresses early childhood professionalism, health and safety, licensing and hazards.

Key Orientation Training Module 2—a self-paced, online training provided by the department for new early learning staff that addresses child development, early learning and development standards (ELDS), and learning activities.

Key Orientation Training Module 3—a self-paced, online training provided by the department for new early learning staff that addresses teacher-child interaction, child guidance, and classroom management.

* * *

Office of Public Health—Louisiana Department of Health, Office of Public Health.

* * *

Right to Review (RTR)—Repealed.

* * *

Student Trainee—a student who is at least age 16 and present in the center as an educational course requirement. A student trainee shall not be left alone with children and shall not be counted in the child to staff ratio.

* * *

Transportation—the arranging or providing of transportation of children, whether center-provided or contract-provided, for any reason, including daily transportation, transportation for field trips, including parent-provided transportation for field trips, or transportation for any other activity that takes place away from the licensed center.

* * *

Written—includes hard-copies and electronic form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.31 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:616 (April 2015), effective July 1, 2015, amended LR 41:2103 (October 2015), LR 43:638 (April 2017), LR 44:247 (February 2018), effective March 1, 2018, LR 44:1858 (October 2018), LR 47:1274 (September 2021).

Chapter 3. Licensure

§303. Exemptions from Licensure

A. - C. ...

D. Nothing in this bulletin shall apply to children in programs licensed or operated by the Louisiana Department of Health (LDH) or the Department of Children and Family Services (DCFS), and the United States Department of Defense.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.35.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:619 (April 2015), effective July 1, 2015, LR 47:1275 (September 2021).

Chapter 7. Licensing Process and Procedures

§701. Initial Application Process

A. - D.1.c. ...

2. If the application is complete, the department will notify the applicant and will request the Office of State Fire Marshall, city fire (if applicable), Louisiana Department of Health, and the academic approval section to make an

inspection of the center, as per agency standards. However, the applicant is responsible for obtaining the required inspections and approvals.

D.2.a. - E.9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.39.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:622 (April 2015), effective July 1, 2015, amended LR 41:2104 (October 2015), LR 44:248 (February 2018), effective March 1, 2018, LR 44:1860 (October 2018), LR 47:1275 (September 2021).

§703. Initial Inspection Process

A. An initial licensing inspection, including a measurement of the indoor and outdoor enclosed space, shall be conducted at the center to assure compliance with all licensing laws, regulations and minimum standards.

1. If the center in operation is in violation of the law, the application may be denied, and the department may pursue appropriate legal remedies.

A.2. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.39.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:623 (April 2015), effective July 1, 2015, amended LR 41:2105 (October 2015), LR 44:248 (February 2018), effective March 1, 2018, LR 44:1860 (October 2018), LR 47:1275 (September 2021).

§709. Validity of Licenses

A. - G. ...

H. All new construction or renovation of a center requires approval from the Office of State Fire Marshal, the Louisiana Department of Health and the LDE prior to occupying the new or renovated space.

I. A single license may be issued for a center with multiple buildings at the same location at the sole discretion of the LDE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:407.39(C), and 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:624 (April 2015), effective July 1, 2015, amended LR 42:554 (April 2016), LR 44:1861 (October 2018), LR 47:1275 (September 2021).

Chapter 9. Changes Requiring a New License

§903. Change of Ownership

A. - B. ...

C. Any of the following may constitute a change of ownership:

C.1. - C.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.39 and R.S. 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:625 (April 2015), effective July 1, 2015, amended LR 41:2105 (October 2015), LR 47:1275 (September 2021).

Chapter 11. Operating Violations and Incidents; Fines; Appeals

§1103. Critical Incidents and Required Notifications

A. - A.2. ...

3. and a child left unsupervised for any amount of time;

4. use of prohibited behavior management as described in Section 1509.A.8.b. of this Part;

5. allegations or suspicion of child abuse or neglect by center staff;

6. an accident involving the transportation of children;
or

7. any other significant event relating to the health, safety, or well-being of any child, including but not limited to a lost child, an emergency situation, fire or other structural damage, or closure of the center.

B. ...

C. The LDE and other appropriate agencies, such as DCFS, LDH and the Office of State Fire Marshall, as applicable, shall be notified via email within 24 hours of the incident.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:625 (April 2015), effective July 1, 2015, amended LR 44:1862 (October 2018), LR 47:1275 (September 2021).

§1105. Identified Violations and Fines

A. - A.5. ...

B. Where such a violation does not result in the revocation of or refusal to renew a license, the LDE may issue a written warning/notice of violation of the standards listed in Subsection A of this Section that may include:

B.1. - B.2. ...

C. Second Violation or Deficiency. If the CAP is not timely implemented or if a second violation related to the same standard occurs within a 24-month period and does not result in the revocation of or refusal to renew a license, the department may issue a written notice of violation that:

C.1. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:626 (April 2015), effective July 1, 2015, amended LR 41:2105 (October 2015), LR 44:249 (February 2018), effective March 1, 2018, LR 44:1862 (October 2018), LR 47:1276 (September 2021).

Chapter 13. Denial, Revocation or Non-Renewal of License

§1305. Posting of Notice of Revocation or Refusal to Renew

A. The LDE shall prominently post notice of a revocation or refusal to renew action at each public entrance of the center within one business day of such action.

B. Such notice of revocation or refusal to renew shall remain posted and visible to parents of children at the center throughout the pendency of any appeals of the revocation.

C. The center shall not permit the destruction or removal of a notice of revocation or refusal to renew action and shall ensure that the notice continues to be visible to any person entering the center throughout the pendency of any appeals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.44.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:627 (April 2015), effective July 1, 2015, amended LR 44:1863 (October 2018), LR 47:1276 (September 2021).

Chapter 15. Minimum General Requirements and Standards

§1507. Daily Attendance Records

A. - E. ...

F. Records Retention. Daily attendance records shall be maintained on site for two years and shall be available for

inspection, whether as hard copies or in electronic form upon request by the LDE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:629 (April 2015), effective July 1, 2015, amended LR 44:1864 (October 2018), LR 47:1276 (September 2021).

§1509. Policies

A. An early learning center shall establish in writing, prominently post or show parent's signature of receipt, implement, and implement, the following policies:

1. child abuse and neglect policy:

a. as mandated reporters, all staff and owners shall report any allegation or suspicion of abuse or neglect of a child to the Louisiana Child Protection Statewide Hotline (855) 4LA-KIDS [(855) 452-5437];

A.1.b. - A.12.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 41:629 (April 2015), effective July 1, 2015, amended LR 44:250 (February 2018), effective March 1, 2018, LR 44:1864 (October 2018), LR 47:1276 (September 2021).

§1515. Child Records and Cumulative Files

A. - A.1.d. ...

e. any special concerns, including but not limited to allergies, chronic illnesses, and any special needs of the child, if applicable; and

f. any special dietary needs, restrictions or food allergies or intolerances, if applicable. See Paragraph 4;

A.2. - C. ...

D. Retention of Records. Records of children shall be maintained by a center for a minimum of two years from the date of termination of the child's enrollment at the center and shall be available for on-site inspection, whether as hard copies or in electronic form, upon request by the LDE.

E. ...

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).

Chapter 17. Minimum Staffing Requirements and Standards

§1711. Child-to-Staff Minimum Ratios

A. ...

B. Minimum child to staff ratios shall be met at all times.

1. There shall be a minimum of two staff members present at an early learning center when more than four children are present.

B.2. - N.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:633 (April 2015), effective July 1, 2015, amended LR 43:638 (April 2017), LR 44:250 (February 2018), effective March 1, 2018, LR 44:1865 (October 2018), LR 45:525 (April 2019), LR 47:1276 (September 2021).

§1715. Staff Records and Personnel Files

A. - A.4. ...

B. Records Retention. Staff records and personnel files shall be maintained for a minimum of two years from the date of termination of employment and shall be available for on-site inspection, whether as hard copies or in electronic form, upon request by the LDE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:635 (April 2015), effective July 1, 2015, amended LR 44:251 (February 2018), effective March 1, 2018, LR 44:1866 (October 2018), LR 47:1276 (September 2021).

§1717. Records for Independent Contractors and Student Trainees

A. - B.3. ...

C. Records Retention. Records for independent contractors and student trainees shall be maintained for a minimum of two years from the date the contractor or student was last present at the center and shall be available for on-site inspection, whether as hard copies or in electronic form, upon request by the LDE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:407.40(A)(1), 17:407:40, and 17:407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:635 (April 2015), effective July 1, 2015, amended LR 44:251 (February 2018), effective March 1, 2018, LR 44:1866 (October 2018), LR 47:1277 (September 2021).

§1719. Orientation Training

A. Within seven calendar days of the first day present at the center, and prior to assuming sole responsibility for any children, each staff member shall receive center-specific orientation to the policies and practices of the center that at a minimum shall include information on the center:

1. child abuse identification and reporting, including phone numbers for mandatory reporting and suspected child abuse and neglect;
2. location of emergency exits and emergency preparedness plans;
3. handling of emergencies due to food/allergic reactions;
4. location of first-aid supplies;
5. list of children with allergies and special needs;
6. identification of critical staff including but not limited to staff trained in CPR and first aid and staff who can administer medicine;
7. child release policies and restrictions;
8. child-to-staff ratio policies;
9. daily schedules;
10. opening policy;
11. closing policy; and
12. transportation policy and vehicle inspection procedures.

B. Within seven calendar days of the first day present at the center, and prior to assuming sole responsibility for any children, each staff member shall complete the LDE Key Training Module 1 and the DCFS online Mandated Reporter Training. Key Training Module 1 shall at a minimum include information on the following:

1. general emergency preparedness, including natural disasters and man-caused events;
2. professionalism;
3. health and safety, which includes: daily observations, supervision regulations, daily attendance, child

to staff ratios, improper discipline, prohibited discipline, prevention of shaken baby syndrome, prevention of abusive head trauma and child maltreatment, food safety, choking risks recognition and reporting of child abuse and neglect;

4. administration of medication consistent with standards for parental consent;

5. prevention and response to emergencies due to food and allergic reactions;

6. appropriate precautions in transporting children, if applicable;

7. public health policies, prevention and control of infectious diseases, including immunization information;

8. handling and storage of hazardous materials and the appropriate disposal of bio-contaminants;

9. pediatric first aid and cardiopulmonary resuscitation (CPR);

10. prevention of sudden infant death syndrome and use of safe sleep practices;

11. outdoor play practices;

12. environmental safety; and

13. building and physical premises safety, including identification of and protection from hazards, bodies of water and vehicular traffic;

14. child release practices; and

15. critical incident practices and licensing regulations

C. Within 30 calendar days of the first day present at the center and prior to assuming sole responsibility for any children, each staff member shall complete the LDE Key Orientation Training Modules 2 and 3, that at a minimum shall include information on the following:

1. child development;

2. child guidance;

3. learning activities;

4. health and safety; and

5. early learning development standards.

D. All staff members responsible for transporting children shall receive additional orientation training in the following areas prior to assuming transportation duties:

1. transportation regulations, including the modeling of how to properly conduct a vehicle passenger check and demonstration by staff to director on how to conduct a vehicle passenger check;

2. proper use of child safety restraints required by state law;

3. proper loading, unloading, and tracking of children as required by state law;

4. location of first aid supplies; and

5. emergency procedures for the vehicle, including actions to be taken in the event of accidents or breakdowns.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(1) and (3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:635 (April 2015), effective July 1, 2015, amended LR 42:555 (April 2016), LR 44:1866 (October 2018), LR 47:1277 (September 2021).

§1721. Continuing Education

A. - G. ...

H. Copies of certificates of completion or transcripts shall be maintained at the center and shall be available for on-site inspection, whether as hard copies or in electronic form, by the LDE upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(1) and (3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:636 (April 2015), effective July 1, 2015, amended LR 41:2108 (October 2015), LR 42:555 (April 2016), LR 44:251 (February 2018), effective March 1, 2018, LR 44:1866 (October 2018), LR 47:1277 (September 2021).

§1723. CPR and First Aid Certifications

A. - D. ...

E. Certification. A copy of the certification for each such staff member shall be on-site at all times and available for inspection, whether as hard copies or in electronic form, upon request by the department.

F.

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).

§1725. Medication Management Training

A. - C. ...

D. Documentation of current completion of such training shall be maintained by the center and shall be available for on-site inspection, whether as hard copies or in electronic form, upon request by the LDE.

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).

§1727. Child Neglect and Abuse Mandatory Reporter Training

A. All staff members shall annually complete the online child abuse and neglect Mandated Reporter Training provided by DCFS.

B. Documentation of completion of the course shall be maintained by the center for all staff and shall be available for on-site inspection, whether as hard copies or in electronic form, upon request by the LDE.

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 47:1278 (September 2021).

Chapter 18. Child Care Criminal Background Checks (CCCBC)

§1805. Persons Ineligible for Child Care Purposes

A. - B.1. ...

C. A person may also be ineligible for child care purposes if upon the LDE request for information from another state, municipality or federal agency, the department receives from the state, municipality or federal agency written notice that the person's name is recorded on that state's registry or repository of child abuse and neglect as having a finding of child abuse or neglect or written notice that the person has been convicted of or plead guilty or nolo contendere to any of the crimes listed in R.S. 15:587.1(C), or crimes of a jurisdiction other than Louisiana which would constitute a crime under the provisions cited in R.S. 15:587.1(C), or is otherwise ineligible for child care purposes.

D. - D.1. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 98.43 and R.S. 15:587.1, 17:6, and 407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:252 (February 2018), effective March 1, 2018, amended LR 44:1866 (October 2018), amended LR 45:224 (February 2019), LR 47:1278 (September 2021).

§1811. Requests for CCCBC-Based Determinations of Eligibility for Child Care Purposes from the Department

A. - D.2.g. ...

3. The center shall have a log, either handwritten or in electronic form, or other written documentation of the monitoring of provisionally-employed staff members that identifies each provisionally-employed staff member, the designated monitor for each, and the times of the visual observations.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 98.43, R.S. 15:587.1, and R.S. 407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:253 (February 2018), effective March 1, 2018, LR 47:1278 (September 2021).

§1813. Transitional Provisions for Newly Required CCCBC-Based Determinations of Eligibility

Repealed

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 98.43, R.S. 15:587.1, and R.S. 407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:254 (February 2018), effective March 1, 2018. Repealed, LR 47:1278 (September 2021).

Chapter 19. Minimum Health, Safety, and Environment Requirements and Standards

§1901. General Safety Requirements

A. Telephones and Emergency Numbers

1. A dedicated working phone, with a number dedicated to the center, that is capable of incoming and outgoing calls shall be readily available at the center at all times.

2. When a center has multiple buildings and does not have a dedicated a phone in each building where children are present, the center shall establish and follow written procedures for securing emergency help. The written procedures shall be posted in each building.

A.3. - R. ...

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 42:555 (April 2016), LR 44:1867 (October 2018), LR 47:1278 (September 2021).

§1903. Physical Environment

A. - C. ...

D. Indoor Space

1. A minimum of 35 square feet of usable indoor space shall be available per child until June 1, 2022.

a. Effective June 1, 2022, a minimum of 35 square feet of usable indoor space shall be available per child for children ages birth to 4. For children ages 4 and above, a minimum of 25 square feet of usable indoor space shall be available per child.

b. If any child in a space is less than age 4, a minimum of 35 square feet of usable indoor space shall be available for every child in the space, regardless of age.

c. The space shall not include toilet facilities, hallways, lofts, storage spaces, stairways, lockers, offices, storage or food preparation areas, rooms used exclusively for dining or sleeping, or rooms used exclusively for the care of ill children.

D.2. - E.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:637 (April 2015), effective July 1, 2015, amended LR 41:2108 (October 2015), LR 44:256 (February 2018), effective March 1, 2018, LR 47:1278 (September 2021).

§1907. Furnishings and Equipment

A. - C.1. ...

2. Individual sleeping accommodations shall be assigned to a child on a permanent basis and labeled, and the cots, cribs and mats shall be sanitized daily.

C.3. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:638 (April 2015), effective July 1, 2015, amended LR 41:2108 (October 2015), LR 44:256 (February 2018), effective March 1, 2018, LR 47:1279 (September 2021).

§1911. Care of Children

A. - D. ...

E. Daily Reports for Infants. Written or electronic reports that include the liquid intake, food intake, disposition, bowel movements and eating and sleeping patterns shall be given to the parents of infants on a daily basis. Reports shall be kept current throughout the day.

F. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:638 (April 2015), effective July 1, 2015, LR 47:1279 (September 2021).

§1919. Food Service and Nutrition

A. - B.1. ...

2. be prominently posted, written or electronically, by the first day of each week and remain posted throughout the week; and

3. have substitutions or additions posted, written or electronically, on or near the menu.

C. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(4).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:640 (April 2015), effective July 1, 2015, amended LR 44:257 (February 2018), effective March 1, 2018, LR 44:1867 (October 2018), LR 47:1279 (September 2021).

Chapter 21. Minimum Transportation Requirements and Standards

§2105. Field Trips

A. - D. ...

E. A written or electronic record for each field trip shall be maintained and shall include the following:

1. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:642 (April 2015), effective July 1, 2015, LR 47:1279 (September 2021).

Shan N. Davis
Executive Director

2109#046

RULE

Board of Elementary and Secondary Education

Bulletin 139—Louisiana Child Care and Development Fund Programs—CCAP Household Eligibility (LAC 28:CLXV.103, 309, 311 and 313)

In accordance with R.S. 17:6 and R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 139—Louisiana Child Care and Development Fund Programs. The amendments include updates in response to recent federal monitoring findings, early learning center requirements, and additional clarification for providers. Draft revisions of Bulletin 139 were endorsed by the Early Childhood Care and Education (ECCE) Advisory Council in January 2021. This Rule is hereby adopted on the day of promulgation.

Title 28

EDUCATION

Part CLXV. Bulletin 139—Louisiana Child Care and Development Fund Programs

Chapter 1. Child Care Assistance Program

§103. Definitions

Child Care Health Consultant—qualified health and safety professional approved by LDH to provide training, consultation, and technical assistance to in- and out-of-home child care facilities and early childhood education staff (and parents) on health and safety topics.

Group Size—the number of children assigned to a teacher or team of teachers occupying an individual classroom or well-defined space within a large room.

Key Orientation Training Module 1—a self-paced, online training provided by the LDE for new providers and staff that addresses early childhood professionalism, health and safety, licensing and hazards.

Key Orientation Training Module 2—a self-paced, online training provided by the LDE for new providers and staff that addresses child development, early learning and development standards (ELDS), and learning activities.

Key Orientation Training Module 3—a self-paced, online training provided by the LDE for new providers and staff that addresses teacher-child interaction, child guidance, and classroom management.

Non-Vehicular Excursions—any activity that takes place away from the home that is within a safe, reasonable, walking distance from the home, and that does not require

transportation in a motor vehicle and does not include walking with children to and from schools.

* * *

Supervision—the function of observing, overseeing, and guiding a child or group of children, that includes awareness of and responsibility for the ongoing activity of each child and being near enough to intervene if needed.

* * *

Unexplained Absence—an absence for which the head of household has not provided verbal or written notification to the provider or the department about the absence.

Water Activity—a water-related activity in which children are in, on, near and accessible to, or immersed in, a body of water, including but not limited to a swimming pool, wading pool, water park, river, lake, or beach.

Water Play Activity—water-related activity in which there is no standing water, including but not limited to fountains, sprinklers, water slip-and-slides and water tables.

Written—includes hard-copy and electronic form.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR part 98 and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2109 (October 2015), amended LR 42:42 (January 2016), LR 42:1870 (November 2016), LR 43:1279 (July 2017), LR 44:257 (February 2018), effective March 1, 2018, LR 44:800 (April 2018), LR 47:1279 (September 2021).

Chapter 3. CCAP Provider Certification

§309. Specific Certification and Registration

Requirements for Family Child Care Providers

A. - A.9. ...

10. Medication Administration Training. Provide documentation of current medication administration training with a child care health consultant approved by LDH.

11. Pre-Service Orientation Training. Complete four hours of pre-service orientation training that includes the LDE Key Orientation Training Modules 1, 2 and 3 and DCFS' online Mandate Reporter training prior to initial certification, maintain documentation verifying completion of the training, and submit the documentation with the application for certification to the LDE.

a. The pre-service orientation training shall at a minimum include information on the following:

- i. general emergency preparedness, including natural disasters and man-caused disasters;
- ii. professionalism;
- iii. health and safety, including daily observations, supervision regulations, daily attendance, child-to-staff ratios, improper discipline, prohibited discipline, prevention of shaken baby syndrome, prevention of abusive head trauma and child maltreatment, food safety, choking risks, and recognition and reporting of child abuse and neglect;
- iv. administration of medication consistent with standards for parental consent;
- v. prevention and response to emergencies due to food and allergic reactions;
- vi. appropriate precautions in transporting children, if applicable;
- vii. public health policies, including prevention and control of infectious diseases and immunization information;
- viii. handling and storage of hazardous materials and appropriate disposal of bio-contaminants;

ix. pediatric first aid and cardiopulmonary resuscitation (CPR);

x. prevention of sudden infant death syndrome and use of safe sleep practices;

xi. outdoor play practices;

xii. environmental safety;

xiii. building and physical premises safety, including identification of and protection from hazards, bodies of water and vehicular traffic;

xiv. child release procedures; and

xv. critical incident procedures.

12. Continuing Training

a. Annually complete 12-clock hours of training in safety and health topics and job-related subject areas approved by the LDE. Continuing training shall be completed with LDE approved trainers.

b. Annually complete DCFS' online Mandated Reporter Training.

c. Documentation verifying completion of all required trainings shall be maintained onsite by the provider, whether as hard copies or in electronic form, and made available for inspection upon request by the LDE.

d. Pre-service orientation training, infant/child/adult CPR, pediatric first aid training, and medication administration training may count as annual training requirements in the certification period in which the training is completed.

13. Child Daily Attendance. A daily attendance record for children shall be maintained that shall:

a. include the child's first and last name, arrival and departure times, and first and last name of person or entity to whom the child is released;

b. accurately reflect children in care at any given time; and

c. be used to sign in and out if a child leaves and returns to the home during the day.

14. Transportation. If transportation is provided, the provider shall:

a. use child safety restraints, such as car seat belts, child restraining seats, infant carrier seats, etc., as required by law in the transportation of children;

b. take precautions necessary to ensure the safety of children being transported;

c. develop written emergency procedures and actions to be taken in the event of an accident or breakdown;

d. maintain a current driver's license and current automobile insurance as required by law;

e. obtain written permission from a parent to transport the child; and

f. maintain a transportation log for each trip to be used to track children during transportation, which shall include the child's name, the date, time and place of pick up and drop off, and the name of the person to whom a child is released.

15. Medication Administration

a. No medication or special medical procedure shall be administered to a child unless authorized in writing by the parent.

b. Such authorization shall include the name of the child, drug name and strength, date(s) to be administered, directions for use, including route, dosage, frequency, time

and special instructions if applicable, and signature of parent and date of signature.

16. Immunizations. Obtain satisfactory evidence of immunization against, or an immunization program in progress, for vaccine-preventable diseases for each child in care, according to the schedule approved by the Office of Public Health, Department of Health and Hospitals:

a. if vaccination is contraindicated for medical reasons, the parent shall provide a written statement from a physician indicating said medical reasons; or

b. if the parent objects to the immunizations for any other reason, the parent shall provide a written statement of dissent.

17. Hazardous Materials. Keep items that can be harmful to children, such as medications, poisons, cleaning supplies and chemicals, and equipment, tools, knives and other potentially dangerous utensils in a secure place that is inaccessible to children.

18. Building and Physical Premises. Identify and protect children from safety hazards in the residence and on the premises, such as uncovered electrical outlets, strings and cords, bodies of water, and vehicular traffic.

19. Emergency Preparedness Disaster Plan. Develop, practice and train on, and follow, a written emergency preparedness disaster plan that includes at a minimum:

a. procedures for evacuation, relocation, shelter-in-place, lock-down, communication and reunification with families, continuity of operations, accommodation of infants and toddlers, children with disabilities, and children with chronic medical conditions;

b. procedures for all adults living in, or working in the residence where care is provided, or working on the property where care is provided; and

c. posting in a visibly accessible area all appropriate emergency phone numbers, such as fire and police, hospitals and Louisiana Poison Control, and the physical address and phone number for the residence in which care is provided.

20. First Aid Supplies. Maintain first aid supplies in the residence.

21. Inspections. Allow inspection of the residence where care is provided by department staff and other authorized inspection personnel and parents of children in care, during normal working hours or when children are in care.

22. Supervision. Children shall be supervised at all times in the home, on the property, on field trips, on non-vehicular excursions, and during all water activities and water play activities.

23. Behavior Management

a. Provider shall develop, implement and follow a written behavior management policy describing the methods of behavior guidance and management that shall be used at the center.

b. The behavior management policy shall prohibit:

i. physical or corporal punishment which includes but is not limited to yelling, slapping spanking, yanking, pinching or other measures producing physical pain, putting anything in the mouth of the child, requiring a child to exercise, or placing a child in an uncomfortable position;

ii. verbal abuse;

iii. the threat of prohibitive action even if there is no intent to follow through with the threat;

iv. being disciplined by another child, being bullied by another child or being deprived of food or beverages;

v. being restrained in high chairs or feeding tables for disciplinary purposes; and

vi. having active play time withheld for disciplinary purposes, except timeout may be used during active play time for an infraction incurred during the playtime.

c. Time out:

i. time out shall not be used for children under age two;

ii. a time out shall take place within sight of staff;

iii. the length of each time out shall be based on the age of the child and shall not exceed one minute per year of age.

24. Group Size. A provider may care for a maximum of six children.

25. Child-to-Staff Ratios. The maximum child-to-staff ratio shall be 6:1.

26. Safe Sleep Practices

a. Only one infant shall be placed in a crib.

b. All infants shall be placed on their backs for sleeping.

i. Written authorization from a physician is required for any other sleeping position.

ii. Written notice of the specifically authorized sleeping position shall be posted on or near the crib.

c. Infants shall not be placed in positioning devices, unless the provider has written authorization from a physician to use a positioning device.

d. Written authorization from a physician is required for a child to sleep in a car seat or other similar device and shall include the amount of time that the child is allowed to remain in said device.

e. "Back to Sleep" signs shall be posted in the room where infants sleep.

f. Infants who use pacifiers shall be offered their pacifier when they are placed to sleep, but it shall not be placed back in the mouth once the child is asleep.

g. Bibs shall not be worn by any child while asleep.

h. Nothing shall be placed over the head or face of an infant.

i. A safety approved crib shall be available for each infant.

27. Health Related Policies. The provider shall have a written copy of all health-related policies including policies regarding accidents, allergic reactions, fever, illness, immunizations, and infection and injuries, and shall provide a copy to the parent or guardian of each child in care.

28. Immediate Parental Notification. The parent shall be immediately notified in the following circumstances:

a. blood not contained in an adhesive strip;

b. head or neck or eye injury;

c. human bite that breaks the skin;

d. animal bite;

e. impaled object;

f. broken or dislodged teeth;

g. allergic reaction skin changes (e.g. rash, spots, swelling, etc.);

- h. unusual breathing;
- i. symptoms of dehydration;
- j. temperature reading over 101 degrees oral, 102 degrees rectal, or 100 degrees axillary; or
- k. injury or illness requiring professional medical attention.

29. Items that Can Be Harmful to Children. Items such as medications, poisons, cleaning supplies and chemicals, and equipment, tools, knives and other potentially dangerous utensils that can be harmful to children shall be kept in a locked cabinet or other secure place that ensures they are inaccessible to children

B. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98.43, R.S. 15:587.1, and R.S. 17:407.71.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2111 (October 2015), amended LR 42:2173 (December 2016), LR 43:1279 (July 2017), LR 44:258 (February 2018), effective March 1, 2018, LR 47:1280 (September 2021).

§311. Specific Certification Requirements for In-Home Child Care Providers

A. - A.8. ...

9. Medication Administration Training. Provide documentation of current medication administration training with a child care health consultant approved by LDH.

10. Pre-Service Orientation Training. Complete the following four hours of pre-service orientation training that includes the LDE Key Orientation Training Modules 1, 2, and 3 and DCFS Mandated Reporter training prior to initial certification, maintain documentation verifying completion of the training and submit the documentation with the application for certification to the LDE.

a. The pre-service orientation training shall at a minimum include information on the following:

- i. general emergency preparedness, including natural disasters and man-caused disasters;
- ii. professionalism;
- iii. health and safety, including daily observations, supervision regulations, daily attendance, child-to-staff ratios, improper discipline, prohibited discipline, prevention of shaken baby syndrome, prevention of abusive head trauma and child maltreatment, food safety, choking risks, and recognition and reporting of child abuse and neglect;
- iv. administration of medication consistent with standards for parental consent;
- v. prevention and response to emergencies due to food and allergic reactions;
- vi. appropriate precautions in transporting children, if applicable;
- vii. public health policies, including prevention and control of infectious diseases and immunization information;
- viii. handling and storage of hazardous materials and appropriate disposal of bio-contaminants;
- ix. pediatric first aid and cardiopulmonary resuscitation (CPR);
- x. prevention of sudden infant death syndrome and use of safe sleep practices;
- xi. outdoor play practices;
- xii. environmental safety;

xiii. building and physical premises safety, including identification of and protection from hazards, bodies of water and vehicular traffic;

xiv. child release practices; and

xv. critical incident practices and licensing regulations;

11. Continuing Training

a. Annually complete 12-clock hours of training in safety and health topics and job-related subject areas approved by the LDE. Continuing training shall be conducted by LDE approved trainers. The LDE shall keep a registry of approved trainers.

b. Annually complete DCFS' online Mandated Reporter Training.

c. Documentation verifying completion of required trainings shall be maintained onsite by the provider, whether as hard copies or in electronic form, and made available for inspection upon request by the department.

d. Pre-service orientation training, infant/child/adult CPR, pediatric first aid training, and medication administration training may count as annual training requirements in the certification period in which completed.

12. Children's Daily Attendance. A daily attendance record for children shall be maintained that shall accurately reflect children in care at any given time.

13. Transportation. If transportation is provided, the provider shall:

- a. use child safety restraints, such as car seat belts, child restraining seats, infant carrier seats, etc., as required by law in the transportation of children in care;
- b. take precautions necessary to ensure the safety of children being transported;
- c. develop written emergency procedures and actions to be taken in the event of an accident or breakdown.;
- d. maintain a current driver's license and current automobile insurance as required by law;
- e. obtain written permission from a parent to transport the child; and
- f. maintain a transportation log for each trip to be used to track children during transportation, which shall include the child's name, the date, time and place of pick up and drop off, and the name of the person to whom a child is released.

14. Medication Administration

a. No medication or special medical procedure shall be administered to a child unless authorized in writing by the parent.

b. Such authorization shall include the name of the child, drug name and strength, date(s) to be administered, directions for use, including route, dosage, frequency, time and special instructions if applicable, signature of parent and date of signature.

15. Immunizations. Obtain satisfactory evidence of immunization against, or of an immunization program in progress, for vaccine-preventable diseases for each child in care, according to the schedule approved by the Office of Public Health, Department of Health:

a. if vaccination is contraindicated for medical reasons, the parent shall provide a written statement from a physician indicating said medical reasons; or

b. if the parent objects to the immunizations for any other reason, the parent shall provide a written statement of dissent.

16. Hazardous Materials. Keep items that can be harmful to children, such as medications, poisons, cleaning supplies and chemicals, and equipment, tools, knives and other potentially dangerous utensils in a secure place that is inaccessible to children.

17. Building and Physical Premises. Identify and protect children from safety hazards in the home and on the premises, such as uncovered electrical outlets, strings and cords, bodies of water, and vehicular traffic.

18. Emergency Preparedness Disaster Plan. Develop, practice and train on, and follow, a written emergency preparedness disaster plan that includes at a minimum:

a. procedures for evacuation, relocation, shelter-in-place, lock-down, communication and reunification with families, continuity of operations, accommodation of infants and toddlers, children with disabilities, and children with chronic medical conditions;

b. procedures for all adults living in, or working in the residence where care is provided, or working on the property where care is provided; and

c. posting in a visibly accessible area all appropriate emergency phone numbers, such as fire and police, hospitals and Louisiana Poison Control, and the physical address and phone number for the residence in which care is provided.

19. First Aid Supplies. Maintain first aid supplies in the home.

20. Inspections. Allow inspection of the home where care is provided by LDE staff and other authorized inspection personnel during normal working hours or when children are in care.

21. Supervision. Children shall be supervised at all times in the home, on the property, on field trips, on non-vehicular excursions, and during all water activities and water play activities.

22. Behavior Management.

a. Provider shall develop, implement and follow a written behavior management policy describing the methods of behavior guidance and management that shall be used at the center.

b. The behavior management policy shall prohibit:

i. physical or corporal punishment which includes but is not limited to yelling, slapping spanking, yanking, pinching or other measures producing physical pain, putting anything in the mouth of the child, requiring a child to exercise, or placing a child in an uncomfortable position;

ii. verbal abuse;

iii. the threat of prohibitive action even if there is no intent to follow through with the threat;

iv. being disciplined by another child, being bullied by another child or being deprived of food or beverages;

v. being restrained in high chairs or feeding tables for disciplinary purposes; and

vi. having active play time withheld for disciplinary purposes.

c. Time out:

i. time out shall not be used for children under age two;

ii. a time out shall take place within sight of staff;

iii. the length of each time out shall be based on the age of the child and shall not exceed one minute per year of age;

23. Group Size. A provider may care for a maximum of six children.

24. Child-to-Staff Ratios. The maximum child-to-staff ratio shall be 6:1.

25. Safe Sleep Practices

a. Only one infant shall be placed in a crib.

b. All infants shall be placed on their backs for sleeping.

i. Written authorization from a physician is required for any other sleeping position.

ii. Written notice of the specifically authorized sleeping position shall be posted on or near the crib.

c. Infants shall not be placed in positioning devices, unless the provider has written authorization from a physician to use a positioning device.

d. Written authorization from a physician is required for a child to sleep in a car seat or other similar device and shall include the amount of time that the child is allowed to remain in said device.

e. "Back to Sleep" signs shall be posted in the room where infants sleep.

f. Infants who use pacifiers shall be offered the pacifier when placed to sleep, but shall not be placed back in the mouth once the child is asleep.

g. Bibs shall not be worn by any child while asleep.

h. Nothing shall be placed over the head or face of an infant.

i. A safety approved crib shall be available for each infant.

26. Health Related Policies. The provider shall have a written copy of all health-related policies including policies regarding accidents, allergic reactions, fever, illness, immunizations, and infection and injuries, and shall provide a copy to the parent or guardian of each child in care.

27. Immediate Parental Notification. The parent shall be immediately notified in the following circumstances:

a. blood not contained in an adhesive strip;

b. head or neck or eye injury;

c. human bite that breaks the skin;

d. animal bite;

e. impaled object;

f. broken or dislodged teeth;

g. allergic reaction skin changes (e.g. rash, spots, swelling, etc.);

h. unusual breathing;

i. symptoms of dehydration;

j. temperature reading over 101 degrees oral, 102 degrees rectal, or 100 degrees axillary; or

k. injury or illness requiring professional medical attention.

28. Items that Can Be Harmful to Children. Items such as medications, poisons, cleaning supplies and chemicals, and equipment, tools, knives and other potentially dangerous utensils that can be harmful to children shall kept in a locked

cabinet or other secure place that ensures items are inaccessible to children.

B. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98.43, R.S. 15:587.1, and R.S. 17:407.71.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2112 (October 2015), amended LR 42:2174 (December 2016), LR 43:1280 (July 2017), LR 44:260 (February 2018), effective March 1, 2018, amended LR 47:1282 (September 2021).

§313. Specific Certification Requirements for Public School and BESE-Approved Nonpublic School Child Care Centers

A. To be certified as a CCAP provider, in addition to the requirements in §305 of this Part, a public school or BESE-approved nonpublic school day care center must meet the following requirements:

1. *Brumfield v Dodd* Approval. a BESE-approved nonpublic school day care center must also be *Brumfield v Dodd*-approved.

2. State Fire Marshal. Provide written verification of current State Fire Marshal approval.

3. Determination of Eligibility for Child Care Purposes. Provide documentation of a CCCBC-based determination of eligibility for child care purposes by the LDE for required persons in compliance with Chapter 18 of Bulletin 137, Louisiana. Early Learning Center Licensing Regulations.

4. CPR. Provide documentation of current certification in infant, child and adult CPR.

5. Pediatric First Aid. Provide documentation of current certification in pediatric first aid.

6. Medication Administration Training. Provide documentation of current medication administration training with a child care health consultant approved by LDH.

7. Pre-Service Orientation Training. Each staff member shall complete four hours of pre-service orientation training that includes the LDE Key Orientation Training Modules 1, 2 and 3 and DCFS' online Mandate Reporter training prior to initial certification, maintain documentation verifying completion of the training, and submit the documentation with the application for certification to the LDE.

a. The pre-service orientation training shall at a minimum include information on the following

i. general emergency preparedness, including natural disasters and man-caused disasters;

ii. professionalism;

iii. health and safety, including daily observations, supervision regulations, daily attendance, child-to-staff ratios, improper discipline, prohibited discipline, prevention of shaken baby syndrome, prevention of abusive head trauma and child maltreatment, food safety, choking risks, and recognition and reporting of child abuse and neglect;

iv. administration of medication consistent with standards for parental consent;

v. prevention and response to emergencies due to food and allergic reactions;

vi. appropriate precautions in transporting children, if applicable;

vii. public health policies, including prevention and control of infectious diseases and immunization information;

viii. handling and storage of hazardous materials and appropriate disposal of bio-contaminants;

ix. pediatric first aid and cardiopulmonary resuscitation (CPR);

x. prevention of sudden infant death syndrome and use of safe sleep practices;

xi. outdoor play practices;

xii. environmental safety;

xiii. building and physical premises safety, including identification of and protection from hazards, bodies of water and vehicular traffic;

xiv. child release practices; and

xv. critical incident practices and licensing regulations;

8. Continuing Training

a. Annually complete 12-clock hours of training in safety and health topics and job-related subject areas approved by the LDE. Continuing training shall be conducted by LDE approved trainers. The LDE shall keep a registry of approved trainers.

b. Annually complete DCFS' online Mandated Reporter Training.

c. Documentation verifying completion of all required trainings shall be maintained onsite by the center, whether as hard copies or in electronic form, and made available for inspection upon request by the LDE.

d. Pre-service orientation training, infant/child/adult CPR, pediatric first aid training, and medication administration training may count as annual training requirements in the certification period in which completed.

e. The three hours of training by a child care health consultant on infectious diseases, health and safety, and/or food service preparation required in LAC 51:XXI.301.A.9 shall not count towards the annual training requirements.

9. Children's Daily Attendance. A daily attendance record for children shall be maintained that shall:

a. include the child's first and last name, arrival and departure times, and first and last name of person or entity to whom the child is released;

b. accurately reflect children in care at any given time; and

c. be used to sign in and out if a child leaves and returns to the home during the day.

10. Transportation. If transportation is provided, the center shall:

a. use child safety restraints, such as car seat belts, child restraining seats, infant carrier seats, etc., as required by law in the transportation of children in care;

b. take precautions necessary to ensure the safety of children being transported;

c. develop written emergency procedures and actions to be taken in the event of an accident or breakdown;

d. maintain a current driver's license and current automobile insurance as required by law;

e. obtain written permission from a parent to transport the child; and

f. maintain a transportation log for each trip to be used to track children during transportation, which shall include the child's name, the date, time and place of pick up and drop off, and the name of the person to whom a child is released.

11. Medication Administration

a. No medication or special medical procedure shall be administered to a child unless authorized in writing by the parent.

b. Such authorization shall include the name of the child, drug name and strength, date(s) to be administered, directions for use, including route, dosage, frequency, time and special instructions if applicable, signature of parent and date of signature.

12. Immunizations. Obtain satisfactory evidence of immunization against, or an immunization program in progress, for vaccine-preventable diseases for each child in care, according to the schedule approved by the Office of Public Health, Department of Health and Hospitals:

a. if vaccination is contraindicated for medical reasons, the parent shall provide a written statement from a physician indicating said medical reasons; or

b. if the parent objects to the immunizations for any other reason, the parent shall provide a written statement of dissent.

13. Hazardous Materials. Keep items that can be harmful to children, such as medications, poisons, cleaning supplies and chemicals, and equipment, tools, knives and other potentially dangerous utensils in a secure place that is inaccessible to children.

14. Building and Physical Premises. Identify and protect children from safety hazards in the residence and on the premises, such as uncovered electrical outlets, strings and cords, bodies of water, and vehicular traffic.

15. Emergency Preparedness Disaster Plan. Develop, practice, train on, and follow, a written emergency preparedness disaster plan that includes at a minimum:

a. procedures for evacuation, relocation, shelter-in-place, lock-down, communication and reunification with families, continuity of operations, accommodation of infants and toddlers, children with disabilities, and children with chronic medical conditions;

b. procedures for all adults living in, working in, or working on the residence or property where care is provided; and

c. posting in a visibly accessible area all appropriate emergency phone numbers, such as fire and police, hospitals and Louisiana Poison Control, as well as the physical address and phone number for the residence in which care is provided.

16. First Aid Supplies. Maintain first aid supplies at the center.

17. Supervision. Children shall be supervised at all times in the facility, in the yard, on field trips, on non-vehicular excursions, and during all water activities and water play activities.

18. Behavior Management

a. Center shall develop, implement and follow a written behavior management policy describing the methods of behavior guidance and management that shall be used at the center.

b. The behavior management policy shall prohibit:

i. physical or corporal punishment which includes but is not limited to yelling, slapping spanking, yanking, pinching or other measures producing physical pain, putting anything in the mouth of the child, requiring a

child to exercise, or placing a child in an uncomfortable position;

ii. verbal abuse;

iii. the threat of prohibitive action even if there is no intent to follow through with the threat;

iv. being disciplined by another child, being bullied by another child or being deprived of food or beverages;

v. being restrained in high chairs or feeding tables for disciplinary purposes; and

vi. having active play time withheld for disciplinary purposes.

c. Time out:

i. time out shall not be used for children under age two;

ii. a time out shall take place within sight of staff; and

iii. the length of each time out shall be based on the age of the child and shall not exceed one minute per year of age.

19. Child to Staff Maximum Ratios. The maximum child to staff ratios are as follows.

Maximum Child-to-Staff Ratios	
Ages of Children	Ratio
3 years	13:1
4 years	15:1
5 years	19:1
6 years and up	23:1

20. Group Size. The maximum group sizes are as follows.

Maximum Group Sizes	
Age of Children	Maximum Group Size
3 years	26
4 years	30
5 years	38
6 years and up	46

21. Health-Related Policies. The center shall have a written copy of all health-related policies including policies regarding accidents, allergic reactions, fever, illness, immunizations, and infection and injuries, and shall provide a copy to the parent or guardian of each child in care.

22. Immediate Parental Notification. The parent shall be immediately notified in the following circumstances:

a. blood not contained in an adhesive strip;

b. head or neck or eye injury;

c. human bite that breaks the skin;

d. animal bite;

e. impaled object;

f. broken or dislodged teeth;

g. allergic reaction skin changes (e.g. rash, spots, swelling, etc.);

h. unusual breathing;

i. symptoms of dehydration;

j. temperature reading over 101 degrees oral, 102 degrees rectal, or 100 degrees axillary; or

k. injury or illness requiring professional medical attention.

23. Items that Can Be Harmful to Children. Items such as medications, poisons, cleaning supplies and chemicals, and equipment, tools, knives and other potentially dangerous utensils that can be harmful to children shall be kept in a locked cabinet or other secure place that ensures the items are inaccessible to children.

24. Inspections. Allow inspection of the facility where care is provided by LDE staff and other authorized inspection personnel during normal working hours and when children are in care.

25. Monitoring. LDE will monitor compliance at a minimum annually.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2113 (October 2015), amended LR 42:2174 (December 2016), LR 44:261 (February 2018), effective March 1, 2018, amended LR47:1284 (September 2021).

Shan N. Davis
Executive Director

2109#041

RULE

Board of Elementary and Secondary Education

Bulletin 140—Louisiana Early Childhood Care and Education Network
(LAC 28:CLXVII.509, 511 and 512)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10), the Board of Elementary and Secondary Education has amended LAC 28:CLXVII, *Bulletin 140—Louisiana Early Childhood Care and Education Network*. As a result of the COVID-19 pandemic, the revisions: extend 2019-2020 Performance Scores and Ratings for sites where this score is higher than the 2020-2021 Performance Score; mandate Site Improvement Planning (SIP) participation for sites that score below 3.75 in 2020-2021; ensure classrooms are equally weighted and provide unique treatment for classrooms that were not required to receive a spring local observation; and abstain from publishing Community Network Performance Scores as well as honor rolls for sites rated “excellent” as well as those making significant growth. This Rule is hereby adopted on the day of promulgation.

Title 28

EDUCATION

Part CLXVII. Bulletin 140—Louisiana Early Childhood Care and Education Network

Chapter 5. Early Childhood Care and Education Accountability System

§509. Performance Rating Calculations for Publicly Funded Sites

A. - A.2. ...

a. Exception due to the COVID-19 pandemic with regard to observation completion and other associated challenges. For the 2020-2021 school year only, the

performance rating for each site which received at least one observation during 2020-2021 shall be based on the higher of the published 2019-2020 performance rating and the 2020-2021 performance rating calculated for the site.

i. The LDE shall share performance summaries based on 2020-2021 observations for informational purposes only.

ii. Sites not receiving any observations during the 2020-2021 school year shall not receive a performance rating.

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

4. Exception due to the COVID-19 pandemic with regard to observation completion and other associated challenges. For the 2020-2021 school year only, a classroom that does not have a second observation because the classroom received a fall CLASS® score of 4.50 or higher after third party replacement shall have their fall CLASS® score after third party replacement duplicated and treated as the spring local observation for the purposes of performance rating. A classroom that does not have a second observation for any other reason shall have their score replaced consistent with Subsection B of this Section.

C. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2587 (December 2015), amended LR 42:1873 (November 2016), LR 44:1442 (August 2018), LR 45:1453 (October 2019), LR 47:1286 (September 2021).

§511. Performance Rating Calculations for Community Networks

A. - H. ...

I. Exception due to the COVID-19 pandemic with regard to observation completion and other associated challenges. For the 2020-2021 school year only, the LDE shall not publish community network ratings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2588 (December 2015), amended LR 42:1874 (November 2016), LR 44:1442 (August 2018), LR 45:1454 (October 2019), LR 47:1286 (September 2021).

§512. Performance Ratings for Publicly-Funded Sites

A. - B.1.c. ...

d. Exception due to the COVID-19 pandemic with regard to observation completion and other associated challenges. For the 2020-2021 school year only, publicly-funded sites where the score calculated from observations conducted during the 2020-2021 school year is lower than 3.75 shall be required to participate in an early childhood school or center improvement planning process.

C. - C.2. ...

3. Exception due to the COVID-19 pandemic with regard to observation completion and other associated challenges. For the 2020-2021 school year only, the LDE shall not publish annual honor rolls nor label sites as “top gains.”

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1874 (November 2016), amended LR 44:1442 (August 2018), LR 47:1286 (September 2021).

Shan N. Davis
Executive Director

2109#042

RULE

Board of Elementary and Secondary Education

Bulletin 1903—Regulations and Guidelines for Implementation of the Louisiana Law for the Education of Dyslexic Students (LAC 28:XXXV. Chapter 1)

Editor's Note: This Rule is being repromulgated to correct a manifest typographical error. The original Rule may be viewed in its entirety on pages 732-725 of the June 20, 2021, *Louisiana Register*.

In accordance with R.S. 17:6 and R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has repealed *Bulletin 1903—Regulations and Guidelines for Implementation of the Louisiana Law for the Education of Dyslexic Students* and re-established Bulletin 1903 in accordance with Act 206 of the 2020 Regular Legislative Session and R.S. 17:7. 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

§101. Definitions

Accommodation—any technique that alters the academic setting or environment but generally does not change the information or amount of information learned to enable a student to exhibit knowledge more accurately.

Assessment—the act or process of gathering data in order to better understand the strengths and weaknesses of student learning through observation, testing, interviews, screening, and evaluation.

Developmental Auditory Imperception—difficulties in perceiving and using what is heard such that the student may have difficulty with auditory processing, auditory discrimination, and learning sound-symbol associations.

Dysgraphia—difficulty with producing written symbols, usually resulting in slow and poor quality handwriting.

Dyslexia—an unexpected difficulty in reading for an individual who has the intelligence to be a much better reader, most commonly caused by a difficulty in phonological processing, which affects the ability of an individual to speak, read, and spell, noting that phonological processing is the appreciation of the individual sounds of spoken and written language.

Dysphasia—severe difficulty with expressive and receptive oral language.

Evaluation—the in-depth process of review, examination, and interpretation of intervention efforts, test results, interviews, observations, and other assessment information relative to predetermined criteria.

Expressive Language—the act of conveying information through writing, speaking, or gesturing.

Fluency—the clear, easy, written or spoken expression of ideas.

Grapheme—a written or printed representation of a phoneme (e.g., t, ch, z).

IDEA—Individuals with Disabilities Education Act (Public Law 105-17), also referred to as the special education statute.

Linguistics—the science of language, including phonology, morphology, syntax, and semantics.

Morphology—the study of words and how they are formed.

Phoneme—the smallest unit of sound capable of signaling semantic distinction or meaning (e.g./sh/, /i/, /p/).

Phoneme Manipulation—dropping, adding, or moving phonemes to create new words or detached syllables.

Phoneme Segmentation—the ability to separately articulate the sounds of a spoken word in order.

Phonemic Awareness—the awareness that spoken words or syllables can be divided into a sequence of phonemes, which pertains to the rule system and is a subcategory of phonological awareness.

Phonics—an approach to teaching reading and spelling that stresses symbol-sound relationships, especially in beginning reading instruction.

Phonological Awareness—an understanding that words are made up of individual speech sounds as distinct from word meaning and that those sounds can be manipulated.

Phonology—the study of the speech sounds of a language and the underlying rules of usage.

Receptive Language—the act of understanding information by listening, reading, or gesturing.

Related Disorders—disorders similar to or related to dyslexia such as developmental auditory imperceptions, dysphasia, specific developmental dyslexia, developmental dysgraphia, and developmental spelling disability.

Screening—a brief examination, which determines the presence or absence of an important impediment to learning.

Section 504 of the Rehabilitation Act of 1973—federal law found at 29 U.S.C. Secs. 706(7), 794, 794a, 794b. "No otherwise qualified disabled individual...shall, solely by the reason of his/her handicap, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance."

Semantics—the study of meaning in language.

Syntax—the study of how sentences are formed and of the grammatical rules that govern sentence formation.

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

§103. Local Education Agency (LEA) Responsibilities

A. LEAs shall employ school personnel to oversee student screening, assessment, and evaluation for determination of program eligibility.

B. LEAs shall implement programs for students with characteristics of dyslexia and other related disorders in accordance with state and federal requirements.

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).

§105. School Level Responsibilities

A. School leaders shall select a School Building Level Committee (SBLC) comprised of members knowledgeable of student data and assessment processes.

B. SBLC members shall include, but are not limited to:

1. a teacher of student identified for review,
2. at least two additional education professionals knowledgeable about the student data and history, as well as indicators of condition in the individual school setting.

C. School leaders shall appoint a chairperson of the committee who is tasked with data collection, maintenance of records, scheduling and planning meetings, monitoring progress, obtaining necessary consent, and disseminating information to the committee members, educators, and parents.

D. Professional development shall be provided about state and federal regulations regarding dyslexia, the characteristics of dyslexia, and the LEA policies for implementation of the assessment and program process.

E. Educator training shall include information necessary to implement specialized instructional interventions and strategies for students with characteristics of dyslexia.

F. An intervention plan shall be established for students identified as demonstrating characteristics of dyslexia according to assessment and program determinations.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 47:000 (June 2021), repromulgated LR 47:1288 (September 2021).

§107. School Building Level Committee (SBLC) Responsibilities

A. Request for SBLC review from a parent or educator shall initiate the preliminary gathering of data to assist in addressing the educational progress of a student who is consistently struggling or having difficulty attaining expected academic progress, despite receiving instruction in a high quality curriculum with the implementation of additional instructional intervention strategies within the framework of a multi-tiered system of support.

B. Data gathering and review may include, but is not limited to, the following information to establish a profile of the whole child:

1. student and family history, including relevant developmental, health, or home information;
2. speech and language information, including assessment of phonological awareness;
3. academic, cognitive, and behavior records;
4. teacher observations of aptitude, behavior, and concerns;
5. criterion referenced, norm referenced, and/or standardized test results;
6. interventions implemented;
7. formal and/or informal assessment and progress monitoring data;
8. samples of student work;
9. observations of student effort at home and/or school;
10. student academic and non-academic strengths and interests;

11. most recent vision and hearing screening results;
C. The SBLC will determine if relevant data indicates the need for further action that may include:

1. additional assessment;
2. continuation of specialized instructional interventions and progress monitoring;
3. development of a 504 Plan to provide classroom accommodations;
4. referral to pupil appraisal for evaluation to determine eligibility for special services as provided by IDEA;
5. return to regular classroom without further strategies or interventions.

D. The SBLC may repeat the review process should characteristics of dyslexia become evident or emerge at a later date.

E. Private evaluation results and documentation submitted by a parent or guardian must be reviewed by the SBLC.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 47:000 (June 2021), repromulgated LR 47:1288 (September 2021).

§109. Screening Requirements

A. In accordance with Bulletin 741: *Louisiana Handbook for School Administrators*, all students enrolled in kindergarten through third grade shall be administered an early literacy screener within the first 30 days of the school year.

B. Students in kindergarten and fall semester of first grade shall be screened with an early literacy instrument to measure:

1. phonemic awareness,
2. letter naming fluency, and
3. letter sound recognition.

C. Students in spring semester of first grade through third grade shall be screened with an early literacy instrument to measure:

1. decoding skills for blending and reading real and nonsense words accurately; and
2. oral reading fluency rate and accuracy in connected text.

D. A score that indicates deficits shall result in additional screening to include:

1. Kindergarten and fall semester of first grade students:
 - a. phonological awareness such as rhyming and syllable manipulation; and/or
 - b. rapid automatic naming skills such as colors, objects, and numbers.
2. spring semester of first grade through third grade students
 - a. phonological/phonemic awareness such as syllable manipulation, phoneme segmentation, or phoneme manipulation;
 - b. rapid automatic naming skills such as colors, objects, letters, and/or numbers;
 - c. encoding skills using spontaneous spelling;
 - d. oral and written language skills.

E. A student demonstrating deficits after additional screening is considered to have characteristics of dyslexia

and shall be provided appropriate structured language and literacy interventions.

F. Screening is not limited to students in kindergarten through third grade and may be administered at any grade level if a student exhibits impediments to a successful school experience.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 47:724 (June 2021), repromulgated LR 47:1288 (September 2021).

§111. Multisensory Structured Language and Literacy Program Criteria

A. A multisensory structured language and literacy program shall consist of specific content components to include:

1. phonological awareness;
2. phoneme-grapheme association;
3. phonics;
4. syllable instruction;
5. linguistics;
6. language-based instruction that integrates all aspects of language and comprehension
 - a. receptive language skills of listening and reading,
 - b. oral expression in word selection and sequencing,
 - c. written expression in spelling, mechanics, and coherence, and
 - d. handwriting;
7. Meaning-based instruction provided in words and sentences to extract meaning in addition to teaching isolated letter-sound correspondence.

B. Instructional methodology for a multisensory structured language and literacy program must be:

1. Explicit. Literacy instruction requires direct teaching of concepts with continuous student-teacher interaction and does not assume students deduce concepts.

2. Systematic. Material is organized and taught in a way that is logical and fits the nature of language which refers to the way sounds combine to form words and words combine to form sentences to represent knowledge. The ways are determined by a system of rules.

3. Sequential. The learner moves step by step, in order, from simple, well-learned material to that which is more complex, as the student masters the necessary body of language skills.

4. Cumulative. Each step is incremental and based on the skills already learned.

5. Individualized. Teaching is planned to meet the differing needs of individual learners, but may be of similar scope and sequencing.

6. Diagnostic. Teachers must be adept at individualizing instruction (even within groups) based on careful and continuous assessment, both informal (e.g., observation) and formal (e.g., with standardized measures). Content must be mastered to the degree of automaticity needed to free attention and cognitive resources for comprehension and oral/written expression.

7. Automaticity of Performance. Fluent processing of information that requires little effort or attention as in sight word recognition. Adequate practice with decodable text is

to be provided for mastery of skills and application of concepts.

8. Simultaneous Multisensory. Instructional approaches use a simultaneous combination of internal visual, auditory, kinesthetic, and tactile learning pathways to achieve proficiency in language processing.

9. Synthetic to Analytic Phonics. A process of teaching letter sounds to create words.

a. Synthetic phonics first teaches letter sounds and then combines or blends the sounds to create words.

b. Analytic phonics uses prior knowledge of letters and the corresponding sounds to decode and form new words.

C. Program Implementation

1. Multisensory structured language and literacy programs are to be routinely provided within the regular school day within the framework of multi-tiered systems of support in:

- a. regular classroom setting;
- b. separate classroom setting;
- c. individual or small group instruction;
- d. any additional accommodations that are developed by the SBLC; or
- e. any combination thereof.

D. Review of Student Progress

1. Progress monitoring data shall be maintained on students receiving instruction in a multisensory structured language and literacy program.

2. The SBLC shall conduct a periodic review of the data to determine the effectiveness of the program for the student.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 47:724 (June 2021), repromulgated LR 47:1289 (September 2021).

Chapter 3. General Provisions

§301. The Louisiana Law for the Education of Dyslexic Students

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:250 (February 2021), repromulgated LR 47:0000 (September 2021).

§303. Preface

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:250 (February 2021), repromulgated LR 47:1289 (September 2021).

Chapter 5. Implementation of R.S. 17:7(11)

§501. Guidelines for the Implementation of RS 17:7 (11)

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:251 (February 2021), repromulgated LR 47:1289 (September 2021).

§503. School System and School Building Responsibilities

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:251 (February 2021), repromulgated LR 47:1290 (September 2021).

§505. Requirements for Implementation of R.S. 17:7(11)

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:251 (February 2021), repromulgated LR 47:1290 (September 2021).

§507. Decision Process for Dyslexia Intervention, Identification, and Placement

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:252 (February 2021), repromulgated LR 47:1290 (September 2021).

Chapter 7. Assessment

§701. Assessment Procedures

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:252 (February 2021), repromulgated LR 47:1290 (September 2021).

Chapter 9. Multisensory Structured Language Regular Education Program

§901. Program

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:254 (February 2021), repromulgated LR 47:1290 (September 2021).

Chapter 11. Glossary

§1101. Terminology of the Bulletin

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:255 (February 2021), repromulgated LR 47:1290 (September 2021).

Chapter 13. Regulations for the Implementation of R.S. 17:392.1 and 392.3

§1301. Part VI-A. Screening and Intervention for School Success

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:256 (February 2021), repromulgated LR 47:1290 (September 2021).

§1303. Introduction

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:256 (February 2021), repromulgated LR 47:1290 (September 2021).

§1305. Instruments for Identification and Screening—Appendix A

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:258 (February 2021), repromulgated LR 47:1290 (September 2021).

§1307. Multisensory Structured Language Programs for Students with Dyslexia or "At Risk" Readers—Appendix B

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:262 (February 2021), repromulgated LR 47:1290 (September 2021).

§1309. Characteristics Associated with Dyslexia and Related Disorders—Appendix C

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:263 (February 2021), repromulgated LR 47:1290 (September 2021).

Shan N. Davis
Executive Director

2109#044

RULE

Board of Elementary and Secondary Education

Minimum Reopening Standards
(LAC 28:LXXIX.1105 and 1107;
CXV.401 and 403; CXXXIX.4101 and 4103)

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:LXXIX in Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators; LAC 28:CXV in Bulletin 741—Louisiana Handbook for School Administrators; and LAC 28:CXXXIX in Bulletin 126—Charter Schools. The aforementioned revisions clarify policy contained in the aforementioned bulletins for which there have been questions regarding the minimum reopening standards. This Rule is hereby adopted on the day of promulgation.

Title 28
EDUCATION

Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana
Handbook for Nonpublic School Administrators

Chapter 11. Health

Subchapter B. Reopening School Facilities for the 2020-2021 School Year

§1105. Purpose and Background

A. This Chapter provides minimum health and safety standards regarding the reopening of school facilities for the 2020-2021 school year in response to the coronavirus disease (COVID-19) pandemic in order to ensure that students, faculty, staff, and others on school property are protected to the maximum extent possible and practical. These minimum standards regarding the reopening of schools for the 2021-2021 school year expire on June 30, 2021. Any future requirements for schools related to a statewide pandemic will be communicated as needed.

B - E.1.b. ...

F. Medical or disability impact exceptions to any standard in this Chapter should be addressed on an individual basis by the LEA in accordance with local policies.

G. For the purposes of this Chapter, the following definition will apply.

Physical Distance—the act of an individual maintaining a space of at least three feet from another individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:1674 (December 2020), amended LR 47:1291 (September 2021).

§1107. Minimum Requirements for Reopening and Operating School Facilities

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

b. The group composition may change if students are able to maintain physical distance from other students and adults. In this case, students must maintain physical distance, in accordance with current Louisiana Department of Health Guidelines as informed by the Centers for Disease Control and Prevention (CDC), from other students and adults in any classroom or indoor setting to the maximum extent possible.

B. - D.2. ...

E. Face Coverings

1. BESE minimum reopening standards, pertaining to face coverings, are superseded by any statewide or district specific mandate issued by the governor. If there is a statewide or district specific mandate in place, the lifting of the mask requirement will be determined by an executive order or proclamation of the governor. If there is no statewide or district mandate in place, the lifting of this requirement will be determined by the Local Education Agency (LEA) at the appropriate time, based on the recommendation issued of the LDH.

a. While inside the school facility, all adults and students in grades 3 through 12 must wear a face covering to the greatest extent possible and practical within the local community context.

b. While inside the school facility, students in grades prekindergarten through 2 may wear a face covering.

c. While inside the school facility, children under two years old and individuals with breathing difficulties.

F. Hygienic Supplies

1. School employees must be provided adequate access to hygienic supplies, including soap, hand sanitizer with at least 60 percent alcohol, disinfectant wipes or spray, paper towels, and tissues. Face coverings should also be provided when needed.

2. The quantity of hygienic supplies must be appropriately provided to the school employee, according to the role and the number and age of students or adults served by that employee.

G. Transportation

1. School buses used to transport students must not exceed the following maximum capacity requirements:

a. phase 1—25 percent, including adults, of the school bus manufacturer capacity;

b. phase 2—50 percent, including adults, of the school bus manufacturer capacity; and

c. phase 3—75 percent, including adults, of the school bus manufacturer capacity.

2. Passengers on a school bus must be spaced to the greatest extent possible as follows:

a. phase 1—passengers must ride one per seat. Every other seat must remain empty. Members of the same household may sit in the same seat or adjacent seats; and

b. phase 2 and 3—passengers must be dispersed throughout the bus to the greatest extent possible.

H. Student Programming Determinations

1. Student placement determinations in a distance or in-person education program should be made in consultation with the parent or custodian.

2. Student placement determinations should take into consideration a student's unique academic, social, emotional, familial, and medical needs of a student, as identified by the student's parent or custodian.

I. Essential Visitors to School Facilities

1. Essential visitors are individuals who must enter schools or early learning centers in order to conduct visits in accordance with Louisiana law or policy. Essential visitors include, but are not limited to, individuals who:

a. conduct CLASS® observations;

b. observe teacher candidates as part of the teacher preparation quality rating system; or

c. provide essential supports and services including, but not limited to, early intervention services, special education services, or mental health consultation.

J. Medical or disability impact exceptions to any standard in this Chapter should be addressed on an individual basis by the LEA in accordance with local policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:7, R.S. 17:439.1 and R.S. 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:1674 (December 2020), amended LR 47:1291 (September 2021).

Part CXV. Bulletin 741—Louisiana Handbook for
School Administrators
Chapter 4. Reopening School Facilities for the 2020-2021 School Year

§401. Purpose and Background

A. This Chapter provides minimum health and safety standards regarding the reopening of school facilities for the 2020-2021 school year in response to the coronavirus disease (COVID-19) pandemic in order to ensure that

students, faculty, staff, and others on school property are protected to the maximum extent possible and practical. These minimum standards regarding the reopening of schools for the 2021-2021 school year expire on June 30, 2021. Any future requirements for schools related to a statewide pandemic will be communicated as needed.

B - E.1.b. ...

F. Medical or disability impact exceptions to any standard in this Chapter should be addressed on an individual basis by the LEA in accordance with local policies.

G. For the purposes of this Chapter, the following definition will apply.

Physical Distance—the act of an individual maintaining a space of at least three feet from another individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:1672 (December 2020), amended LR 47:1291 (September 2021).

§403. Minimum Requirements for Reopening and Operating School Facilities

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

b. The group composition may change if students are able to maintain physical distance from other students and adults. In this case, students must maintain physical distance, in accordance with current Louisiana Department of Health Guidelines as informed by the Centers for Disease Control and Prevention (CDC), from other students and adults in any classroom or indoor setting to the maximum extent possible.

B. - D.2. ...

E. Face Coverings

1. BESE minimum reopening standards, pertaining to face coverings, are superseded by any statewide or district specific mandate issued by the governor. If there is a statewide or district specific mandate in place, the lifting of the mask requirement will be determined by an executive order or proclamation of the governor. If there is no statewide or district mandate in place, the lifting of this requirement will be determined by the Local Education Agency (LEA) at the appropriate time, based on the recommendation issued of the LDH.

a. While inside the school facility, all adults and students in grades 3 through 12 must wear a face covering to the greatest extent possible and practical within the local community context.

b. While inside the school facility, students in grades prekindergarten through 2 may wear a face covering.

c. While inside the school facility, children under two years old and individuals with breathing difficulties.

F. Hygienic Supplies

1. School employees must be provided adequate access to hygienic supplies, including soap, hand sanitizer with at least 60 percent alcohol, disinfectant wipes or spray, paper towels, and tissues. Face coverings should also be provided when needed.

2. The quantity of hygienic supplies must be appropriately provided to the school employee, according to the role and the number and age of students or adults served by that employee.

G. Transportation

1. School buses used to transport students must not exceed the following maximum capacity requirements:

a. phase 1—25 percent, including adults, of the school bus manufacturer capacity;

b. phase 2—50 percent, including adults, of the school bus manufacturer capacity; and

c. phase 3—75 percent, including adults, of the school bus manufacturer capacity.

2. Passengers on a school bus must be spaced to the greatest extent possible as follows:

a. phase 1—passengers must ride one per seat. Every other seat must remain empty. Members of the same household may sit in the same seat or adjacent seats; and

b. phase 2 and 3—passengers must be dispersed throughout the bus to the greatest extent possible.

H. Student Programming Determinations

1. Student placement determinations in a distance or in-person education program should be made in consultation with the parent or custodian.

2. Student placement determinations should take into consideration a student's unique academic, social, emotional, familial, and medical needs of a student, as identified by the student's parent or custodian.

I. Essential Visitors to School Facilities

1. Essential visitors are individuals who must enter schools or early learning centers in order to conduct visits in accordance with Louisiana law or policy. Essential visitors include, but are not limited to, individuals who:

a. conduct *CLASS*[®] observations;

b. observe teacher candidates as part of the teacher preparation quality rating system; or

c. provide essential supports and services including, but not limited to, early intervention services, special education services, or mental health consultation.

J. Medical or disability impact exceptions to any standard in this Chapter should be addressed on an individual basis by the LEA in accordance with local policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:7, R.S. 17:439.1 and R.S. 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:1673 (December 2020), amended LR 47:1292 (September 2021).

Part CXXXIX. Bulletin 126—Charter Schools

Chapter 41. Reopening School Facilities for the 2020-2021 School Year

§4101. Purpose and Background

A. This Chapter provides minimum health and safety standards regarding the reopening of school facilities for the 2020-2021 school year in response to the coronavirus disease (COVID-19) pandemic in order to ensure that students, faculty, staff, and others on school property are protected to the maximum extent possible and practical. These minimum standards regarding the reopening of schools for the 2021-2021 school year expire on June 30, 2021. Any future requirements for schools related to a statewide pandemic will be communicated as needed.

B - E.1.b. ...

F. Medical or disability impact exceptions to any standard in this Chapter should be addressed on an

individual basis by the LEA in accordance with local policies.

G. For the purposes of this Chapter, the following definition will apply.

Physical Distance—the act of an individual maintaining a space of at least three feet from another individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:1670 (December 2020), amended LR 47:1292 (September 2021).

§4103. Minimum Requirements for Reopening and Operating School Facilities

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

b. The group composition may change if students are able to maintain physical distance from other students and adults. In this case, students must maintain physical distance, in accordance with current Louisiana Department of Health Guidelines as informed by the Centers for Disease Control and Prevention (CDC), from other students and adults in any classroom or indoor setting to the maximum extent possible.

B. - D.2. ...

E. Face Coverings

1. BESE minimum reopening standards, pertaining to face coverings, are superseded by any statewide or district specific mandate issued by the governor. If there is a statewide or district specific mandate in place, the lifting of the mask requirement will be determined by an executive order or proclamation of the governor. If there is no statewide or district mandate in place, the lifting of this requirement will be determined by the Local Education Agency (LEA) at the appropriate time, based on the recommendation issued of the LDH.

a. While inside the school facility, all adults and students in grades 3 through 12 must wear a face covering to the greatest extent possible and practical within the local community context.

b. While inside the school facility, students in grades prekindergarten through 2 may wear a face covering.

c. While inside the school facility, children under two years old and individuals with breathing difficulties.

F. Hygienic Supplies

1. School employees must be provided adequate access to hygienic supplies, including soap, hand sanitizer with at least 60 percent alcohol, disinfectant wipes or spray, paper towels, and tissues. Face coverings should also be provided when needed.

2. The quantity of hygienic supplies must be appropriately provided to the school employee, according to the role and the number and age of students or adults served by that employee.

G. Transportation

1. School buses used to transport students must not exceed the following maximum capacity requirements:

a. phase 1—25 percent, including adults, of the school bus manufacturer capacity;

b. phase 2—50 percent, including adults, of the school bus manufacturer capacity; and

c. phase 3—75 percent, including adults, of the school bus manufacturer capacity.

2. Passengers on a school bus must be spaced to the greatest extent possible as follows:

a. phase 1—passengers must ride one per seat. Every other seat must remain empty. Members of the same household may sit in the same seat or adjacent seats; and

b. phase 2 and 3—passengers must be dispersed throughout the bus to the greatest extent possible.

H. Student Programming Determinations

1. Student placement determinations in a distance or in-person education program should be made in consultation with the parent or custodian.

2. Student placement determinations should take into consideration a student's unique academic, social, emotional, familial, and medical needs of a student, as identified by the student's parent or custodian.

I. Essential Visitors to School Facilities

1. Essential visitors are individuals who must enter schools or early learning centers in order to conduct visits in accordance with Louisiana law or policy. Essential visitors include, but are not limited to, individuals who:

a. conduct *CLASS*[®] observations;

b. observe teacher candidates as part of the teacher preparation quality rating system; or

c. provide essential supports and services including, but not limited to, early intervention services, special education services, or mental health consultation.

J. Medical or disability impact exceptions to any standard in this Chapter should be addressed on an individual basis by the LEA in accordance with local policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:1670 (December 2020), amended LR 47:1293 (September 2021).

Shan N. Davis
Executive Director

2109#043

RULE

Board of Regents

Academic Program Standards; Student Level Data Collection and Reporting (LAC 28:IX.Chapter 3)

In accordance with the Administrative Procedure Act, R.S. 17:3141 et seq., the Board of Regents has amended the rules and regulations to LAC: IX, Regents, by codifying current practices and procedures into administrative law to assist in the oversight of academic degree-granting institutions licensed by the Board of Regents. Changes include the streamlining of reporting processes and amending of licensure renewal requirements. Changes allow for reporting processes updates, including the digital submission of materials, expediting student complaint resolutions, and clarifying the types of records to be submitted to the Board of Regents. With regard to licensure renewal processes, ongoing program-level collection will transition to one-time annual reporting of student-level data. Through verification of workforce outcomes at the student level, the Board of Regents will be able to validate the postsecondary education and training contributions made by academic degree-granting institutions licensed by the Louisiana Board of

Regents to Louisiana and the attainment goals adopted in the Master Plan. This Rule is hereby adopted on the day of promulgation.

**Title 28
EDUCATION**

Part IX. Regents.

Chapter 3. Criteria and Requirements for Licensure

§305 Academic Program Standards

A. - C. ...

D. Currently licensed institutions seeking to implement new academic degree programs must first advise the Board of Regents of the proposed change. New programs will be reviewed as part of the regular license renewal process.

E. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1552 (December 1993), amended LR 21:169 (February 1995), LR 36:2840 (December 2010), LR 38:1228 (May 2012), LR 45:529 (April 2019), amended by the Board of Regents, LR 47:1294 (September 2021).

§307. Student Level Data Collection and Reporting

A. Institutions seeking initial licensure shall certify in writing that they have the capabilities to annually submit to the Board of Regents student-level data for each student, in a format prescribed by the Board of Regents.

B. Institutions seeking renewal licensure shall annually collect, and all institutions licensed by the Board of Regents shall annually report, student-level data from the prior year for each student, in a format prescribed by the Board of Regents. At minimum, data from the prior year must include

1. withdrawal data;
2. program completion/graduation data;
3. student demographic information (including full name, date of birth, social security number, sex, race/ethnicity);
4. Type of credential earned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 47:1294 (September 2021).

§309. Physical Plant Standards

[Formerly §307]

A. Library

1. Depending on the delivery method of instruction, (online, hybrid, brick and mortar), the institution shall maintain and/or provide student access to an appropriate library collection with adequate support staff, services, and equipment. Any contractual agreements with libraries not directly affiliated with the institution shall be available in writing to the Board of Regents.

B. Facilities and Equipment

1. The institution shall maintain or provide access to appropriate administrative, classroom, and laboratory space, and appropriate equipment and instructional materials to support quality education based on the type, level, and delivery method of program being offered. Facilities must comply with all health and safety laws and ordinances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1552 (December 1993), amended LR 21:169 (February 1995), LR 38:1228 (May 2012), LR

45:529 (April 2019), amended by the Board of Regents, LR 47:1294 (September 2021).

§311. Financial Operations

[Formerly §309]

A. The business and financial management of the institution shall be directed by a qualified and bonded business officer responsible to the institution's chief executive officer.

B. Institutions are required to maintain adequate insurance to protect the operation of the institution and to guard against any personal or public liability.

C. All institutions shall provide the Board of Regents with a financial review prepared in accordance with standards established by the American Institute of Certified Public Accountants. However, an institution accredited by an agency recognized by the United States Department of Education may, at its discretion, submit financial statements prepared in accordance with rules and guidelines established by the accrediting agency.

D. Institutions shall maintain and update a long-range financial development plan for the institution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1553 (December 1993), amended by the Board of Regents, LR 47:1294 (September 2021).

§313. Maintenance of Records

[Formerly §311]

A. Institutions are required to keep records for a minimum of three years which detail:

1. the composition and background of students, faculty, and administrative staff;
2. the institution's physical plant including land, buildings, library, and research facilities;
3. copies of brochures, catalogs, and advertising which describe student admissions, programs, and scholarships.

B. A student's records must be available for review by that student at the institution's central office.

C. Individual student records must include:

1. the name and address of the student;
2. commencement date of the program;
3. titles of courses within the student's chosen curriculum;
4. total hours (quarter, trimester, semester);
5. a payment schedule which includes the total cost to the student.

D. Student records must also include:

1. grades received;
2. all obligations incurred and all funds paid by the student to the institution;
3. counseling records;
4. a transcript;
5. financial aid records.

E. Student records shall be available and readily accessible for use and review by authorized officials of the institution and authorized representatives of the Board of Regents.

F. All licensed institutions are required to have a plan for the maintenance, safekeeping and retention of student records in the event of an institutional closure. The plan must contain the arrangements made by the institution and

procedures students must follow in order to obtain their records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1553 (December 1993), amended LR 21:169 (February 1995), LR 45:529 (April 2019).amended by the Board of Regents, LR 47:1294 (September 2021).

§315. Student Services **[Formerly §313]**

A. Institutions shall provide appropriate orientation and counseling services throughout enrollment. Special services including financial aid, employment placement for graduates, and student housing, if appropriate, must be evaluated periodically by the institution to determine effectiveness in meeting student needs and contribution to the educational purpose of the institution.

1. The Board of Regents recommends that prospective students seek independent job/career counseling prior to enrollment in an academic degree-granting postsecondary institution and encourages such institutions to promote this recommendation.

AUTHORITY NOTE: Promulgated in accordance with 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1553 (December 1993), amended LR 21:169 (February 1995), amended by the Board of Regents, LR 47:1295 (September 2021).

§317. Organization and Administration **[Formerly §315]**

A. An institution shall establish a governing structure which delineates responsibility for institutional operations, policy formation, and the selection of the institution's chief executive officer. If the institution is governed by a board or group of officers, the role and responsibilities of that body must be clearly defined.

B. Administrative personnel must possess qualifications which support the institution's stated purpose and effective operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1553 (December 1993), amended LR 21:169 (February 1995), amended by the Board of Regents, LR 47:1295 (September 2021).

§319. Procedures for Tuition and Fee Refunds **[Formerly §317]**

A. Pricing and Refund Policy

1. The institution must fully disclose all charges and fees in writing to prospective students. The parent or guardian of prospective students under legal adult age must be notified in writing of all charges and fees prior to enrollment.

2. Prospective students shall not be required to make a nonrefundable tuition payment until it has been determined that the prospective student has been accepted for enrollment.

3. The institution's refund policy must be disclosed in any contract to be signed by the prospective student or the student's legal adult guardian.

4. Institutions are required to follow the minimum standards for tuition refunds as set forth herein. These guidelines are:

a. students who withdraw prior to the first day of classes are entitled to a full refund of tuition and fees. Institutions may, however, require a nonrefundable application fee;

b. any administrative fees retained by the institution upon the early withdrawal of a student shall not exceed 15 percent of the total cost of tuition and fees paid by the student;

c. institutions which financially obligate students on a quarter, semester, or similar basis will be subject to the following tuition and fee refund policy:

i. students withdrawing during the first 10 days of classes shall receive a minimum refund of 75 percent of total tuition and fees paid, excluding any nonrefundable application fees, less the maximally-allowable administrative fees retained by the institution;

ii. students withdrawing from day 11 through day 24 of classes shall receive a minimum refund of 50 percent of total tuition and fees paid, excluding any nonrefundable application fees, less the maximally-allowable administrative fees retained by the institution;

iii. students withdrawing from day 25 through the end of the quarter, semester, or similar time period may be ineligible to receive a refund;

d. institutions which financially obligate students for longer periods of time, i.e., periods exceeding six months, shall be subject to the following tuition and fee refund policy:

i. students completing up to 25 percent of the course of study shall receive a minimum refund of 50 percent of total tuition and fees paid, excluding any nonrefundable application fees, less the maximally-allowable administrative fees retained by the institution;

ii. students completing more than 25 percent but less than 50 percent of the course of study shall receive a minimum refund of 25 percent of total tuition and fees paid, excluding any nonrefundable application fees, less the maximally-allowable administrative fees retained by the institution;

iii. institutions are not allowed to keep the full amount of tuition and fee charges until at least half the program of study has been completed;

iv. refund policies for programs offering tuition/fee payments on an installment plan or programs offered through distance learning will be examined by the Board of Regents on an individual basis. Refund policies for installment programs are expected to conform generally to refund policies which appear in Subparagraphs A.4.c.i through iii and d.i through iv of this Section;

e. refunds must be paid within 45 days of the date of withdrawal of the student from the institution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1553 (December 1993), amended LR 21:169 (February 1995), LR 36:2840 (December 2010), LR 45:530 (April 2019), amended by the Board of Regents, LR 47:1295 (September 2021).

§321. Surety Bonding **[Formerly §319]**

A. New Louisiana domiciled unaccredited institutions are required to post a surety bond issued by a surety authorized to do business in the state of Louisiana in the

amount of \$10,000 to cover the period of the license. These bonds are intended to protect students in the event of a sudden closure of the institution. Institutions that are also licensed and bonded under provisions set forth by R.S. 17:3141 et seq., need not seek additional bonding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1554 (December 1993), amended LR 36:2840 (December 2010), LR 45:530 (April 2019), LR 47:1295 (September 2021).

§323. Rules and Guidelines on Advertising¹ [Formerly §321]

A. Registration with the Board of Regents shall LR 45:530 (April 2019).in no way constitute state approval or accreditation of any institution and shall not be used in any form of advertising by any institution.³⁰⁷

B. Licensed institutions may use the state name and licensing agency as follows:

1. (*Name of Institution*) is currently licensed by the Board of Regents of the State of Louisiana. Licenses are renewed by the State Board of Regents every two years. Licensed institutions have met minimal operational standards set forth by the state, but licensure does not constitute accreditation, guarantee the transferability of credit, nor signify that programs are certifiable by any professional agency or organization.

2. Any licensed institution wishing to use the state name and licensing agency in any promotion or advertising is restricted to the language which appears above. The statement must appear in its entirety and any modifications are not permissible under these rules or the law.

3. Advertising shall not include false or misleading statements with respect to the institution, its personnel, courses, or services, or the occupational opportunities of its graduates.

4. Institutions claiming accreditation by agencies not recognized by the United States Department of Education must clearly state in all advertising and promotional literature that the institutions' accreditation is not recognized by either the United States Department of Education or the State of Louisiana.

¹Neither the institution nor its agents shall engage in false advertising or other misleading practices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1554 (December 1993), amended by the Board of Regents, LR 47:1296 (September 2021).

§325. Hearings and Appeals [Formerly §323]

A. Institutional hearings and appeals are handled in accordance with guidelines set forth in R.S. 17:1808, §1(E)(F).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1554 (December 1993), amended by the Board of Regents, LR 47:1296 (September 2021).

§327. Sale of Ownership and Transfer of License [Formerly §325]

A. In the event that an institution sells all or a majority interest in its ownership, it is required to notify the board of Regents of both expected and final sale. A review of the institution's operations and objectives will be required upon final sale to determine if the institution's operating license should be transferred to the new ownership. Any and all costs associated with the Board of Regents' review will be borne by the new ownership of the institution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 21:170 (February 1995), amended by the Board of Regents, LR 47:1296 (September 2021).

§329. Licensure Denial [Formerly §327]

A. Any institution denied licensure by the Board of Regents that wishes to seek reconsideration by the board is required to wait a minimum of 24 months before resubmitting its license application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 21:170 (February 1995), amended by the Board of Regents, LR 47:1296 (September 2021).

Susannah F. Craig, PhD
Deputy Commissioner

2109#027

RULE

Board of Regents Proprietary Schools Section

General Provisions; License Requirements; Affidavits and Bonds; Proprietary Schools Applications; Violations; Student Complaint Procedure; Student Records (LAC 28:III. 101, 105, 501, 503, 505, 507, 509, 511, 513, 701, 703, 901, 903, 1501, 1701, and 1901)

In accordance with the Administrative Procedure Act, R.S. 17:3141 et seq., the Board of Regents has amended the rules and regulations to LAC 28:III, Proprietary Schools, by codifying current practices and procedures into administrative law to assist in the oversight of licensed Louisiana proprietary schools. Changes include the streamlining of reporting processes and amending of licensure renewal requirements. Changes allow for reporting processes updates, including the digital submission of materials, expediting student complaint resolutions, and clarifying the types of records to be submitted to the Board of Regents. With regard to licensure renewal processes, ongoing program-level collection will transition to one-time annual reporting of student-level data. Through verification of workforce outcomes at the student level, the Board of Regents and the Proprietary Schools Advisory Commission will be able to validate the postsecondary education and

training contributions made by proprietary schools to Louisiana and the attainment goals adopted in the Master Plan. This Rule is hereby adopted on the day of promulgation.

Title 28
EDUCATION

Part III. Proprietary Schools

Chapter 1. General Provisions

§101. Citation and Abbreviation

A. These rules and regulations of the Board of Regents (board) govern the licensing and monitoring of proprietary schools operating in Louisiana upon the recommendation and advice of the Advisory Commission on Proprietary Schools (commission).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3140.2(F).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1857 (September 2007), amended by the Board of Regents, Proprietary Schools Section, LR 47:1297 (September 2021).

§105. Proprietary Schools Law and the Administrative Procedure Act Incorporated

A. R.S. 17:3140.1 et seq., inclusive, known as the Proprietary Schools Law, and R.S. 49:951 et seq., known as the Administrative Procedure Act, in their currently existing form and as may be amended, are hereby incorporated herein. All remedies and procedures available to the public under these laws, as they pertain to this commission, are hereby made available herein as rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3140.1, R.S. 49:954.1(A), R.S. 17:3140.2(F).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1857 (September 200), amended by the Board of Regents, Proprietary Schools Section, LR 47:1297 (September 2021).

Chapter 5. License Requirements

§501. Applications

A. General

1. All applications must comply with the provisions of R.S. 17:3141.4, as well as any applicable provisions of these regulations. All applications concerning licenses are to be submitted to the commission in the manner as directed by commission staff.

2. All applicable fees, as provided below, must be by company, institutional, certified check, or by money order and must be made payable to the "Louisiana Board of Regents", with the exception of the Student Protection Fund which is to be made payable to the "Student Protection Fund." Except for overpayments toward the Student Protection Fund, no portion of any license fee shall be subject to refund.

B. Initial Application and License Fee. The initial license application fee shall be \$2,000. A payment of \$1,000 toward the student protection fund must be paid along with the license fee.

C. Renewal Application and Fee

1. The annual renewal application fee is based on the school's gross tuition revenues for the previous year as follows:

- a. under \$50,000—\$500;
- b. \$50,000 and up—greater of \$1,000 or 0.25 percent of gross tuition income.

2. If a complete license renewal application is not received at least 30 days prior to its expiration date, in addition to the renewal fee, there shall be a delinquent fee of \$500. In addition to the renewal application fee and any delinquent fee, a payment to the Student Protection Fund, if applicable, must be made in accordance with R.S. 17:3140.11.

D. License Fee for Solicitors. The annual license fee for each solicitor/sales representative of a school shall be \$100.

E. Reinstatement Licensure Fee. The reinstatement licensure fee for a suspended school shall be \$500.

F. Change of Ownership Application and License Fee. All changes of ownership are contingent upon approval from the board. Applications for a new license must be requested within 10 days of the change of ownership. No license shall be transferable. The application fee is \$2,000. A payment of \$1,000 toward the student protection fund must be made along with the application fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3140.1, R.S. 17:3140.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1859 (September 2007), amended by the Board of Regents, Proprietary Schools Section, LR 47:1297 (September 2021).

§503. Student Protection Fund

A. First Payment. Initial (new) schools and change-of-ownership schools shall be required to submit their first payment of \$1,000 made payable to the "Student Protection Fund" with their application.

B. Annual Payment. The required annual payments, if applicable, to the Student Protection Fund shall be collected based on the schedule provided in R.S. 17:3140.11.

C. Collection Schedule. Annual payments shall cease when the fund accumulates to \$800,000 but shall resume when the fund drops below \$750,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3140.11.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1860 (September 2007), amended by the Board of Regents, Proprietary Schools Section, LR 47:1297 (September 2021).

§505. Affidavits

A. Applications and renewal applications must be accompanied by affidavits by each owner, and director unless previously approved, and Solicitor Permit Applications (PSC-4 Form) by each solicitor containing the information prescribed by R.S. 17:3140.13 (for solicitor renewal, see §703). In the case of office and clerical personnel, in lieu of the affidavits of such personnel, the owner may submit an affidavit setting forth the information prescribed R.S. 17:3140.13 concerning such personnel. Such information shall be based on the owner's investigation and knowledge. For solicitor renewal, see §703.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3140.2(F).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1860 (September 2007), amended by the Board of Regents, Proprietary Schools Section, LR 47:1297 (September 2021).

§507. Surety Bond

A. Each license application must be accompanied by a surety bond in the amount of \$10,000 issued by a surety authorized to do business in Louisiana. The bond must meet

the requirements set forth in R.S. 17:3140.5 and the PSC-3 Form. Bond releases and terminations shall be as provided in R.S. 17:3140.5(D) and (E), and suspension of operating license for lack of surety bond coverage is governed by R.S.17:3140.5(F). A school may be exempted from filing a surety bond if it meets all of the following requirements:

1. does not require students to pay tuition for course of study more than one month in advance;
2. has been in continuous operation for at least five years; and
3. has met all the requirements of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3140.2(F).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1860 (September 2007), amended by the Board of Regents, Proprietary Schools Section, LR 47:1297 (September 2021).

§509. Other Provisions Concerning License

A. A license shall be valid only for the school and shall not include other schools or branches operated by the owner. Each separate location or branch school shall be licensed and bonded. No new courses shall be offered by any school holding a license until it is approved by the commission staff in accordance with procedures to be established by the commission.

B. Each license must be displayed on the premises. No license shall be transferable. In the event of a change of ownership of the school, the license shall be revoked unless the new owner, within 10 days after the change of ownership, the new owner shall submit a copy of the bill of sale to commission staff, and is required to submit a new application two months prior to the date of the expiration of the license.

C. Any person who contemplates the purchase of a school may apply for a license. If the board grants such a license, it shall become a valid license only upon completion of the proposed sale.

D. All licenses shall be renewed annually, not less than 30 days prior to expiration date thereof. Updated information must contain all changes in staff, school programs, etc., including all additions and deletions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3140.2(F).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1860 (September 2007), amended by the Board of Regents, Proprietary Schools Section, LR 47:1298 (September 2021).

§511. Denial of Recommendation of License and Commission Hearing

A. If the commission or commissioner recommends the denial of a license, the commission shall hold a hearing upon the applicant's request, as provided in R.S. 17:3140.6. The applicant may appear in person or by counsel and may present evidence in support of granting the license. The decision or order resulting from a hearing before the commission is subject to rehearing, reopening, or reconsideration by the commission within 10 days from the date of its entry on the grounds set forth in R.S.49:959 and in accordance with the procedures therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3140.6.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1860 (September 2007),

amended by the Board of Regents, Proprietary Schools Section, LR 47:1298 (September 2021).

§513. Revocation of License

A. Licenses may be revoked by the board in accordance with the standards and procedures set forth in R.S.17:3140.7 and statutory and regulatory provisions applicable thereto.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3140.7.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1861 (September 2007), amended by the Board of Regents, Proprietary Schools Section, LR 47:1298 (September 2021).

Chapter 7. Personnel Affidavits/Permits

§701. Completion of Affidavits by Non-Instructional Personnel/Instructional Personnel

A. Completion of Affidavit by Non-Instructional Personnel

1. An affidavit (PSC-9 Form) containing the following information must be submitted by the owner of each school (if a corporation, by each officer and by each director) and by each staff person, except solicitors, instructors, and office and clerical personnel:

- a. full name and address of said person and the capacity in which he/she serves the school;
- b. the city, parish/county, and state of said person's permanent residence and places of residence for the past five years;
- c. the names and addresses of said person's employer or employers for the past five years;
- d. whether or not said person has ever been convicted of a felony for a crime involving fraud or any misdemeanor other than a traffic violation; and
- e. three persons who may be contacted concerning such person's good moral character.

2. Minimum qualifications of an instructor include the following:

a. an instructor in an academically-credentialed area shall have a baccalaureate degree from a bonafide, accredited college or university, and demonstrate appropriate familiarity with the subject matter taught as evidenced by an academic transcript and/or occupational experience;

b. an instructor, in other than an academically-credentialed area, shall have a high school diploma or its equivalent; a license, diploma, certificate, other degree from a recognized institution or organization in the area taught, or documented evidence of on-the-job training in the area taught; and four years of documented occupational experience in the area taught;

c. as used in this Subsection, a "recognized institution or organization" shall mean any bonafide, licensed, chartered or traditionally accredited business or association legally engaged in commerce, education, training, or advocacy. Recognized institutions or organizations shall include, but not be limited to, governmental agencies, labor unions, trade and professional corporations, and retail, financial, and commercial entities. The commission shall reserve the right to use all reasonable means in verifying the validity of credentials;

d. at the board's discretion, the minimum four years experience required for instructors may be waived for those disciplines where teaching credentials are officially certified, licensed, or otherwise approved or granted by a federal agency; and

e. employees employed prior to May 30, 1989 will be exempted from occupational experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3140.7.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1861 (September 2007), amended by the Board of Regents, Proprietary Schools Section, LR 47:1298 (September 2021).

§703. Solicitor Application, Bonds, Renewal, Denial, and Revocation

A. All forms are prepared and provided by the commission staff.

1. Permits and Applications. No person shall sell any course of instruction or solicit students therefore in Louisiana for any school unless he has obtained a solicitor's permit from the commission. A separate permit is required for each school the solicitor represents. A separate application (PSC-4 Form) with required fee and bond must be submitted for each permit sought (i.e., for each school to be represented).

2. Bonds. Surety bonds for permits must be in the amount of \$1,000 for each permit issued. The bond must be continuous and must be issued by a solvent surety authorized to do business in Louisiana (see PSC-5 Form). The bond may be supplied as a blanket bond by a school covering each agent, \$1,000 in amount for each agent. This bond is set forth in PSC-6 Form. If a surety cancels a bond (as provided in R.S. 17:3140.13C(3)) then a substitute bond (meeting all conditions for the original) must be furnished and the solicitor's permit shall be in a state of suspension for any period of time not covered by a proper bond.

3. Renewals. Each permit is valid for one year from date of issuance unless revoked and must be renewed not less than 30 days prior to expiration date. At the time of renewal, the owner/director must submit a PSC-4 Form, (unless the owner/director submits written notification of continued employment of solicitor); a \$100 renewal fee (made payable to the "Louisiana Board of Regents"); and proof of continuous bond coverage.

4. Denial of Permits. The commission may deny recommendations of issuance of a permit when proper grounds exist therefore. The procedures in such cases shall be in accordance with the applicable provision of R.S. 17:3140.6 and R.S. 49:951-966.

5. Revocation of Permits. A permit may be revoked for any of the causes set forth in R.S. 17:3140.7. Notice of contemplated revocation must be given in writing at least 30 days prior to the effective date of revocation. At any time within 30 days prior to the revocation, upon request of the solicitor, the commission shall afford the solicitor an opportunity to be heard in person or by counsel. On or before 30 days prior to the date set for hearing, the commission shall notify the aggrieved solicitor of the date and purpose of the hearing and the grounds for the contemplated revocation of the permit. The procedure for revocation shall be in accordance with those prescribed by R.S. 49:951-966 and by R.S.17:3140.7 as applicable to such action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3140.2 (F), R.S. 17:3140.7. R.S. 17:3140.7.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1861 (September 2007),

amended by the Board of Regents, Proprietary Schools Section, LR 47:1299 (September 2021).

Chapter 9. Proprietary Schools Applications

§901. Initial License or Change of Ownership License Procedures

A. Refer to the PSC-14 Form, Proprietary Schools License Requirements Checklist. Enclose one original application in a binder, with tabs of the applicable items as listed on the PSC-14.

B. Louisiana Minimum Cancellation and Refund Policy

1. Three-Business-Day Cancellation. All monies paid by a student shall be refunded if requested within three business days after signing an enrollment agreement and making an initial payment.

2. Cancellation after the Three-Business-Day Cancellation Period but Before Commencement of Classes by the Student. If tuition or fees are collected in advance of entrance, and if the student does not begin classes, not more than a \$150 registration fee shall be retained by the institution. Appropriate refunds shall be made within 30 days of the start of the quarter, term, or semester.

3. For programs less than 300 clock hours, the withdrawal after commencement of classes refund policy shall be:

a. after a student has completed less than 15 percent of the program, the institution shall refund at least 80 percent of the tuition, less the registration fee, thereafter;

b. after a student has completed less than one fourth of the program, the institution shall refund at least 70 percent of the tuition, less the registration fee, thereafter;

c. after a student has completed one fourth, but less than one half of the program, the institution shall refund at least 45 percent of the tuition, less the registration fee, thereafter;

d. after a student has completed one half or more of the program, the institution may retain 100 percent of the stated program price.

4. Any unused portion of the book fee will be refunded.

5. For programs 300 clock hours or longer, the withdrawal after commencement of classes refund policy shall be:

a. during the first week of the program, the institution shall refund at least 90 percent of the tuition, less the registration fee, thereafter;

b. during the next three weeks of the program, the institution shall refund at least 75 percent of the tuition, less the registration fee, thereafter;

c. during the first 25 percent of the program, the institution shall refund at least 55 percent of the tuition, less the registration fee, thereafter;

d. during the second 25 percent of the program, the institution shall refund at least 30 percent of the tuition, less the registration fee, thereafter;

e. during the third and fourth 25 percent of the program, the institution shall retain 100 percent of the stated program price. Percentages of the program completion are to be computed on the basis of clock hour. For programs longer than one year (12 calendar months) in length, 100 percent of the stated program price attributable to the period beyond the first year will be refunded when the student withdraws during the prior period.

6. Any unused portion of the book fee will be refunded.

C. Items to be Included in School Catalog

1. A prospective student is entitled to sufficient data to make an informed decision on training opportunities and institutions. A school is therefore obligated to provide sufficiently detailed information in advance of enrollment to enable prospective students to clearly understand their opportunities, limitations, and obligations.

2. Each school shall prepare and make available a typed and bound publication which is readily identifiable as a catalog and each student shall receive a copy. This catalog shall be designed and written to convey accurate information on the school. It shall avoid false, misleading, or exaggerated statements.

3. The following items shall be listed in the catalog:

- a. the name, address, phone number, email, and fax of school;
- b. the date of publication;
- c. a statement of institutional philosophy;
- d. licensure statement;
- e. the admission requirements and procedures;
- f. the educational objectives of each program offering, including the name, nature, and level of occupations for which training is provided;
- g. a detailed program outline for each program of study that includes subject abbreviations and numbers, subject titles, the number of clock and/or credit hours of instruction in lecture, lab, and/or clinical/externship, and the length of time in weeks or months normally required for completion;
- h. the subject descriptions for each program of study;
- i. a brief description of the school's physical facilities, equipment to be used in class, and the maximum class size;
- j. the school policies relative to tardiness, absences, make-up work, conduct, termination, re-entry, and other rules and regulations of the school;
- k. the grading system, including a definition of ratings;
- l. the required levels of performance for graduation;
- m. a statement of certificates, diplomas, or degrees awarded upon graduation;
- n. a statement of student charges related to enrollment: registration fee, tuition, book fee, lab fee, and any other charges for which a student will be responsible;
- o. a statement of the cancellation and refund policy of the school;
- p. a detailed and explicit description of the extent and nature of job placement assistance that is available to graduates, if any;
- q. specifics describing the availability of residential housing, vocational counseling services, scholarships, and the extent of other services available to students, if any;
- r. a school calendar including holidays and other dates of importance;
- s. the school's student complaint procedure;
- t. any other facts concerning the school and its programs of instruction.

D. Institutions seeking initial licensure shall certify in writing that they have the capabilities to annually submit to the Board of Regents student-level data for each student, in a format prescribed by the Board of Regents and the capabilities to electronically store student transcript data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3140.3.

HISTORICAL NOTE: Promulgated by the Board of Regents, LR 33:1862 (September 2007), amended by the Board of Regents, Proprietary School Section, LR 40:1687 (September 2014), amended by the Board of Regents, Proprietary Schools Section, LR 47:1299 (September 2021).

§903. License Renewal

A. Renewal letters are sent to the school owners annually. A license renewal application must be received in this office 30 days prior to the license expiration. If it is not, there shall be a \$500 delinquent fee. Failure to furnish all the renewal information prior to the license expiration date will cause the license to expire. There can be no exceptions or any other extension. The following paperwork must be submitted:

1. a completed PSC-1 Form;
2. verification from the bonding company that the surety bonds (\$10,000 for school and \$1,000 per solicitor) are still in effect must accompany the renewal application. The premium period must coincide with the school's licensure period.
3. a completed PSC-12 form;
4. the renewal fee based upon the school's previous year's gross tuition revenues. The check is to be made payable to the "Louisiana Board of Regents." Refer to the PSC-12 form;
5. financial statements:
 - a. for those schools which participate in Title IV funding, an original set of financial statements that have been audited by an independent certified public accountant licensed in the state of Louisiana, including a current balance sheet and an income statement showing gross tuition receipts for the school's last fiscal year, and in the case of a corporation, signed by an officer of the corporation, sole proprietorship or partnership, signed by the owner(s) or a duly authorized agent acting on behalf of the owner(s), stating that it is true and correct; and
 - b. for those schools which do not participate in Title IV funding, an original set of financial statements that have been reviewed by an independent public accountant licensed in the state of Louisiana, including a current balance sheet and an income statement showing gross tuition receipts for the school's last fiscal year, and in the case of a corporation or sole proprietorship or partnership, signed by the owner(s) or a duly authorized agent acting on behalf of the owner(s) stating that it is true and correct;
6. an internal compilation reflecting the school's most recent quarter, if the audit/review submitted with the renewal materials, reflects a business year that ended more than 120 days prior to the submission of the renewal materials;
7. a completed PSC-18 Form reflecting the application date listed on the PSC-1 Form;
8. a completed PSC-4 Form for any new solicitor employed with the school. The initial and/or renewal fee is \$100 per solicitor is to be made payable to the "Louisiana Board of Regents";

9. a completed PSC-9 Form on all instructors and staff employed since the last school renewal, unless previously approved during the year;

10. a current school catalog;

11. a current copy of the enrollment agreement/enrollment contract;

12. proof of the ability to electronically store student transcript data;

13. Institutions seeking renewal licensure shall annually collect, and all institutions licensed by the Board of Regents shall annually report, student-level data from the prior year for each student, in a format prescribed by the Board of Regents. At minimum, data from the prior year must include

a. withdrawal data,

b. program completion/ graduation data,

c. student demographic information (including full name, date of birth, social security number, sex, race/ethnicity), type of credential earned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3140.3 and R.S. 17:3140.4.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1862 (September 2007), amended by the Board of Regents, Proprietary Schools Section, LR 47:1300 (September 2021).

Chapter 15. Violations

§1501. Authority, Investigation, and Sanctions

A. Violations. The following is an illustrative, but not exclusive, list of actions constituting a violation:

1. failure to provide the commission with an item of information required by R.S. 17:3140.1 et seq.;

2. misrepresentation about a school's credentials or accreditation;

3. a false claim or guaranty of employment by a school or solicitor;

4. failure to disclose to a student a necessary requirement for employment;

5. false or misleading advertising;

6. unethical behavior by a solicitor;

7. failure to disclose liability for repayment of a student loan;

8. failure to respond to student complaints as provided in the student complaint rule, R.S. 17:3140.9 and 17:3140.2;

9. employment of an instructor who is unqualified;

10. unsafe or unhealthy condition of a school;

11. unsafe, unhealthy, or inadequate instructional equipment;

12. failure to teach the number of hours claimed;

13. failure to maintain attendance records and to provide them for inspection;

14. failure to comply with a contractual relationship with a student;

15. failure to release the grades of a student;

16. failure to cooperate with an investigator from the commission;

17. attempting to obtain, obtaining, or renewing a license to operate a school by fraudulent misrepresentation or bribery;

18. placement of classified advertisement under "employment" or other similar categories related to employment rather than "education" or "instruction";

19. upon closure, failure to transfer student records to the board; and

20. failure to comply with the provision of R.S. 17:3140.1 et seq., or any written rule or regulation of the board.

B. Authority and Scope. The definition of "school" for the purpose of this rule shall include a licensed school and school owners, employees, operators, agents and solicitors. The commission shall use the following procedures prior to making a recommendation to the board under R.S. 17:3140.7 that a school license should be revoked, canceled, or suspended.

1. Any school found to be in violation of any provision of R.S. 17:3140 et seq., or any other state regulation adopted by the commission pursuant to the Administrative Procedure Act governing the administration or operation of a school may be sanctioned by one or more of the following remedies:

a. restitution and remedial measures;

b. civil money penalties (fines); and

c. revocation, suspension, cancellation, or other restrictions on the license.

2. The commission's assessment of a sanction shall be based on the following considerations:

a. whether the violation or substantially similar violation has previously occurred;

b. the duration of the violation;

c. the severity of the violation;

d. the school's history of compliance with the regulations;

e. what sanction is most likely to bring the school into compliance in the shortest time;

f. the "good faith" exercised by the school in attempting to stay in compliance with the regulations; and

g. such other factors as the commission deems appropriate.

C. Investigation

1. When the commission's staff becomes aware of a violation, it may conduct an onsite investigation of a school. The inspection may or may not be announced at the discretion of the staff.

2. The agent conducting the investigation shall have the authority to:

a. privately interview administrators, teachers, solicitors, and students;

b. inspect school records, documents, catalogs, forms, and advertisements; and

c. inspect the school facilities and equipment.

3. The school shall cooperate fully with the agent.

4. Within five days of the investigation the agent shall prepare a written report which shall be furnished to the commission staff and the school. The report shall contain:

a. factual findings relevant to the initial violation;

b. factual findings of any additional violations;

c. recommendations of remedial measures to be taken by the school; and

d. recommendations of any sanctions to be taken by the commission including the commission's petition for an injunction to terminate the violation;

e. the procedure by which an administrative hearing may be requested.

5. Additional or follow-up visits may be made to the school to monitor violations or to monitor remedial measures taken to correct prior violations.

D. Notice of a Violation

1. When a violation of state statutes or regulations governing the administration or operation of a school has occurred, in accordance with R.S. 17:3140.8, the commission staff shall give notice of the violation to the school's director by certified mail, return receipt, and shall afford the school an opportunity to be heard in person or by counsel.

2. The written notice of the violation shall:

- a. specify the violation(s);
- b. cite the legal authority which establishes the violation(s);
- c. cite any sanctions assessed for each violation;
- d. inform the school's director that the determination of the violation and imposition of the sanction are final, and no further administrative or judicial appeals may be had if a timely appeal is not filed; and
- e. inform the school's director if the violation is regarded as a repeat or continuing violation and the manner in which the sanction will be imposed.

3. If the school requests a hearing, the commission staff shall hold a hearing and take evidence. Strict rules of evidence shall not apply. A tape recording of the hearing shall be made. The school may deny the violation, admit the violation in part and deny it in part, or admit the violation but request a reduction or modification of the sanction imposed. The school may present witnesses or documentary evidence in its defense bearing directly on the violation asserted. The school is limited to one witness to attest to its reputation or to remedial measures it has taken. The commission may consider reputation and remedial measures in mitigation of the sanction. For continued or repeat violations, reputation or remedial measures shall not be considered.

4. The commission staff shall have authority to determine for purposes of making a recommendation to the board, whether a violation is a repeat or continuing violation:

- a. a repeat violation is the recurrence of the same or a substantially similar violation within a period of 12 months;
- b. a continuing violation is one that may be reasonably expected to continue until corrective action is taken. A continuing violation may be considered as a repeat violation for each day following the day on which the initial violation is established, until such time as there is evidence establishing a date by which the violation is corrected. A continuing violation may be subject to appropriate sanctions for repeat violations up to the number of days of the violation at the discretion of the commission staff.

5. After holding a hearing, the commission shall submit its findings to the board, and may recommend any of the penalties listed in Paragraph 1501.B.1 and Subsection 1501.F, as it deems appropriate. The commission shall also forward a copy of its findings and recommendation to the school, notify the school of the date of the board meeting when the commission's recommendation will be considered, and advise the school of the opportunity to appear at the board's meeting by person or by counsel and be heard. After due consideration of the commission's recommendation and

the school's arguments (if the school presents any arguments) and upon a vote of two-thirds of the authorized membership of the board, the board may revoke, cancel, suspend or restrict the school's license, or impose fines or refunds.

6. A sanction which requires monetary payments, either fines or restitution, shall be paid within a timeframe as determined by the board following its notification.

E. Description of Sanctions

1. Restitution and Remedial Measures. The commission may impose sanctions consisting of, but not limited to, the following measures:

- a. rebate of all or a portion of the tuition to the students;
- b. modification or termination of advertising when unwarranted, false, or misleading claims are made, or placement of corrective ads;
- c. counseling of students when they have been misinformed about a material matter;
- d. the posting of a sign in a prominent position in a school correcting a false representation made to the students;
- e. the distribution of an informational leaflet to the students informing them of their rights;
- f. the inclusion or exclusion of information from the student catalog to correct a misrepresentation;
- g. repairs or modification to a physical facility when health or safety is jeopardized;
- h. repairs or modification to equipment when health or safety or delivery of quality instruction is jeopardized;
- i. an order to terminate a gross violation of the statutes or regulations;
- j. an order to cease the enrollment of new students or to limit enrollment to those students who meet more restrictive admission standards; and
- k. modification of the curricula or methods of instruction.

2. Civil Money Penalties (Fines). The commission has the authority to impose a fine up to \$500 for each violation. Repeat or continuing violations may be assessed separate fines up to \$500 for each day of violation. After a fine is imposed, the commission may allow a specified period of time for the correction of the violation. If the violation is corrected, the commission may waive the payment of the fine. The school may be given the opportunity to demonstrate compliance before the fine becomes final. A violation for which a fine is waived shall still be counted for repeat and continued violations. The right to assess civil fines is not merged in other remedies, and the commission may impose other sanctions in addition to the fines.

3. Revocation of License. The commission may recommend the revocation of a school's license to the board.

F. Appeal Procedure. Any sanction may be administratively appealed as long as the appeal is timely filed in accordance with R.S. 17:3140.6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3140.2, R.S. 17:3140.7, R.S. 3140.8, and R.S. 17:3140.9.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1863 (September 2007), amended by the Board of Regents, Proprietary Schools Section, LR 47:1301 (September 2021).

Chapter 17. Student Complaint Procedure

§1701. Policies, Conciliation, Conference, Hearing, and Review

A. General Policies

1. The purpose of this complaint procedure is to provide an effective and efficient method by which students may resolve their complaints with the commission staff under the jurisdiction of the board;

2. the commission staff shall prepare and provide a copy of the complaint procedure to each licensed school; and

3. each school shall include in either their catalog or enrollment agreement the following:

a. complaints relative to actions of school officials may be made and must be in writing, addressed to the Louisiana Board of Regents, Proprietary Schools Section, Program Administrator, P.O. Box 3677, Baton Rouge, LA 70821-3677, 225/342-4253. Such complaints may be made only after the student has unsuccessfully attempted to resolve the matter with the school by having first filed a written and signed complaint with that school's officials. Any student who wishes to review the student complaint procedure may make a request for a copy of the procedure, in writing, to the Louisiana Board of Regent,

B. Conciliation

1. Any student who believes he/she has been aggrieved by actions of school officials shall first file a written and signed complaint with school officials. School officials must respond with a decision within 10 calendar days of the date of the complaint.

2. No later than one year from date of the last alleged grievance, the student may appeal the decision of the school officials in writing to the commission staff at Louisiana Board of Regents, Program Administrator, Proprietary Schools Section. The student shall submit a copy of the original grievance with their appeal.

3. Copies of this appeal and notice of the complaint will be sent to the school and to the complainant. A copy must also be retained in the commission staff files.

4. Upon receipt of the notice of appeal, commission staff will request that the student and the school meet and discuss the complaint in a conciliation effort or commission staff will independently evaluate the appeal within 10 days after receipt of the notice.

5. If no amicable resolution is achieved via a conciliation effort, either party may request, within seven days, a hearing before the Advisory Commission on Proprietary Schools. Within five working days following a request for a hearing, the commission staff shall send written notice to the parties containing the following:

- a. an explanation of the hearing procedures; and
- b. the date, time and place for the hearing.

C. Hearing

1. A public hearing shall be held before the commission. The parties shall be given 15 days notice in advance of the hearing, including the time, place and nature of the hearing and a statement of the alleged complaints to be the subject of the hearing.

2. The hearing shall be conducted in accordance with the provisions of the Administrative Procedure Act;

D. Judicial Review. Either party may appeal to the Nineteenth Judicial District in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3140.9.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1865 (September 2007), amended by the Board of Regents, Proprietary School Section, LR 44:1005 (June 2018), amended by the Board of Regents, Proprietary Schools Section, LR 47:1303 (September 2021).

Chapter 19. Student Records

§1901. General Policies

A. All schools shall maintain all student records as required under R.S. 17:3140.15. All student records shall include, but are not limited to student enrollment information, student enrollment agreements, attendance records, financial and academic transcripts, and exit interview.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3140.2 and R.S. 17:3140.15.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1866 (September 2007), amended by the Board of Regents, Proprietary Schools Section, LR 47:1303 (September 2021).

§1903. Transfer of Student Records

A. A school must make arrangements to transfer all student academic transcripts to the Commissioner of Higher Education at the commission's address within 10 days of closing. If any of the records have been seized or confiscated by legal authorities, the board shall request the authorities for documentation regarding seizure of the records. However, the school remains responsible for turning over unseized student academic transcripts. Any closed school, that maintains student files and electronic files shall make arrangements to electronically transfer such records to the board. The records shall be prepared in the following manner:

1. they shall be filed in alphabetical order;
2. each container will be clearly marked "official records" and will show the alphabetical order within the container (e.g., aa to bc); and
3. the containers shall be sealed to prevent loss or damage and marked in succession.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3140.2 and R.S. 17:3140.15.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1866 (September 2007), amended by the Board of Regents, Proprietary Schools Section, LR 47:1303 (September 2021).

§1905. Penalties

A. Failure to maintain and/or turn over student records as provided above will result in the assessment of penalties.

B. If necessary, a claim shall be made against the surety bond posted at the time of submission of the license application to satisfy any penalties for failure to maintain and/or turn over student records pursuant to R.S. 17:3141.5 (D)(1)(b)(iv).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3140.2 and R.S. 17:3140.5.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1866 (September 2007), amended by the Board of Regents, Proprietary Schools Section, LR 47:1303 (September 2021).

Randall Brumfield
Deputy Commissioner

2109#028

RULE

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

Peace Officer Training (LAC 22:III.Chapter 47)

In accordance with the provision of R.S. 40:2401, et. seq., the Peace Officer Standards and Training Act, and R.S. 40:905 et. seq., which is the Administrative Procedure Act, the Peace Officer Standards and Training Council has promulgated rules and regulations relative to the training of peace officers. 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 4. Peace Officers**

Chapter 47. Standards and Training

§4705. Registration

A. Full Time Grandfathered Peace Officers

1. Registration may be granted in lieu of certification to those full-time peace officers who:

- a. were hired prior to January 1, 1986
- b. did not attend a POST-certified training; and
- c. are currently performing the duties of a peace officer.

2. *Registration* simply means that the officer is registered with POST and he/she is not required to comply with the mandates for basic POST certification.

3. Full-time peace officers hired prior to January 1, 1986, may be eligible to receive POST registration by completing the following requirements.

- a. Submit a letter to the POST Council from the agency head requesting the officer be registered with the state.
- b. Supporting documentation shall accompany the letter regarding initial employment date along with a chronological narrative of the officer's law enforcement service on a form prescribed by POST.

B. Part-Time/ Reserve Grandfathered Peace Officers

1. Registration may be granted in lieu of certification to those part time/reserve peace officers who:

- a. were hired prior to January 1, 2022;
- b. did not attend POST-certified basic training; and
- c. are currently performing the duties of a peace officer.

2. *Registration* simply means that the officer is registered with POST and he/she is not required to comply with the mandates for basic POST certification.

3. Part-time/reserve peace officers hired prior to January 1, 2022, may be eligible to receive POST registration by completing the following requirements:

- a. submit a letter to the POST Council from the agency head requesting the officer be registered with the state;
- b. supporting documentation shall accompany the letter regarding initial employment date along with a

chronological narrative of the officer's law enforcement service on a form prescribed by POST.

4. Registered part-time/reserve peace officers who are "grandfathered in" are exempt from the basic training course requirement but must comply with all other POST mandates to maintain grandfathership including POST inservice training.

C. - D. ...

E. Registration/grandfathership shall become invalid if officer experiences a five year or more break in law enforcement service and has less than five years of full time experience.

F. Officers, who were hired prior to January 1, 1986, and who experience a five year or more break in law enforcement, and had at least five years of full-time service, can reinstate their grandfathership by successfully completing:

- 1. the firearms section of the Louisiana Law Enforcement Basic Training Manual;
- 2. the legal aspects of the Louisiana Law Enforcement Basic Training Manual; and
- 3. the necessary requirements for POST registration in accordance with the provisions of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:663 (April 1999), LR 31:3159 (December 2005), LR 37:319 (January 2011), LR 44:1008 (June 2018), LR 47:1304 (September 2021).

§4709. Interruption of Service

A. Any grandfathered peace officer who interrupts his full-time continuous law enforcement employment for a period in excess of five years ("break in service") and is subsequently rehired, shall be required to meet the basic training requirement for new peace officers unless the officer had:

- 1. at least a minimum of five years' experience, then the officer must meet the requirement of §4705.C;
- 2. already completed a POST certified basic training course, he/shall then be required to complete the legal aspects and firearms portion of the course, qualify on the POST firearms qualification course, and pass the statewide examination, at an accredited training center. Proof of basic training will be required. If the student fails the statewide examination, the student must complete a full basic training course.

B. Any certified peace officer who interrupts his/her law enforcement service for a period of not to exceed five years, must qualify with his/her firearms to reinstate their certification. If the officer had interrupted his/her law enforcement services for a period of five years, and is thereafter rehired, then the officer must meet the requirement outlined in §4709.A.2.

C. Extended medical leave does not constitute an interruption of full-time service/employment ("break in service").

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of

Criminal Justice, LR 13:434 (August 1987), amended LR 25:664 (April 1999), LR 31:3159 (December 2005), LR 34:1927 (September 2008), LR 35:319 (January 2011), LR 44:1008 (June 2018), LR 47:1304 (September 2021).

Mr. Jim Craft
Executive Director

2109#011

RULE

Department of Health Bureau of Health Services Financing

Case Management—Licensing Standards (LAC 48:I.Chapter 49)

The Department of Health, Bureau of Health Services Financing has amended LAC 48:I.Chapter 49 as authorized by R.S. 36:254. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. 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 49. Case Management

§4901. Personnel Standards

A. Staff Qualifications

1. Case managers hired or promoted between August 20, 1994 and September 30, 2021, must meet the following criteria for education and experience:

a. - e. ...

2. Case managers hired or promoted on or after October 1, 2021, shall meet the following criteria for education and experience:

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

b. a currently licensed registered nurse; or

c. a bachelor's or master's degree in a human services related field which includes psychology, education, counseling, social services, sociology, philosophy, family and consumer sciences, criminal justice, rehabilitation services, child development, substance abuse, gerontology, and vocational rehabilitation; or

d. a bachelor's degree in liberal arts or general studies with a concentration of at least 16 hours in one of the fields listed in accordance with §4901.A.2.c.

e. Repealed.

3. Case management supervisors hired or promoted between August 20, 1994 and September 30, 2021, must meet the following qualifications for education and experience:

a. a master's degree in social work, psychology, nursing, counseling, rehabilitation counseling, education with certification in special education, occupational therapy, speech or physical therapy from an accredited institution; and two years of paid post-degree experience in a human services related field providing direct consumer services or case management; and one year of this experience must be

in providing direct consumer services to the targeted population to be served; or

b. a bachelor's degree in social work from a social work program accredited by the Council on Social Work Education; and three years of paid post-degree experience in a human services related field providing direct consumer services or case management. Two years of this experience must be in providing direct consumer services to the targeted population to be served; or

c. a licensed registered nurse; and three years of paid post-licensure experience as a registered nurse in public health or a human services related field providing direct consumer services or case management. Two years of this experience must be in providing direct consumer services or case management to the target population to be served; or

d. a bachelor's degree in a human services field including but not limited to psychology, education, rehabilitation counseling, or counseling from an accredited institution; and four years of paid post-degree experience in a human services related field providing direct consumer services or case management. Two years of this experience must be in providing direct consumer services to the targeted population to be served.

4. Case management supervisors hired or promoted on or after October 1, 2021, shall meet the following qualifications for education and experience:

a. a bachelor's or master's degree in social work from a program accredited by the Council on Social Work Education, and two years of paid post degree experience in providing Support Coordination services; or

b. a currently licensed registered nurse with at least two years of paid nursing experience; or

c. a bachelor's or master's degree in a human services related field which includes psychology, education, counseling, social services, sociology, philosophy, family and consumer sciences, criminal justice, rehabilitation services, child development, substance abuse, gerontology, and vocational rehabilitation, and two years of paid post degree experience in providing support coordination services; or

d. a bachelor's degree in liberal arts or general studies with a concentration of at least 16 hours in one of the fields listed in §4901.A.4.c, and two years of paid post degree experience in providing support coordination services.

B. - B.5. ...

6. A case manager must complete a minimum of 20 hours of training per calendar year. For new employees, the orientation training cannot be counted toward the 20 hour minimum annual training requirement. The 16 hours of training for new case managers required in the first 90 days of employment may be counted toward the 20-hour minimum annual training requirement. Appropriate updates of topics covered in orientation and training for a new case manager must be included in the required 20 hours of annual training. The following is a list of suggested additional topics for annual training:

a. - z. ...

7. A case management supervisor must satisfactorily complete 20 hours of training per year. A new supervisor must satisfactorily complete a minimum of 16 hours on all

of the following topics prior to assuming case management supervisory responsibilities:

B.7.a. - C.5. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 20:885 (August 1994), amended by the Department of Health, Bureau of Health Services Financing, LR 47:1305 (September 2021).

§4903. Caseload Size Standards

A. ...

B. Each case management supervisor may only have a maximum of eight full-time case managers or a combination of full-time case managers and other human service staff under their direct supervision.

C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 20:887 (August 1994), amended by the Department of Health, Bureau of Health Services Financing, LR 47:1306 (September 2021).

§4951. Records—Administrative and Consumer

A. - C. ...

D. A provider must have a written record for each consumer which must minimally include:

1. identifying data recorded on a standardized form including the following:

a. - l. ...

m. names, addresses, and phone numbers of other persons or providers involved with the consumer's service plan. This shall include the consumer's qualified, licensed physician or other licensed health care practitioner who is acting within the scope of practice of his/her respective licensing board(s) and/or certification(s);

D.1.n. - L. ...

M. The records are maintained until audited and all audit questions answered or for six years from the time of payment, whichever is longer.

N. - T. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 20:891 (August 1994), amended by the Department of Health, Bureau of Health Services Financing, LR 47:1306 (September 2021).

Dr. Courtney N. Phillips
Secretary

2109#054

RULE

Department of Health Bureau of Health Services Financing

Facility Need Review—Relocation of Nursing Facility Beds (LAC 48:I.12529)

The Department of Health, Bureau of Health Services Financing has amended LAC 48:I.12529 as authorized by R.S. 36:254 and 40:2116. 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 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 5. Health Planning

Chapter 125. Facility Need Review

Subchapter D. Relocation of Nursing Facility Beds

§12529. General Provisions

A. A nursing facility's approved beds (Medicaid facility need review approvals) cannot be relocated to a different service area, subject to the exceptions in Section 12529.C and Section 12529.D below.

B. - C.1.i.

D. In addition to Paragraphs B and C of this Section, Medicaid FNR approvals of an existing licensed and certified nursing facility that is awaiting the completion of a replacement nursing facility building, may be temporarily relocated to a licensed building that may be outside of the service area or parish of the existing FNR approved service area or parish under the following conditions.

1. The department may approve a one-time temporary relocation of a nursing facility's Medicaid FNR approvals to another licensed building that may be outside the existing FNR approved service area or parish, provided that all of the following provisions are met:

a. The relocating nursing facility shall send a written request to the department's Health Standards Section at least 30 days before the proposed temporary relocation outside the existing FNR approved service area or parish, for the department's review and approval. This request shall include all good cause grounds for the temporary relocation of the Medicaid FNR approvals. The department will determine if approval of the temporary relocation will be granted.

b. The nursing facility shall not temporarily relocate to a licensed building located in a service area or parish that is greater than 100 miles from the existing licensed service area or parish of the nursing facility.

c. The temporarily relocating nursing facility shall maintain the same number of licensed and Medicaid FNR approved beds as prior to the relocation.

d. All temporarily relocated Medicaid FNR approvals of the licensed and certified nursing facility are subject to compliance with all state and federal licensure/certification guidelines and procedures.

e. The temporary location shall be in compliance with all licensing and certification standards for nursing facilities, and receive a temporary nursing facility license issued by the department.

f. The temporary license shall expire 6 months from the date of issuance and the facility shall relocate to its new replacement nursing facility building during that period. One extension of the temporary license, not to exceed 90 days, may be granted by the department for good cause shown.

g. During the period of temporary licensure, the nursing facility shall not accept any new admissions to the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:806 (August 1995), amended LR 25:1250 (July 1999), LR 28:2190 (October 2002), LR 30:1023 (May 2004), LR 32:845 (May 2006), LR 34:2619 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1009 (May 2010), amended by the Department of Health, Bureau of Health Services Financing LR 46:953 (July 2020), LR 47:1306 (September 2021).

Dr. Courtney N. Phillips
Secretary

2109#055

RULE

Department of Health Bureau of Health Services Financing

Hospice Licensing Standards
(LAC 48:I.8201 and 8217)

The Department of Health, Bureau of Health Services Standards has amended LAC 48:I.8201 and §8217 as authorized by R.S. 36:254 and R.S. 40:2181-2192. 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 48

PUBLIC HEALTH-GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 82. Minimum Standards for Licensure of Hospice Agencies

Subchapter A. General Provisions

§8201. Definitions

A. The following words and terms, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise:

* * *

Public Health Emergency (PHE)-a declaration made pursuant to the Louisiana Health Emergency Powers Act, R.S. 29:760 et seq.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2181-2192.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health

Services Financing, LR 15:482 (June 1989), amended LR 24:2257 (December 1998), amended by the Department of Health, Bureau of Health Services Financing, LR 44:588 (March 2018), LR 46:344 (March 2020), LR 47:1307 (September 2021).

Subchapter B. Organization and Staffing

§8217. Personnel Qualifications/Responsibilities

A. - G.7. ...

H. Licensed Practical Nurse (LPN). The LPN shall work under the direct supervision of a registered nurse (RN) and perform skilled nursing services as delegated by the RN. The role of the LPN in hospice is limited to stable hospice patients.

1. Qualifications. An LPN shall be currently licensed by the Louisiana State Board of Practical Nurse Examiners with no restrictions:

a. with at least two years of full time experience as an LPN;

EXCEPTION: The requirement in 1.a is waived for any LPN that becomes employed by a hospice provider during a declared public health emergency (PHE) which extends statewide and continues for more than 90 consecutive days. Any LPN hired under this exception may continue to be employed by the same hospice provider after the PHE is over.

b. - c. ...

2. Responsibilities. The LPN shall perform skilled nursing services under the supervision of an RN, in a manner consistent with standards of practice, including but not limited to, such duties as follows:

a. observe, record, and report to the RN or director of nurses on the general physical and mental conditions of the patient;

b. ...

c. assist the physician and/or RN in performing specialized procedures;

d. - i. ...

3. Restrictions. An LPN shall not:

a. - f. ...

g. function as a supervisor of the nursing practice of any RN; or

H.3.h. - N.2.c. ...

O. Registered Nurse (RN). The hospice shall designate an RN to coordinate the implementation of the POC for each patient.

1. Qualifications. A licensed RN shall be currently licensed to practice in the state of Louisiana with no restrictions:

a. have at least two years of full-time experience as an RN. However, two years of full-time clinical experience in hospice care as an LPN may be substituted for the required two years of experience as an RN; and

EXCEPTION: The requirement in 1.a is waived for any RN that becomes employed by a hospice provider during a declared PHE which extends statewide and continues for more than 90 consecutive days. Any RN hired under this exception may continue to be employed by the same hospice provider after the PHE is over.

b. be an employee of the hospice. If the RN is employed by more than one agency, he/she must inform all employers and coordinate duties to assure quality service provision.

O.2. - R.1.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health

Services Financing, LR:15:482 (June 1989), amended LR 24:2262 (December 1998), LR 25:2409 (December 1999), LR 29:2801 (December 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 44:594 (March 2018), LR 47:1307 (September 2021).

Dr. Courtney N. Phillips
Secretary

2109#056

RULE

Department of Health Bureau of Health Services Financing

Intermediate Care Facilities
for Persons with Developmental Disabilities
Licensing Standards
(LAC 48:I.8519 and 8591)

The Department of Health, Bureau of Health Services Financing has amended LAC 48:I.8519 and §8591 as authorized by R.S. 36:254 and R.S. 40:2180–2180.5. 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 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 85. Intermediate Care Facilities for Persons with Developmental Disabilities

Subchapter A. General Provisions

§8519. Statement of Deficiencies

A. - C.7. ...

8. Pursuant to R.S. 40:2180.2(11), determination of dispute resolutions regarding deficiencies related to visitation during a declared public health emergency or related to Coronavirus Disease 2019 (COVID-19), subject to federal requirements, shall be issued by the department to the facility within 35 calendar days after the receipt of the request from the intermediate care facilities for persons with developmental disabilities (ICF/DD) for an informal dispute resolution of the deficiencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3186 (December 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 47:1308 (September 2021).

Subchapter F. Provider Responsibilities

§8591. Visitation by Close Family Members of a Resident During a Declared Public Health Emergency

A. For purposes of this Section, a public health emergency (PHE) means a declaration made pursuant to the Health Emergency Powers Act, R.S. 29:760 et seq.

B. ICF/DDs shall comply with any federal law, regulation, requirement, order, or guideline regarding visitation in ICF/DDs issued by any federal government agency during a declared PHE. The provisions of the licensing rules in §8591.C-G shall be preempted by any federal statute, federal regulation or guidance from a federal

government agency that requires an ICF/DD to restrict resident visitation in a manner that is more restrictive than the rules.

C. ICF/DDs shall comply with any Louisiana state health officer (SHO) order or emergency notice regarding visitation in ICF/DDs during a declared PHE.

D. ICF/DDs shall comply with any executive order or proclamation issued by the governor of the state of Louisiana regarding visitation in ICF/DDs during a declared PHE.

E. The provisions of this Section regarding visitation by a close family member of a resident of an ICF/DD to visit the resident during any state of PHE shall apply to all ICF/DDs licensed by LDH.

F. For purposes of this Section, a close family member shall mean a parent, step-parent, sibling, step-sibling, aunt, uncle, child, step-child, spouse, mother-in-law, father-in-law, grandparent, grandchild, or legal representative of the ICF/DD resident.

G. Subject to compliance with the requirements of §8591.B-D, each ICF/DD shall allow close family members of the residents to visit a resident of the ICF/DD during a declared PHE when a resident, or his legal or designated representative, requests a visit with close family members of the resident, subject to the following conditions and requirements:

1. Each ICF/DD shall have a written policy and procedure addressing visitation by close family members of the resident. A copy of the written policy and procedure shall be available, without cost, to the resident and his legal or designated representative, upon request. The ICF/DD shall provide a link to an electronic copy of the policy and procedure to close family members of the residents, upon request.

2. An ICF/DD's policy and procedure regarding visitation by close family members may adopt reasonable time, place, and manner restrictions, provided that such restrictions are implemented by the ICF/DD, in consultation with appropriate medical personnel, for the purpose of mitigating the possibility of transmission of any infectious agent or infectious disease or for the purpose of addressing the medical condition or clinical considerations of an individual resident.

3. An ICF/DD's policy and procedure on visitation by close family members shall, at a minimum, require the following:

a. that the ICF/DD give special consideration and priority for visitation by close family members and other designated persons to residents receiving end-of-life care;

b. that visitation by close family members and other designated persons will be screened for infectious agents or infectious diseases and will pass such screening prior to each visitation, utilizing at least the current screening or testing methods and protocols recommended by the Centers for Disease Control and Prevention, as applicable; if there is a current Louisiana SHO order or emergency notice that requires more rigorous screening or testing methods and protocols, then the ICF/DD shall utilize those methods and protocols;

c. that a close family member or other designated person not be allowed to visit an ICF/DD resident if such close family member or other designated person has obvious

signs or symptoms of an infectious agent or infectious disease, or if such close family member or other designated person tests positive for an infectious agent or infectious disease;

d. that a close family member or other designated person not be allowed to visit an ICF/DD resident if the close family member and other designated person refuses to comply with the provisions of the ICF/DD's policy and procedure or refuses to comply with the ICF/DD's reasonable time, place, and manner restrictions;

e. that close family members and other designated persons be required to wear personal protective equipment as determined appropriate by the ICF/DD, considering the resident's medical condition or clinical considerations;

i. at the ICF/DD's discretion, personal protective equipment may be made available by the ICF/DD to close family members and other designated persons;

f. that an ICF/DD's policy and procedure include provisions for compliance with a Louisiana state health officer (SHO) order or emergency notice or governor's executive order or proclamation limiting visitation during a declared PHE;

g. that an ICF/DD's policy and procedure include provisions for compliance with any federal law, regulations, requirements, orders, or guidelines issued by any federal government agency regarding visitation in ICF/DDs during a declared PHE; and

h. that includes provisions for off-site visitation, allowing a close family member to visit an ICF/DD resident away from the facility campus; the policy and procedure shall include requirements for allowing the resident to return to the facility upon certain conditions, such as meeting testing and isolation requirements recommended by the CDC, the Centers for Medicare and Medicaid Services (CMS), a Louisiana SHO order or emergency notice, or a governor's executive order or proclamation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:1308 (September 2021).

Dr. Courtney N. Phillips
Secretary

2109#057

RULE

Department of Health Bureau of Health Services Financing

Nursing Facilities
Licensing Standards
(LAC 48:I.9769 and 9771)

The Department of Health, Bureau of Health Services Financing has adopted LAC 48:I.9769 and §9771 as authorized by R.S. 36:254 and 40:2009.1-2116. 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 date of promulgation.

Title 48 PUBLIC HEALTH—GENERAL Part I. General Administration Subpart 3. Licensing

Chapter 97. Nursing Facilities

Subchapter B. Organization and General Services

§9769. Visitation by Members of the Clergy During a Declared Public Health Emergency

A. For purposes of §9769 and §9771, a public health emergency (PHE) is a declaration made pursuant to the Louisiana Health Emergency Powers Act, R.S. 29:760 et seq.

B. For purposes of §9769 and §9771, clergy shall be defined as follows:

1. a minister, priest, preacher, rabbi, imam, Christian Science practitioner; or

2. other similar functionary of a religious organization; or

3. an individual reasonably believed by a resident to be such a clergy member.

C. For purposes of §9769 and §9771, immediate family member shall mean the following of a resident in a nursing facility:

1. spouse;

2. natural or adoptive parent, child, or sibling;

3. stepparent, stepchild, stepbrother, or stepsister;

4. father-in-law, mother-in-law, daughter-in-law, son-in-law, brother-in-law or sister-in-law;

5. grandparent or grandchild;

6. spouse of a grandparent or grandchild; or

7. legal or designated representative of the resident.

D. For purposes of §9769 and §9771, resident shall mean a resident of a licensed nursing facility in Louisiana or the legal or designated representative of the resident.

E. A licensed nursing facility shall comply with any federal law, regulation, requirement, order, or guideline regarding visitation in nursing facilities issued by any federal government agency during a declared public health emergency. The provisions of the licensing rules in §9769.F-I shall be preempted by any federal statute, regulation, requirement, order, or guideline from a federal government agency that requires a nursing facility to restrict resident visitation in a manner that is more restrictive than the rules.

F. Nursing facilities shall comply with any Louisiana state health officer (SHO) order or emergency notice regarding visitation in nursing facilities during a declared PHE.

G. Nursing facilities shall comply with any executive order or proclamation issued by the governor of the state of Louisiana regarding visitation in a nursing facility during a declared PHE.

H. The provisions of this Section regarding visitation by members of the clergy shall apply to all nursing facilities licensed by the Department of Health.

I. Subject to the requirements of §9769.E-G, each nursing facility shall allow members of the clergy to visit residents of the nursing facility during a declared public health emergency (PHE) when a resident, or his legal or designated representative, requests a visit with a member of

the clergy, subject to the following conditions and requirements:

1. Each nursing facility shall have a written policy and procedure addressing visitation by members of the clergy. A copy of the written policy and procedure shall be available, without cost, to the resident and his legal or designated representative, upon request. The nursing facility shall provide a link to an electronic copy of the policy and procedure to a member of the clergy, upon request.

2. A nursing facility's policy and procedure regarding clergy visitation may adopt reasonable time, place, and manner restrictions, provided that such restrictions are implemented by the nursing facility, in consultation with appropriate medical personnel, for the purpose of mitigating the possibility of transmission of any infectious agent or infectious disease or for the purpose of addressing the medical condition or clinical considerations of an individual resident.

3. A nursing facility's policy and procedure on clergy visitation shall, at a minimum, require the following:

a. that the nursing facility give special consideration and priority for clergy visitation to residents receiving end-of-life care;

b. that a clergy member will be screened for infectious agents or infectious diseases, utilizing at least the current screening or testing methods and protocols recommended by the Centers for Disease Control and Prevention, as applicable; if there is a current Louisiana SHO order or emergency notice that requires more rigorous screening or testing methods and protocols, then the nursing facility shall utilize those methods and protocols;

c. that a clergy member not be allowed to visit a nursing facility resident if such clergy member has obvious signs or symptoms of an infectious agent or infectious disease, or if such clergy member tests positive for an infectious agent or infectious disease;

d. that a clergy member not be allowed to visit a nursing facility resident if the clergy member refuses to comply with the provisions of the nursing facility's policy and procedure or refuses to comply with the nursing facility's reasonable time, place, and manner restrictions; and

e. that a clergy member be required to wear personal protective equipment as determined appropriate by the nursing facility, considering the resident's medical condition or clinical considerations; at the nursing facility's discretion, personal protective equipment may be made available by the nursing facility to clergy members.

f. that a nursing facility's policy and procedure include provisions for compliance with any Louisiana SHO order or emergency notice and with any governor's executive order or proclamation limiting visitation during a declared PHE; and

g. that a nursing facility's policy and procedure include provisions for compliance with any federal law, regulations, requirements, orders, or guidelines regarding visitation in nursing facilities issued by any federal government agency during a declared public health emergency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:1309 (September 2021).

§9771. Visitation by Immediate Family Members and Other Designated Persons during a Declared Public Health Emergency

A. A licensed nursing facility shall comply with any federal law, regulation, requirement, order, or guideline regarding visitation in nursing facilities issued by any federal government agency during a declared public health emergency. The provisions of the licensing rules in §9771.B-E shall be preempted by any federal statute, regulation, requirement, order, or guideline from a federal government agency that requires a nursing facility to restrict resident visitation in a manner that is more restrictive than the rules.

B. Nursing facilities shall comply with any Louisiana state health officer (SHO) order or emergency notice regarding visitation in nursing facilities during a declared PHE.

C. Nursing facilities shall comply with any executive order or proclamation issued by the governor of the state of Louisiana regarding visitation in a nursing facility during a declared PHE.

D. The provisions of this Section regarding visitation by immediate family members of the resident and other designated persons shall apply to all nursing facilities licensed by the Department of Health.

E. Subject to the requirements of §9771.A-C, each nursing facility shall allow immediate family members and other designated persons to visit a resident of the nursing facility during a declared public health emergency (PHE) when a resident, or his legal or designated representative, requests a visit with immediate family members and other designated persons, subject to the following conditions and requirements.

1. Each nursing facility shall have a written policy and procedure addressing visitation by immediate family members and other designated persons. A copy of the written policy and procedure shall be available, without cost, to the resident and his legal or designated representative, upon request. The nursing facility shall provide a link to an electronic copy of the policy and procedure to immediate family members and other designated persons, upon request.

2. A nursing facility's policy and procedure regarding visitation by immediate family members and other designated persons may adopt reasonable time, place, and manner restrictions, provided that such restrictions are implemented by the nursing facility, in consultation with appropriate medical personnel, for the purpose of mitigating the possibility of transmission of any infectious agent or infectious disease or for the purpose of addressing the medical condition or clinical considerations of an individual resident.

3. A nursing facility's policy and procedure on visitation by immediate family members and other designated persons shall, at a minimum, require the following:

a. that the nursing facility give special consideration and priority for visitation by immediate family members and other designated persons to residents receiving end-of-life care;

b. that visitation by immediate family members of the residents and other designated persons will be screened for infectious agents or infectious diseases and will pass such screening prior to each visitation, utilizing at least the current screening or testing methods and protocols recommended by the Centers for Disease Control and Prevention, as applicable; if there is a current Louisiana SHO order or emergency notice that requires more rigorous screening or testing methods and protocols, then the nursing facility shall utilize those methods and protocols;

c. that an immediate family member or other designated person not be allowed to visit a nursing facility resident if such immediate family member or other designated person has obvious signs or symptoms of an infectious agent or infectious disease, or if such immediate family member or other designated person tests positive for an infectious agent or infectious disease;

d. that an immediate family member or other designated person not be allowed to visit a nursing facility resident if the immediate family member or other designated person refuses to comply with the provisions of the nursing facility's policy and procedure or refuses to comply with the nursing facility's reasonable time, place, and manner restrictions;

e. that immediate family members and other designated persons be required to wear personal protective equipment as determined appropriate by the nursing facility, considering the resident's medical condition or clinical considerations; at the nursing facility's discretion, personal protective equipment may be made available by the nursing facility to immediate family members and other designated persons;

f. that a nursing facility's policy and procedure include provisions for compliance with any Louisiana SHO order or emergency notice and with any governor's executive order or proclamation limiting visitation during a declared PHE;

g. that a nursing facility's policy and procedure include provisions for compliance with any federal law, regulations, requirements, orders, or guidelines regarding visitation in nursing facilities issued by any federal government agency during a declared public health emergency; and

h. that includes provisions for off-site visitation, allowing an immediate family member or other designated person to visit a nursing facility resident away from the facility campus.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:1310 (September 2021).

Dr. Courtney N. Phillips
Secretary

2109#058

RULE

Department of Health Bureau of Health Services Financing

Reimbursement for Coronavirus Disease 2019 (COVID-19) Laboratory Testing (LAC 50:V.117 and XI.7503)

The Department of Health, Bureau of Health Services Financing has adopted LAC 50:V.117 and amended LAC 50:XI.7503 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. 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 V. Hospital Services

Subpart 1. Inpatient Hospitals Services

Chapter 1. General Provisions

§117. Laboratory Testing for Coronavirus Disease 2019 (COVID-19)

A. Effective for dates of service on or after September 20, 2021, the Medicaid Program shall provide reimbursement to acute care hospitals for COVID-19 laboratory testing provided to inpatients.

B. Reimbursement. Hospitals shall be reimbursed for such testing in addition to the hospital per diem payment for the inpatient hospital stay.

AUTHORITY NOTE: 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 47:1311 (September 2021).

Part XI. Clinic Services

Subpart 11. Ambulatory Surgical Centers

Chapter 75. Reimbursement

§7503. Reimbursement Methodology

A. - A.2. ...

3. Effective for dates of service on or after September 20, 2021, the Medicaid Program shall provide reimbursement for COVID-19 laboratory testing in addition to the ambulatory surgical center flat fee reimbursement amount.

B. - G. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1889 (September 2009), amended LR 36:2278 (October 2010), LR 37:1572 (June 2011), LR 39:317 (February 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 47:1311 (September 2021).

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

2109#059

RULE

Department of Insurance Office of the Commissioner

Regulation 17—Reinstatement of Policies (LAC 37:XIII.Chapter 63)

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 repealed Regulation 17—Reinstatement of Policies.

Regulation 17 has been repealed because existing statutory language provides sufficient guidance, and regulatory clarification is no longer necessary. This Rule is hereby adopted on the day of promulgation.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 63. Regulation 17—Reinstatement of Policies

§6301. Policy Directive Number Four to Non-Profit Funeral Associations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:336 and 22:259(6).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, December 3, 1958, repealed LR 47:1312 (September 2021).

James J. Donelon
Commissioner

2109#048

RULE

Department of Insurance Office of the Commissioner

Regulation 29—Correlated Sales of Life Insurance and Equity Products (LAC 37:XIII.Chapter 79)

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 repealed Regulation 29. Regulation 60, “Advertising of Life Insurance,” LAC 37:XIII.Chapter 41, was promulgated in 2002. It addresses the same issues and is the most current regulation pertaining to advertising for life and annuity products. Therefore, Regulation 29 is obsolete. This Rule is hereby adopted on the day of promulgation.

Title 37 INSURANCE

Part XIII. Regulations

Chapter 79. Regulation 29—Correlated Sales of Life Insurance and Equity Products

§7901. Purpose

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, March 1, 1969, repealed LR 47:1312 (September 2021).

§7903. Applicability

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, March 1, 1969, repealed LR 47:1312 (September 2021).

§7905. Statement of Policy

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance. March 1, 1969, repealed LR 47:1312 (September 2021).

§7907. Responsibility of Company and Agent

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, March 1, 1969, repealed LR 47:1312 (September 2021).

§7909. Tie-In Sales

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, March 1, 1969, repealed LR 47:1312 (September 2021).

§7911. Written Proposal

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, March 1, 1969, repealed LR 47:1312 (September 2021).

§7913. Contents of Proposal

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, March 1, 1969, repealed LR 47:1312 (September 2021).

§7915. Statement to Be Separate

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, March 1, 1969, repealed LR 47:1312 (September 2021).

§7917. Maintenance of File by Company

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, March 1, 1969, repealed LR 47:1313 (September 2021).

§7919. Effective Date

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, March 1, 1969, repealed LR 47:1313 (September 2021).

James J. Donelon
Commissioner

2109#022

RULE

**Department of Insurance
Office of the Commissioner**

**Regulation 56—Credit for Reinsurance
(LAC 37:XIII.Chapter 35)**

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 56—Credit for Reinsurance. The purpose of the amendment to Regulation 56 is to implement the amendments to the National Association of Insurance Commissioners (NAIC) Credit for Reinsurance Model Regulation (#786) which incorporates relevant provisions of the *Bilateral Agreement Between the United States of America and the European Union on Prudential Measures Regarding Insurance and Reinsurance*. These revisions provide for the establishment of credit for reinsurance ceded by a domestic insurer to an assuming insurer that is licensed to write reinsurance by, and has its head office or is domiciled in a reciprocal jurisdiction as defined and established by Regulation 56. Furthermore, Regulation 56 (1) provides parameters for capital and surplus requirements; (2) provides for risk based capital requirements; (3) provides for the requirement of monetary security; (4) imposes the requirement of the filing of annual audited financial statements; (5) provides for the prompt payment of claims under the reinsurance agreement and criteria to determine compliance; (6) provides for the publication of a list of reciprocal jurisdictions by the Commissioner; (7) establishes eligibility requirements in order for an assuming insurer to remain on the reciprocal jurisdiction list; (8) establishes the requirement of the RJ-1 form for assuming insurers to obtain eligibility; (9) provides for the requirement of security if an assuming insurer is placed in rehabilitation, liquidation or conservation; and (10) serves to reduce reinsurance collateral requirements for certified reinsurers that are licensed and domiciled in Qualified Jurisdictions. This Rule is hereby adopted on the day of promulgation.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 35. Regulation 56—Credit for Reinsurance

§3507. Credit for Reinsurance—Accredited Reinsurers

A. ...

1. file a properly executed Form AR-1 (§3527.B) as evidence of its submission to this state’s jurisdiction and to the authority of the commissioner to examine its books and records;

A.2. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1808 (July 2013), amended LR 47:1313 (September 2021).

**§3509. Credit for Reinsurance—Reinsurers
Maintaining Trust Funds**

A. - B.4.a.ii. ...

iii. file a properly executed Form AR-1 (§3527.B) as evidence of the submission to the authority of the commissioner to examine the books and records of any of its members and shall certify that any member examined will bear the expense of any such examination.

B.4.b. - E.9.b. ...

F. A specific security provided to a ceding insurer by an assuming insurer pursuant to §3513 shall be applied, until exhausted, to the payment of liabilities of the assuming insurer to the ceding insurer holding the specific security prior to, and as a condition precedent for, presentation of a claim by the ceding insurer for payment by a trustee of a trust established by the assuming insurer pursuant to this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1808 (July 2013), amended LR 47:1313 (September 2021).

§3510. Credit for Reinsurance—Certified Reinsurers

A. Pursuant to R.S. 22:651(E), the commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that has been certified as a reinsurer in this state at all times for which statutory financial statement credit for reinsurance is claimed under this section. The credit allowed shall be based upon the security held by or on behalf of the ceding insurer in accordance with a rating assigned to the certified reinsurer by the commissioner. The security shall be in a form consistent with the provisions of R.S. 22:651(E) and 652 and §§3517, 3519 or 3521 of this regulation. The amount of security required in order for full credit to be allowed shall correspond with the following requirements.

A.1. - B.4.g. ...

h. for certified reinsurers not domiciled in the United States, the commissioner may consider audited financial statements, regulatory filings, and actuarial opinion (as filed with the non-United States jurisdiction supervisor, with a translation into English). Upon the initial application

for certification, the commissioner will consider audited financial statements for the last two years filed with its non-United States jurisdiction supervisor;

4.i. - 5.b. ...

6. The assuming insurer must submit a properly executed Form CR-1 (§3527.C) as evidence of its submission to the jurisdiction of this state, appointment of the commissioner as an agent for service of process in this state, and agreement to provide security for 100 percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if it resists enforcement of a final United States judgment. The commissioner shall not certify any assuming insurer that is domiciled in a jurisdiction that the commissioner has determined does not adequately and promptly enforce final United States judgments or arbitration awards.

7. - 7.c. ...

d. annually, the most recent audited financial statements, regulatory filings, and actuarial opinion (as filed with the certified reinsurer's supervisor, with a translation into English). Upon the initial certification, audited financial statements for the last two years filed with the certified reinsurer's supervisor;

7.e. - 8.c. ...

d. Upon revocation of the certification of a certified reinsurer by the commissioner, the assuming insurer shall be required to post security in accordance with §3515 in order for the ceding insurer to continue to take credit for reinsurance ceded to the assuming insurer. If funds continue to be held in trust in accordance with §3509, the commissioner may allow additional credit equal to the ceding insurer's pro rata share of such funds, discounted to reflect the risk of uncollectibility and anticipated expenses of trust administration. Notwithstanding the change of a certified reinsurer's rating or revocation of its certification, a domestic insurer that has ceded reinsurance to that certified reinsurer may not be denied credit for reinsurance for a period of three months for all reinsurance ceded to that certified reinsurer, unless the reinsurance is found by the commissioner to be at high risk of uncollectibility.

C. - C.4. ...

D. Recognition of Certification Issued by an NAIC Accredited Jurisdiction

1. If an applicant for certification has been certified as a reinsurer in an NAIC accredited jurisdiction, the commissioner has the discretion to defer to that jurisdiction's certification, and to defer to the rating assigned by that jurisdiction, if the assuming insurer submits a properly executed Form CR-1 (§3527.C) and such additional information as the commissioner requires. The assuming insurer shall be considered to be a certified reinsurer in this state.

2. - 4. ...

E. Mandatory Funding Clause. In addition to the clauses required under §3523, reinsurance contracts entered into or renewed under this section shall include a proper funding clause, which requires the certified reinsurer to provide and maintain security in an amount sufficient to avoid the imposition of any financial statement penalty on the ceding insurer under this section for reinsurance ceded to the certified reinsurer.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1811 (July 2013), amended LR 47:1313 (September 2021).

§3511. Credit for Reinsurance—Reciprocal Jurisdictions

A. Pursuant to R.S. 22:651F, the commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that is licensed to write reinsurance by, and has its head office or is domiciled in, a reciprocal jurisdiction, and which meets the other requirements of this regulation.

B. A "reciprocal jurisdiction" is a jurisdiction, as designated by the commissioner pursuant to §3511. D, that meets one of the following:

1. a non-United States jurisdiction that is subject to an in-force covered agreement with the United States, each within its legal authority, or, in the case of a covered agreement between the United States and the European Union, is a member state of the European Union. For purposes of §3511, a "covered agreement" is an agreement entered into pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act, 31 U.S.C. §§ 313 and 314, that is currently in effect or in a period of provisional application and addresses the elimination, under specified conditions, of collateral requirements as a condition for entering into any reinsurance agreement with a ceding insurer domiciled in this state or for allowing the ceding insurer to recognize credit for reinsurance;

2. a United States jurisdiction that meets the requirements for accreditation under the NAIC financial standards and accreditation program; or

3. a qualified jurisdiction, as determined by the commissioner pursuant to R.S. 22:651E(3) and §3510.C, which is not otherwise described in paragraph (1) or (2) above and which the commissioner determines meets all of the following additional requirements:

a. provides that an insurer which has its head office or is domiciled in such qualified jurisdiction shall receive credit for reinsurance ceded to a United States-domiciled assuming insurer in the same manner as credit for reinsurance is received for reinsurance assumed by insurers domiciled in such qualified jurisdiction;

b. does not require a United States-domiciled assuming insurer to establish or maintain a local presence as a condition for entering into a reinsurance agreement with any ceding insurer subject to regulation by the non-United States jurisdiction or as a condition to allow the ceding insurer to recognize credit for such reinsurance;

c. recognizes the United States state regulatory approach to group supervision and group capital, by providing written confirmation by a competent regulatory authority, in such qualified jurisdiction, that insurers and insurance groups that are domiciled or maintain their headquarters in this state or another jurisdiction accredited by the NAIC shall be subject only to worldwide prudential insurance group supervision including worldwide group governance, solvency and capital, and reporting, as applicable, by the commissioner or the commissioner of the domiciliary state and will not be subject to group supervision

at the level of the worldwide parent undertaking of the insurance or reinsurance group by the qualified jurisdiction; and

d. provides written confirmation by a competent regulatory authority in such qualified jurisdiction that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the commissioner in accordance with a memorandum of understanding or similar document between the commissioner and such qualified jurisdiction, including but not limited to the International Association of Insurance Supervisors Multilateral Memorandum of Understanding or other multilateral memoranda of understanding coordinated by the NAIC.

C. Credit shall be allowed when the reinsurance is ceded from an insurer domiciled in this state to an assuming insurer meeting each of the conditions set forth below.

1. The assuming insurer must be licensed to transact reinsurance by, and have its head office or be domiciled in, a reciprocal jurisdiction.

2. The assuming insurer must have and maintain on an ongoing basis minimum capital and surplus, or its equivalent, calculated on at least an annual basis as of the preceding December 31 or at the annual date otherwise statutorily reported to the reciprocal jurisdiction, and confirmed as set forth in §3511.C.7 according to the methodology of its domiciliary jurisdiction, in the following amounts:

a. no less than \$250,000,000; or

b. if the assuming insurer is an association, including incorporated and individual unincorporated underwriters:

i. minimum capital and surplus equivalents (net of liabilities) or own funds of the equivalent of at least \$250,000,000; and

ii. a central fund containing a balance of the equivalent of at least \$250,000,000.

3. The assuming insurer must have and maintain on an ongoing basis a minimum solvency or capital ratio, as applicable, as follows:

a. if the assuming insurer has its head office or is domiciled in a reciprocal jurisdiction as defined in §3511.B.1, the ratio specified in the applicable covered agreement;

b. if the assuming insurer is domiciled in a reciprocal jurisdiction as defined in §3511.B.2 a risk-based capital (RBC) ratio of 300 percent of the authorized control level, calculated in accordance with the formula developed by the NAIC; or

c. if the assuming insurer is domiciled in a reciprocal jurisdiction as defined in §3511.B.3, after consultation with the reciprocal jurisdiction and considering any recommendations published through the NAIC committee process, such solvency or capital ratio as the commissioner determines to be an effective measure of solvency.

4. The assuming insurer must agree to and provide adequate assurance, in the form of a properly executed Form RJ-1 (§3527.D), of its agreement to the following:

a. The assuming insurer must agree to provide prompt written notice and explanation to the commissioner if it falls below the minimum requirements set forth in

§3511.C.2 or §3511.C.3, or if any regulatory action is taken against it for serious noncompliance with applicable law.

b. The assuming insurer must consent in writing to the jurisdiction of the courts of this state and to the appointment of the commissioner as agent for service of process.

i. The commissioner may also require that such consent be provided and included in each reinsurance agreement under the commissioner's jurisdiction.

ii. Nothing in this provision shall limit or in any way alter the capacity of parties to a reinsurance agreement to agree to alternative dispute resolution mechanisms, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws.

c. The assuming insurer must consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer, that have been declared enforceable in the territory where the judgment was obtained.

d. Each reinsurance agreement must include a provision requiring the assuming insurer to provide security in an amount equal to 100 percent of the assuming insurer's liabilities attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which it was obtained or a properly enforceable arbitration award, whether obtained by the ceding insurer or by its legal successor on behalf of its estate, if applicable.

e. The assuming insurer must confirm that it is not presently participating in any solvent scheme of arrangement, which involves this state's ceding insurers, and agrees to notify the ceding insurer and the commissioner and to provide 100 percent security to the ceding insurer consistent with the terms of the scheme, should the assuming insurer enter into such a solvent scheme of arrangement. Such security shall be in a form consistent with the provisions of R.S. 22:651(E) and 652 and §§ 3517, 3519 or 3521 of this regulation. For purposes of this regulation, the term *solvent scheme of arrangement* means a foreign or alien statutory or regulatory compromise procedure subject to requisite majority creditor approval and judicial sanction in the assuming insurer's home jurisdiction either to finally commute liabilities of duly noticed classed members or creditors of a solvent debtor, or to reorganize or restructure the debts and obligations of a solvent debtor on a final basis, and which may be subject to judicial recognition and enforcement of the arrangement by a governing authority outside the ceding insurer's home jurisdiction.

f. The assuming insurer must agree in writing to meet the applicable information filing requirements as set forth in §3511.C.5.

5. The assuming insurer or its legal successor must provide, if requested by the commissioner, on behalf of itself and any legal predecessors, the following documentation to the commissioner:

a. for the two years preceding entry into the reinsurance agreement and on an annual basis thereafter, the assuming insurer's annual audited financial statements, in accordance with the applicable law of the jurisdiction of its head office or domiciliary jurisdiction, as applicable, including the external audit report;

b. for the two years preceding entry into the reinsurance agreement, the solvency and financial condition report or actuarial opinion, if filed with the assuming insurer's supervisor;

c. prior to entry into the reinsurance agreement and not more than semi-annually thereafter, an updated list of all disputed and overdue reinsurance claims outstanding for 90 days or more, regarding reinsurance assumed from ceding insurers domiciled in the United States; and

d. prior to entry into the reinsurance agreement and not more than semi-annually thereafter, information regarding the assuming insurer's assumed reinsurance by ceding insurer, ceded reinsurance by the assuming insurer, and reinsurance recoverable on paid and unpaid losses by the assuming insurer to allow for the evaluation of the criteria set forth in §3511.C.6.

6. The assuming insurer must maintain a practice of prompt payment of claims under reinsurance agreements. The lack of prompt payment will be evidenced if any of the following criteria is met:

a. More than 15 percent of the reinsurance recoverables from the assuming insurer are overdue and in dispute as reported to the commissioner;

b. More than 15 percent of the assuming insurer's ceding insurers or reinsurers have overdue reinsurance recoverable on paid losses of 90 days or more which are not in dispute and which exceed for each ceding insurer \$100,000, or as otherwise specified in a covered agreement; or

c. The aggregate amount of reinsurance recoverable on paid losses which are not in dispute, but are overdue by 90 days or more, exceeds \$50,000,000, or as otherwise specified in a covered agreement.

7. The assuming insurer's supervisory authority must confirm to the commissioner on an annual basis that the assuming insurer complies with the requirements set forth in §3511.C.2-3.

8. Nothing in this provision precludes an assuming insurer from providing the commissioner with information on a voluntary basis.

D. The commissioner shall timely create and publish a list of reciprocal jurisdictions.

1. A list of reciprocal jurisdictions is published through the NAIC committee process. The commissioner's list shall include any reciprocal jurisdiction as defined under §3511.B.1-2, and shall consider any other reciprocal jurisdiction included on the NAIC list. The commissioner may approve a jurisdiction that does not appear on the NAIC list of reciprocal jurisdictions as provided by applicable law, regulation, or in accordance with criteria published through the NAIC committee process.

2. The commissioner may remove a jurisdiction from the list of reciprocal jurisdictions upon a determination that the jurisdiction no longer meets one or more of the requirements of a reciprocal jurisdiction, as provided by applicable law, regulation, or in accordance with a process published through the NAIC committee process, except that the commissioner shall not remove from the list a reciprocal jurisdiction as defined under §3511.B.1-2. Upon removal of a reciprocal jurisdiction from this list credit for reinsurance ceded to an assuming insurer domiciled in that jurisdiction

shall be allowed, if otherwise allowed pursuant to R.S. 22:651 et seq.

E. The commissioner shall timely create and publish a list of assuming insurers that have satisfied the conditions set forth in this section and to which cessions shall be granted credit in accordance with this section.

1. If an NAIC accredited jurisdiction has determined that the conditions set forth in §3511.C have been met, the commissioner has the discretion to defer to that jurisdiction's determination, and add such assuming insurer to the list of assuming insurers to which cessions shall be granted credit in accordance with this subsection. The commissioner may accept financial documentation filed with another NAIC accredited jurisdiction or with the NAIC in satisfaction of the requirements of §3511.C.

2. When requesting that the commissioner defer to another NAIC accredited jurisdiction's determination, an assuming insurer must submit a properly executed Form RJ-1 (§3527.D) and additional information as the commissioner may require. A state that has received such a request will notify other states through the NAIC committee process and provide relevant information with respect to the determination of eligibility.

F. If the commissioner determines that an assuming insurer no longer meets one or more of the requirements under this section, the commissioner may revoke or suspend the eligibility of the assuming insurer for recognition under this section.

1. While an assuming insurer's eligibility is suspended, no reinsurance agreement issued, amended or renewed after the effective date of the suspension qualifies for credit except to the extent that the assuming insurer's obligations under the contract are secured in accordance with §3515.

2. If an assuming insurer's eligibility is revoked, no credit for reinsurance may be granted after the effective date of the revocation with respect to any reinsurance agreements entered into by the assuming insurer, including reinsurance agreements entered into prior to the date of revocation, except to the extent that the assuming insurer's obligations under the contract are secured in a form acceptable to the commissioner and consistent with the provisions of §3515.

G. Before denying statement credit or imposing a requirement to post security with respect to §3511.F or adopting any similar requirement that will have substantially the same regulatory impact as security, the commissioner shall:

1. communicate with the ceding insurer, the assuming insurer, and the assuming insurer's supervisory authority that the assuming insurer no longer satisfies one of the conditions listed in §3511.C;

2. provide the assuming insurer with 30 days from the initial communication to submit a plan to remedy the defect, and 90 days from the initial communication to remedy the defect, except in exceptional circumstances in which a shorter period is necessary for policyholder and other consumer protection;

3. after the expiration of 90 days or less, as set out in §3511.G.2, if the commissioner determines that no or insufficient action was taken by the assuming insurer, the commissioner may impose any of the requirements as set out in this Subsection; and

4. provide a written explanation to the assuming insurer of any of the requirements set out in this Subsection.

H. If subject to a legal process of rehabilitation, liquidation or conservation, as applicable, the ceding insurer, or its representative, may seek and, if determined appropriate by the court in which the proceedings are pending, may obtain an order requiring that the assuming insurer post security for all outstanding liabilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:1314 (September 2021).

§3513. Credit for Reinsurance Required by Law
[Formerly §3511]

A. Pursuant to R.S. 22:651(G), the commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of R.S. 22:651(B), (C), (D), (E) or (F) but only as to the insurance of risks located in jurisdictions where the reinsurance is required by the applicable law or regulation of that jurisdiction. As used in §3513:

Jurisdiction—state, district or territory of the United States and any lawful national government.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1815 (July 2013), amended LR 47:1317 (September 2021).

§3515. Reduction from Liability for Reinsurance Ceded to an Unauthorized Assuming Insurer
[Formerly §3513]

A. Pursuant to R.S. 22:652, the commissioner shall allow a reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of R.S. 22:651 in an amount not exceeding the liabilities carried by the ceding insurer. The reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the exclusive benefit of the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations under the reinsurance contract. The security shall be held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer or, in the case of a trust, held in a qualified United States financial institution as defined in R.S. 22:653(B). This security may be in the form of any of the following:

1. cash;
2. securities listed by the Securities Valuation Office of the NAIC, including those deemed exempt from filing as defined by the purposes and procedures manual of the Securities and Valuation Office, and qualifying as admitted assets;
3. clean, irrevocable, unconditional and evergreen letters of credit issued or confirmed by a qualified United States financial institution, as defined in R.S. 22:653(A), effective no later than December 31 of the year for which filing is being made, and in the possession of, or in trust for, the ceding insurer on or before the filing date of its annual statement. Letters of credit meeting applicable standards of

issuer acceptability as of the dates of their issuance (or confirmation) shall, notwithstanding the issuing (or confirming) institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs; or

4. any other form of security acceptable to the commissioner.

B. An admitted asset or a reduction from liability for reinsurance ceded to an unauthorized assuming insurer pursuant to §3515.A shall be allowed only when the requirements of §3523 and the applicable portions of §§3517, 3519 or 3521 have been satisfied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1815 (July 2013), amended LR 47:1317 (September 2021).

§3517. Trust Agreements Qualified under §3515
[Formerly §3515]

A. As used in §3517:

Beneficiary—the entity for whose sole benefit the trust has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named *beneficiary*, then the named *beneficiary* includes, and is limited to, the court appointed domiciliary receiver (including conservator, rehabilitator, or liquidator).

Grantor—the entity that has established a trust for the sole benefit of the beneficiary. When established in conjunction with a reinsurance agreement, the *grantor* is the unlicensed, unaccredited assuming insurer.

Obligations—as used in §3517.B.11, means:

- a. reinsured losses and allocated loss expenses paid by the ceding company, but not recovered from the assuming insurer;
- b. reserves for reinsured losses reported and outstanding;
- c. reserves for reinsured losses incurred but not reported; and
- d. reserves for allocated reinsured loss expenses and unearned premiums.

B. Required Conditions

1. The trust agreement shall be entered into between the beneficiary, the grantor and a trustee, which shall be a qualified United States financial institution as defined in R.S. 22:653(B).

2. The trust agreement shall create a trust account into which assets shall be deposited.

3. All assets in the trust account shall be held by the trustee at the trustee's office in the United States.

4. The trust agreement shall provide that:

a. the beneficiary shall have the right to withdraw assets from the trust account at any time, without notice to the grantor, subject only to written notice from the beneficiary to the trustee;

b. no other statement or document is required to be presented to withdraw assets, except that the beneficiary may be required to acknowledge receipt of withdrawn assets;

c. it is not subject to any conditions or qualifications outside of the trust agreement; and

d. it shall not contain references to any other agreements or documents except as provided for in §3517.B.11-12.

5. The trust agreement shall be established for the sole benefit of the beneficiary.

6. The trust agreement shall require the trustee to:

a. receive assets and hold all assets in a safe place;

b. determine that all assets are in such form that the beneficiary, or the trustee upon direction by the beneficiary, may whenever necessary negotiate any such assets, without consent or signature from the grantor or any other person or entity;

c. furnish to the grantor and the beneficiary a statement of all assets in the trust account upon its inception and at intervals no less frequent than the end of each calendar quarter;

d. notify the grantor and the beneficiary within 10 days, of any deposits to or withdrawals from the trust account;

e. upon written demand of the beneficiary, immediately take any and all steps necessary to transfer absolutely and unequivocally all right, title and interest in the assets held in the trust account to the beneficiary and deliver physical custody of the assets to the beneficiary; and

f. allow no substitutions or withdrawals of assets from the trust account, except on written instructions from the beneficiary, except that the trustee may, without the consent of but with notice to the beneficiary, upon call or maturity of any trust asset, withdraw such asset upon condition that the proceeds are paid into the trust account.

7. The trust agreement shall provide that at least 30 days, but not more than 45 days, prior to termination of the trust account, written notification of termination shall be delivered by the trustee to the beneficiary.

8. The trust agreement shall be made subject to and governed by the laws of the state in which the trust is domiciled.

9. The trust agreement shall prohibit invasion of the trust corpus for the purpose of paying commission to, or reimbursing the expenses of, the trustee. In order for a letter of credit to qualify as an asset of the trust, the trustee shall have the right and the obligation pursuant to the deed of trust or some other binding agreement (as duly approved by the commissioner), to immediately draw down the full amount of the letter of credit and hold the proceeds in trust for the beneficiaries of the trust if the letter of credit will otherwise expire without being renewed or replaced.

10. The trust agreement shall provide that the trustee shall be liable for its negligence, willful misconduct or lack of good faith. The failure of the trustee to draw against the letter of credit in circumstances where such draw would be required shall be deemed to be negligence and/or willful misconduct.

11. Notwithstanding other provisions of this regulation, when a trust agreement is established in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, where it is customary practice to provide a trust agreement for a specific purpose, the trust agreement may provide that the ceding insurer shall

undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, only for the following purposes:

a. to pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement regarding any losses and allocated loss expenses paid by the ceding insurer, but not recovered from the assuming insurer, or for unearned premiums due to the ceding insurer if not otherwise paid by the assuming insurer;

b. to make payment to the assuming insurer of any amounts held in the trust account that exceed 102 percent of the actual amount required to fund the assuming insurer's obligations under the specific reinsurance agreement; or

c. where the ceding insurer has received notification of termination of the trust account and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged 10 days prior to the termination date, to withdraw amounts equal to the obligations and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified United States financial institution as defined in R.S. 22:653(B) apart from its general assets, in trust for such uses and purposes specified in §3517.B.11.a-b as may remain executory after such withdrawal and for any period after the termination date.

12. Notwithstanding other provisions of this regulation, when a trust agreement is established to meet the requirements of §3515 in conjunction with a reinsurance agreement covering life, annuities or accident and health risks, where it is customary to provide a trust agreement for a specific purpose, the trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, only for the following purposes:

a. to pay or reimburse the ceding insurer for:

i. the assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurer, to the owners of policies reinsured under the reinsurance agreement on account of cancellations of the policies; and

ii. the assuming insurer's share under the specific reinsurance agreement of surrenders and benefits or losses paid by the ceding insurer, but not yet recovered from the assuming insurer, under the terms and provisions of the policies reinsured under the reinsurance agreement;

b. to pay to the assuming insurer amounts held in the trust account in excess of the amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer; or

c. where the ceding insurer has received notification of termination of the trust and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged 10 days prior to the termination date, to withdraw amounts equal to the assuming insurer's share of liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer, and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified United States financial institution apart from its general assets, in trust for the uses

and purposes specified in §3517.B.12.a-b as may remain executory after withdrawal and for any period after the termination date.

13. Either the reinsurance agreement or the trust agreement must stipulate that assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash in United States dollars, certificates of deposit issued by a United States bank and payable in United States dollars, and investments permitted by the Louisiana Insurance Code or any combination of the above, provided investments in or issued by an entity controlling, controlled by or under common control with either the grantor or the beneficiary of the trust shall not exceed 5 percent of total investments. The agreement may further specify the types of investments to be deposited. If the reinsurance agreement covers life, annuities or accident and health risks, then the provisions required by this paragraph must be included in the reinsurance agreement.

C. Permitted Conditions

1. The trust agreement may provide that the trustee may resign upon delivery of a written notice of resignation, effective not less than 90 days after the beneficiary and grantor receive the notice and that the trustee may be removed by the grantor by delivery to the trustee and the beneficiary of a written notice of removal, effective not less than 90 days after the trustee and the beneficiary receive the notice, provided that no such resignation or removal shall be effective until a successor trustee has been duly appointed and approved by the beneficiary and the grantor and all assets in the trust have been duly transferred to the new trustee.

2. The grantor may have the full and unqualified right to vote any shares of stock in the trust account and to receive from time to time payments of any dividends or interest upon any shares of stock or obligations included in the trust account. Any interest or dividends shall be either forwarded promptly upon receipt to the grantor or deposited in a separate account established in the grantor's name.

3. The trustee may be given authority to invest, and accept substitutions of, any funds in the account, provided that no investment or substitution shall be made without prior approval of the beneficiary, unless the trust agreement specifies categories of investments acceptable to the beneficiary and authorizes the trustee to invest funds and to accept substitutions that the trustee determines are at least equal in current fair market value to the assets withdrawn and that are consistent with the restrictions in §3517.D.1.b.

4. The trust agreement may provide that the beneficiary may at any time designate a party to which all or part of the trust assets are to be transferred. Transfer may be conditioned upon the trustee receiving, prior to or simultaneously, other specified assets.

5. The trust agreement may provide that, upon termination of the trust account, all assets not previously withdrawn by the beneficiary shall, with written approval by the beneficiary, be delivered over to the grantor.

D. Additional Conditions Applicable to Reinsurance Agreements

1. A reinsurance agreement may contain provisions that:

a. require the assuming insurer to enter into a trust agreement and to establish a trust account for the benefit of

the ceding insurer, and specifying what the agreement is to cover;

b. require the assuming insurer, prior to depositing assets with the trustee, to execute assignments or endorsements in blank, or to transfer legal title to the trustee of all shares, obligations or any other assets requiring assignments, in order that the ceding insurer, or the trustee upon the direction of the ceding insurer, may whenever necessary negotiate these assets without consent or signature from the assuming insurer or any other entity;

c. require that all settlements of account between the ceding insurer and the assuming insurer be made in cash or its equivalent; and

d. stipulate that the assuming insurer and the ceding insurer agree that the assets in the trust account, established pursuant to the provisions of the reinsurance agreement, may be withdrawn by the ceding insurer at any time, notwithstanding any other provisions in the reinsurance agreement, and shall be utilized and applied by the ceding insurer or its successors in interest by operation of law, including without limitation any liquidator, rehabilitator, receiver or conservator of such company, without diminution because of insolvency on the part of the ceding insurer or the assuming insurer, only for the following purposes:

i. to pay or reimburse the ceding insurer for:

(a) the assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurer, to the owners of policies reinsured under the reinsurance agreement because of cancellations of such policies;

(b) the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer pursuant to the provisions of the policies reinsured under the reinsurance agreement; and

(c) any other amounts necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer;

ii. to make payment to the assuming insurer of amounts held in the trust account in excess of the amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer.

2. The reinsurance agreement also may contain provisions that:

a. give the assuming insurer the right to seek approval from the ceding insurer, which shall not be unreasonably or arbitrarily withheld, to withdraw from the trust account all or any part of the trust assets and transfer those assets to the assuming insurer, provided:

i. the assuming insurer shall, at the time of withdrawal, replace the withdrawn assets with other qualified assets having a current fair market value equal to the market value of the assets withdrawn so as to maintain at all times the deposit in the required amount; or

ii. after withdrawal and transfer, the current fair market value of the trust account is no less than 102 percent of the required amount;

b. provide for the return of any amount withdrawn in excess of the actual amounts required for §3517.D.1.e and interest payments at a rate not in excess of the prime rate of interest on such amounts;

c. permit the award by any arbitration panel or court of competent jurisdiction of:

- i. interest at a rate different from that provided in §3517.D.2.b;
- ii. court or arbitration costs;
- iii. attorney's fees; and
- iv. any other reasonable expenses.

E. A trust agreement may be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with this department in compliance with the provisions of this regulation when established on or before the date of filing of the financial statement of the ceding insurer. Further, the reduction for the existence of an acceptable trust account may be up to the current fair market value of acceptable assets available to be withdrawn from the trust account at that time, but such reduction shall be no greater than the specific obligations under the reinsurance agreement that the trust account was established to secure.

F. Notwithstanding the effective date of this regulation, any trust agreement or underlying reinsurance agreement in existence prior to September 1, 2013 will continue to be acceptable until August 30, 2014, after which date the agreements will have to fully comply with this regulation for the trust agreement to be acceptable.

G. The failure of any trust agreement to specifically identify the *beneficiary* as defined in §3517.A shall not be construed to affect any actions or rights that the commissioner may take or possess pursuant to the provisions of the laws of this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1816 (July 2013), amended LR 47:1317 (September 2021).

§3519. Letters of Credit Qualified under §3515
[Formerly §3517]

A. The letter of credit must be clean, irrevocable, unconditional and issued or confirmed by a qualified United States financial institution as defined in R.S. 22:653(A). The letter of credit shall contain an issue date and expiration date and shall stipulate that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds and that no other document need be presented. The letter of credit also shall indicate that it is not subject to any condition or qualifications outside of the letter of credit. In addition, the letter of credit itself shall not contain reference to any other agreements, documents or entities, except as provided in §3519.H.1. As used in §3519:

Beneficiary—the domestic insurer for whose benefit the letter of credit has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes, and is limited to, the court appointed domiciliary receiver (including conservator, rehabilitator, or liquidator).

B. The heading of the letter of credit may include a boxed section containing the name of the applicant and other appropriate notations to provide a reference for the letter of credit. The boxed section shall be clearly marked to indicate that such information is for internal identification purposes only.

C. The letter of credit shall contain a statement to the effect that the obligation of the qualified United States

financial institution under the letter of credit is in no way contingent upon reimbursement with respect thereto.

D. The term of the letter of credit shall be for at least one year and shall contain an “evergreen clause” that prevents the expiration of the letter of credit without due notice from the issuer. The “evergreen clause” shall provide for a period of no less than 30 days notice prior to expiration date or nonrenewal.

E. The letter of credit shall state whether it is subject to and governed by the laws of this state or the *Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce Publication 600 (UCP 600)* or *International Standby Practices of the International Chamber of Commerce Publication 590 (ISP98)*, or any successor publication, and all drafts drawn thereunder shall be presentable at an office in the United States of a qualified United States financial institution.

F. If the letter of credit is made subject to the *Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce Publication 600 (UCP 600)* *International Standby Practices of the International Chamber of Commerce Publication 590 (ISP98)* or any successor publication, then the letter of credit shall specifically address and provide for an extension of time to draw against the letter of credit in the event that one or more of the occurrences specified in Article 36 of *Publication 600* or any other successor publication, occur.

G. If the letter of credit is issued by a financial institution authorized to issue letters of credit, other than a qualified United States financial institution as described in §3519.A, then the following additional requirements shall be met:

1. the issuing financial institution shall formally designate the confirming qualified United States financial institution as its agent for the receipt and payment of the drafts; and

2. the “evergreen clause” shall provide for 30 days notice prior to expiration date for nonrenewal.

H. Reinsurance Agreement Provisions

1. The reinsurance agreement in conjunction with which the letter of credit is obtained may contain provisions that:

a. require the assuming insurer to provide letters of credit to the ceding insurer and specify what they are to cover;

b. stipulate that the assuming insurer and ceding insurer agree that the letter of credit provided by the assuming insurer pursuant to the provisions of the reinsurance agreement may be drawn upon at any time, notwithstanding any other provisions in the agreement, and shall be utilized by the ceding insurer or its successors in interest only for one or more of the following reasons:

i. to pay or reimburse the ceding insurer for:

(a) the assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurers, to the owners of policies reinsured under the reinsurance agreement on account of cancellations of such policies;

(b) the assuming insurer's share, under the specific reinsurance agreement, of surrenders and benefits or losses paid by the ceding insurer, but not yet recovered from the assuming insurers, under the terms and provisions of the policies reinsured under the reinsurance agreement; and

(c). any other amounts necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer;

ii. where the letter of credit will expire without renewal or be reduced or replaced by a letter of credit for a reduced amount and where the assuming insurer's entire obligations under the reinsurance agreement remain unliquidated and undischarged 10 days prior to the termination date, to withdraw amounts equal to the assuming insurer's share of the liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer and exceed the amount of any reduced or replacement letter of credit, and deposit those amounts in a separate account in the name of the ceding insurer in a qualified United States financial institution apart from its general assets, in trust for such uses and purposes specified in §3519.H.1.b.i as may remain after withdrawal and for any period after the termination date;

c. all of the provisions of §3519.H.1 shall be applied without diminution because of insolvency on the part of the ceding insurer or assuming insurer.

2. Nothing contained §3519.H.1 shall preclude the ceding insurer and assuming insurer from providing for:

a. an interest payment, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to §3519.H.1.b; or

b. the return of any amounts drawn down on the letters of credit in excess of the actual amounts required for the above or any amounts that are subsequently determined not to be due.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1818 (July 2013), amended LR 47:1320 (September 2021).

§3521. Other Security

[Formerly §3519]

A. A ceding insurer may take credit for unencumbered funds withheld by the ceding insurer in the United States subject to withdrawal solely by the ceding insurer and under its exclusive control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1819 (July 2013), amended LR 47:1321 (September 2021).

§3523. Reinsurance Contract

[Formerly §3521]

A. Credit will not be granted, nor an asset or reduction from liability allowed, to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements of §§3505, 3507, 3509, 3510, or 3513 or otherwise in compliance with R.S. 22:651 after the adoption of this regulation unless the reinsurance agreement includes:

1. a proper insolvency clause, which stipulates that reinsurance is payable directly to the liquidator or successor without diminution regardless of the status of the ceding company, pursuant to R.S. 22:651(I)(2);

2. a provision pursuant to R.S. 22:651(H)(1)(a)(i) whereby the assuming insurer, if an unauthorized assuming insurer, has submitted to the jurisdiction of the alternative dispute resolution panel or court of competent jurisdiction within the United States, has agreed to comply with all requirements necessary to give the court or panel jurisdiction, has designated an agent upon whom service of process may be effected, and has agreed to abide by the final decision of the court or panel; and

3. a proper reinsurance intermediary clause, if applicable, which stipulates that the credit risk for the intermediary is carried by the assuming insurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1819 (July 2013), amended LR 47:1321 (September 2021).

§3525. Agreements Requiring Approval

[Formerly §3523]

A. The following kinds of reinsurance agreements shall not be entered into by any domestic insurer unless they are first submitted to the commissioner of insurance for his written approval, who shall approve the same if the terms thereof do not injuriously affect the rights of policyholders of any of the insurers parties thereto:

1. agreements of reinsurance of any life insurer other than agreements made in the ordinary course of business covering reinsurance of individual lives or joint lives under reinsurance agreements relating to current business; or

2. agreements whereby any insurer, other than a life insurer, cedes any existing outstanding reserves to an insurer not authorized to transact business in this state, or cedes to any insurer or insurers at one time, or during a period of six consecutive months more than 20 percent of the total amount of its outstanding reserves, not including in either case premiums ceded by agreements made in the ordinary course of business covering the reinsurance of individual risks under reinsurance relating to current business.

B. If the commissioner of insurance refuses to approve any such agreement submitted for his approval, he shall grant the insurer a hearing upon request.

C. In addition to the requirements of §3525.A, the commissioner may require that any reinsurance agreement must be approved, in writing, by the commissioner when the agreement is between a Louisiana domestic insurer and a nonadmitted or unauthorized assuming insurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1819 (July 2013), amended LR 47:1321 (September 2021).

§3527. Contracts Affected

[Formerly §3525]

A. All new and renewal reinsurance transactions entered into after December 31, 2013 shall conform to the requirements of the Act and this regulation if credit is to be given to the ceding insurer for such reinsurance.

B. Form AR-1

FORM AR-1
CERTIFICATE OF ASSUMING INSURER

I _____, _____
(name of officer) (title of officer)
of _____,
("Assuming Insurer"), the (name of assuming insurer)

assuming insurer under a reinsurance agreement with one or more insurers domiciled in Louisiana, hereby certify that Assuming Insurer:

1. Submits to the jurisdiction of any court of competent jurisdiction in Louisiana for the adjudication of any issues arising out of the reinsurance agreement, agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. Nothing in this paragraph constitutes or should be understood to constitute a waiver of Assuming Insurer's rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement to arbitrate their disputes if such an obligation is created in the agreement.

2. Designates the Commissioner of Insurance of Louisiana as its lawful attorney upon whom may be served any lawful process in any action, suit or proceeding arising out of the reinsurance agreement instituted by or on behalf of the ceding insurer.

3. Submits to the authority of the Commissioner of Insurance of Louisiana to examine its books and records and agrees to bear the expense of any such examination.

4. Submits with this form a current list of insurers domiciled in Louisiana reinsured by Assuming Insurer and undertakes to submit additions to or deletions from the list to the Insurance Commissioner at least once per calendar quarter.

Dated: _____
(name of assuming insurer)

BY: _____
(name of officer) (title of officer)

C. Form CR-1

FORM CR-1
CERTIFICATE OF CERTIFIED REINSURER

I _____, _____
(name of officer) (title of officer)
of _____,
("Assuming Insurer"), the (name of assuming insurer)

assuming insurer under a reinsurance agreement with one or more insurers domiciled in Louisiana, in order to be considered for approval in Louisiana, hereby certify that Assuming Insurer:

1. Submits to the jurisdiction of any court of competent jurisdiction in Louisiana for the adjudication of any issues arising out of the reinsurance agreement, agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. Nothing in this paragraph constitutes or should be understood to constitute a waiver of Assuming Insurer's rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement to arbitrate their disputes if such an obligation is created in the agreement.

2. Designates the Commissioner of Insurance of Louisiana as its lawful attorney upon whom may be served any lawful process in any action, suit or proceeding arising out of the reinsurance agreement instituted by or on behalf of the ceding insurer.

3. Agrees to provide security in an amount equal to 100 percent of liabilities attributable to United States ceding insurers if it resists enforcement of a final United States judgment or properly enforceable arbitration award.

4. Agrees to provide notification within 10 days of any regulatory actions taken against it, any change in the provisions of its domiciliary license or any change in its rating by an approved rating agency, including a statement describing such changes and the reasons therefore.

5. Agrees to annually file information comparable to relevant provisions of the NAIC financial statement for use by insurance markets in accordance with LAC 37:XIII.3510.B.7.d.

6. Agrees to annually file the report of the independent auditor on the financial statements of the insurance enterprise.

7. Agrees to annually file audited financial statements, regulatory filings, and actuarial opinion in accordance with LAC 37:XIII.3510.B.7.d.

8. Agrees to annually file an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from United States domestic ceding insurers.

9. Is in good standing as an insurer or reinsurer with the supervisor of its domiciliary jurisdiction.

Dated: _____
(name of assuming insurer)

BY: _____
(name of officer) (title of officer)

D. Form RJ-1

FORM RJ-1
CERTIFICATE OF REINSURER DOMICILED
IN RECIPROCAL JURISDICTION

I _____, _____
(name of officer) (title of officer)
of _____, the assuming
(name of assuming insurer)

insurer under a reinsurance agreement with one or more insurers domiciled in _____, in order to be considered for approval in this state,
(name of state)

hereby certify that _____ ("Assuming Insurer"):
(name of assuming insurer)

1. Submits to the jurisdiction of any court of competent jurisdiction in Louisiana for the adjudication of any issues arising out of the reinsurance agreement, agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. The assuming insurer agrees that it will include such consent in each reinsurance agreement, if requested by the commissioner. Nothing in this paragraph constitutes or should be understood to constitute a waiver of assuming insurer's rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement to arbitrate their disputes if such an obligation is created in the agreement, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws.

2. Designates the Insurance Commissioner of Louisiana as its lawful attorney upon whom may be served any lawful process in any action, suit or proceeding in this state arising out of the reinsurance agreement instituted by or on behalf of the ceding insurer.

3. Agrees to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer, that have been declared enforceable in the territory where the judgment was obtained.

4. Agrees to provide prompt written notice and explanation if it falls below the minimum capital and surplus or capital or surplus ratio, or if any regulatory action is taken against it for serious noncompliance with applicable law.

§4903. Definitions

A. The following terms when used in this Chapter shall have the following meanings.

Bail Bond Producer—a person who holds an insurance producer license for the line of bail bonds and engages in the apprehension or surrender of persons who are released on bail or who failed to appear at any stage of the proceedings to answer the charge before the court in which they may be prosecuted.

Bail Enforcement—the apprehension or surrender of a principal who is released on bail or who has failed to appear at any stage of the proceedings to answer the charge before the court in which they may be prosecuted. For the purposes of this regulation, bail enforcement shall include those activities commonly known as bail recovery, fugitive recovery or bounty hunting.

Commissioner—the Louisiana Commissioner of Insurance.

Department—the Louisiana Department of Insurance.

Insurer—any domestic, foreign or alien insurance corporation or association engaged in the business of insurance or suretyship which has qualified to transact surety business in this state.

Surrender—as defined by the L.A.-CCRP Article 311.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:13, 22:822, 22:1211, 22:1441, 22:1443, 22:1543, 22:1547, and 22:1556.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 25:707 (April 1999), amended LR 47:1327 (September 2021).

§4905. Bail Enforcement License Requirements for Louisiana

A. In order to engage in, transact, or assist in bail enforcement, a person must be a duly licensed bail bond producer pursuant to Chapter 5 of Part I of the Louisiana Insurance Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:13, 22:822, 22:1211, 22:1441, 22:1443, 22:1543, 22:1547, and 22:1556.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 25:707 (April 1999), amended LR 47:1328 (September 2021).

§4907. Non-Resident Bail Enforcement Requirements

A. Bail enforcement persons from other states must be licensed bail bond producers in the state where the bond was written or otherwise be duly authorized to transact bail enforcement in that state and shall act in association with a local bail bond producer duly licensed by the Louisiana Department of Insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:13, 22:822, 22:1211, 22:1441, 22:1443, 22:1543, 22:1547, and 22:1556.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 25:707 (April 1999), amended LR 47:1327 (September 2021).

§4909. Non-Resident Bail Enforcement Procedure and Notification Requirements

A. In order for a bail enforcement person from another state to transact a surrender or apprehension of a principal in Louisiana, the following shall be done.

1. Before conducting a surrender or an apprehension of a principal, a bail enforcement person from another state shall notify local law enforcement.

2. A bail enforcement person from another state must have in their possession certified copies of material needed to identify the principal. Said materials shall be:

a. a judgement of bond forfeiture or court order of failure to appear and/or certified copy of the bond and/or the agent's duly executed copy of the contract;

b. - c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:13, 22:822, 22:1211, 22:1441, 22:1443, 22:1543, 22:1547, and 22:1556.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 25:707 (April 1999), amended LR 47:1327 (September 2021).

§4911. In State Bail Enforcement Procedure and Notification Requirement

A. In order to engage in bail enforcement, the following shall be done.

1. Before conducting a bail enforcement, the bail bond producer shall notify local law enforcement in the parish or city where the principal is sought unless exigent circumstances exist.

2. The bail bond producer shall be required to wear identifying clothing while conducting bail enforcement in a private residence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:13, 22:822, 22:1211, 22:1441, 22:1443, 22:1543, 22:1547, and 22:1556.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 25:707 (April 1999), amended LR 47:1327 (September 2021).

§4913. Prohibited Acts

A. No licensed bail bond producer shall improperly withhold, misappropriate, fail to timely remit premiums and reports of bonds written, or convert to one's own use any monies belonging to principals, sureties and underwriters, or others possessed in the course of the business of insurance.

B. No licensed bail bond producer shall perform bail enforcement in pursuit of any principal released on bail for nonpayment of premium. The surrender of a principal in violation of this subsection shall entitle the principal to the return of any premium paid.

C. No licensed bail bond producer shall remove or have removed any bail bond power of attorney from the clerk of court or sheriff.

D. No licensed bail bond producer shall transact or engage in bail enforcement with the assistance of an unlicensed person.

E. Commercial sureties will need to comply with the requirements of R.S. 22:1441.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:13, 22:822, 22:1211, 22:1441, 22:1443, 22:1543, 22:1547, and 22:1556.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 25:708 (April 1999), amended LR 47:1327 (September 2021).

§4915. Enforcement of Regulation

A. ...

B.1. Violations of this Section are governed by Part I of Chapter 5 (Producers) and Part IV of Chapter 7 (Unfair Trade Practices) of the Louisiana Insurance Code.

2. The commissioner shall impose penalties, sanctions or fines as delineated in Part I of Chapter 5 and Part IV of Chapter 7 of the Louisiana Insurance Code.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:13, 22:822, 22:1211, 22:1441, 22:1443, 22:1543, 22:1547, and 22:1556.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 25:708 (April 1999), amended LR 47:1327 (September 2021).

§4917. Effective Date

A. This regulation shall become effective on final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:13, 22:822, 22:1211, 22:1441, 22:1443, 22:1543, 22:1547, and 22:1556.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 25:708 (April 1999), amended LR 47:1328 (September 2021).

James J. Donelon
Commissioner

2109#009

RULE

**Department of Insurance
Office of the Commissioner**

**Regulation 112—Adoption of NAIC Handbooks,
Guidelines, Forms, and Instructions
(LAC 37:XIII.Chapter 161)**

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 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. This Rule is hereby adopted on the day of promulgation.

Title 37

INSURANCE

Part XIII. Regulations

**Chapter 161. Regulation 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, 2020 edition.

2. The Annual and Quarterly Statement Instructions, Property and Casualty, 2020 edition.

3. The Annual and Quarterly Statement Instructions, Life, Accident, and Health, 2020 edition.

4. The Annual and Quarterly Statement Instructions, Health, 2020 edition.

5. The Annual and Quarterly Statement Instructions, Title, 2020 edition.

6. The Annual and Quarterly Statement Instructions, Fraternal, 2020 edition.

7. The Annual and Quarterly Statement Blanks, Property and Casualty, 2020 edition.

8. The Annual and Quarterly Statement Blanks, Life, Accident, and Health, 2020 edition.

9. The Annual and Quarterly Statement Blanks, Health, 2020 edition.

10. The Annual and Quarterly Statement Blanks, Title, 2020 edition.

11. The Annual and Quarterly Statement Blanks, Fraternal, 2020 edition.

12. The Accounting Practices and Procedures Manual, 2020 edition.

13. The Financial Analysis Handbook, 2020 edition.

14. The Own Risk and Solvency Assessment Guidance Manual, 2020 edition.

15. The Purposes and Procedures Manual of the NAIC Investment Analysis Office, 2020 edition.

16. The Risk-Based Capital Forecasting and Instructions, 2020 edition.

17. The Market Regulation Handbook, 2020 edition.

C. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 258, 586(G), 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), LR 47:1328 (September 2021).

James J. Donelon
Commissioner

2109#023

RULE

**Department of Insurance
Office of the Commissioner**

**Regulation 115—Title Insurance Record Retention
(LAC 37:XIII.Chapter 167)**

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted under the Louisiana Insurance Code, R.S. 22:1 et seq., in particular R.S. 22:11 and R.S. 22:535, the Department of Insurance has promulgated Regulation 115—Title Insurance Record Retention. The purpose of Regulation 115 is to implement the provisions of R.S. 22:533, which provides that the department may prescribe the specific record entries and documents to be kept by title insurers and title insurance producers and the retention period of said records. Regulation 115, which applies to all licensed title insurers and licensed title producers in Louisiana, sets forth the length of time that licensed title insurers and licensed title insurance producers must maintain records of their affairs. Regulation 115 provides for a ten-year period commencing on the later of the date of the act of sale or transfer of the underlying property or the date that the initial file on the subject property was opened. Records required to be maintained under Regulation 115 include examinations of title, determinations of insurability, and records of escrow operations and escrow accounts. Regulation 115 shall become effective upon final publication in the Louisiana Register and shall apply to any act or practice committed on

or after the effective date. This Rule is hereby adopted on the day of promulgation.

Title 37
INSURANCE

Part XIII. Regulations

Chapter 167. Regulation Number 115—Title Insurance Record Retention

§16701. Purpose

A. Regulation 115 implements the provisions of R.S. 22:533 which provides that the department may prescribe the specific record entries and documents to be kept by licensed title insurers and licensed title insurance producers and the retention period of said records.

B. The purpose of this regulation is to set forth the length of time that licensed title insurers and licensed title insurance producers shall maintain sufficient records of their affairs, including evidence of the examination of title and determination of insurability and records of its escrow operations and escrow accounts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:533, 22:535, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:1329 (September 2021).

§16703. Applicability and Scope

A. Regulation 115 shall apply to all licensed title insurers and licensed title insurance producers in the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:533, 22:535, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:1330 (September 2021).

§16705. Authority

A. Regulation 115 is promulgated by the commissioner pursuant to the authority granted under the Louisiana Insurance Code, Title 22 of the Louisiana Revised Statutes, including R.S. 22:11, R.S. 22:68, R.S. 22:526, R.S. 22:533, and R.S. 22:535.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:68, 22:526, 22:533, 22:535, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:1330 (September 2021).

§16707. Definitions

A. For the purposes of Regulation 115 the following terms are defined as follows:

Commissioner—the commissioner of Insurance for the state of Louisiana.

Title Insurance Producer—a person authorized on behalf of the title insurer to issue title insurance reports or policies.

Title Insurer—a company authorized under the laws of this state to transact the business of title insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:512, 22:533, 22:535, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:1329 (September 2021).

§16709. Record Retention

A. Every title insurer and title insurance producer shall retain sufficient records of its affairs, including evidence of the examination of title and determination of insurability and records of its escrow operations and escrow accounts, for a period of ten years. The ten-year period shall commence on the date of the act of sale or transfer of the underlying property or the date that the initial file on the subject property was opened, whichever is later.

B. Title insurers and title insurance producers may cause any or all books, records, documents, accounts, and vouchers to be photographed, reproduced on film, or maintained electronically in electronic data processing equipment in such a manner that their financial condition, affairs, and operations can be ascertained and compliance with the law can be determined by the department. Any photographs, microphotographs, optical imaging, electronic, or film reproductions of any original books, records, documents, accounts, and vouchers shall for all purposes be considered the same as the originals thereof and a transcript, exemplification, or certified copy of any such photograph, microphotograph, optical imaging, electronic, or film reproduction shall for all purposes be deemed to be a transcript, exemplification, or certified copy of the original.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:68, 22:526, 22:533, 22:535, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:1330 (September 2021).

§16711. Effective Date

A. Regulation 115 shall become effective upon final publication in the *Louisiana Register* and shall apply to any act or practice committed on or after the effective date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:533, 22:535, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:1329 (September 2021).

§16713. Severability

A. If any section or provision of Regulation 115 or the application to any person or circumstance is held invalid, such invalidity or determination shall not affect other Sections or provisions or the application of Regulation 115 to any persons or circumstances that can be given effect without the invalid section or provision or application, and for these purposes the sections and provisions of Regulation 115 and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:533, 22:535, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:1329 (September 2021).

James J. Donelon
Commissioner

2109#013

RULE

**Department of Insurance
Office of the Commissioner**

**Rule 12—Transmission of Forms and Documents
(LAC 37:XI.Chapter 9)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and through the authority granted under R.S. 22:1 et seq., and specifically R.S. 22:11, the Department of Insurance has amended Rule 12—Transmission of Forms and Documents. The Department of Insurance has amended Rule 12 to expand the methods that insurers or regulated entities may utilize for delivery of documents to the Department of Insurance. Specifically, Rule 12 has been amended to allow for the use of private or commercial interstate carriers as an acceptable method for delivery of documents to the Department of Insurance. This Rule is hereby adopted on the day of promulgation.

Title 37

INSURANCE

Part XI. Rules

Chapter 9. Rule Number 12—Transmission of Forms and Documents

§901. Transmission of Forms and Documents Filed with the Department of Insurance

A. All forms, documents, applications, filings, financial reports, and any and all other forms and types of documents required by law or voluntarily filed with the commissioner shall be filed by depositing the same in the United States mail, postage prepaid, and/or with a private or commercial interstate carrier, and/or via electronic transmission. Payment of fees, including license fees, and premium taxes shall be exempt from this Rule.

B. No document of any sort or kind described in §901.A will be accepted or received by the personnel of the department as having been filed with the department unless the same is transmitted to the department via the United States mail, a private or commercial interstate carrier, and/or electronic transmission.

C. The department shall retain the envelope or other evidence of submission method attached to the document.

D.1. Transmission of documents by private courier service without interstate service or by hand delivery is permissible as long as the documents are:

- a. subsequently mailed in the United States Postal Service or delivered to a private or commercial interstate carrier for shipping and received by the department on or before the twentieth day after receipt of the private courier delivery, or hand delivery; or
- b. ...

2. A document received in accordance with §901 shall be deemed received on the date of the department’s receipt of the original private courier delivery without interstate service or hand delivery. Any departmental decision shall be based on the date of the initial private courier delivery or hand delivery, and any stamp of approval shall be affixed to those documents.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22.2.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 17:1210 (December 1991), amended LR 18:620 (June 1992), amended by the Department of Insurance, Office of the Commissioner, LR 29:41 (January 2003), amended LR 45:63 (January 2019), LR 47:1330 (September 2021).

§903. Definitions

A. The following terms used in Rule 12 have the meanings set forth below:

Commissioner—the Commissioner of the Louisiana Department of Insurance

Department—the Louisiana Department of Insurance

Private or Commercial Interstate Carrier—any person or entity engaged in the business of accepting documents for transportation and delivery between one State, Territory, Possession, or the District of Columbia and another State, Territory, Possession, or the District of Columbia.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22.2.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:1330 (September 2021).

James J. Donelon
Commissioner

2109#021

RULE

**Department of Natural Resources
Office of Conservation**

Pipeline Safety

(LAC 43:XIII.311, 322, 1113, 1515, 2940, and 3503)

Editor’s Note: This Rule was originally printed on pages 1140-1148 of the August 20, 2021, issue of the *Louisiana Register*. Sections of this Rule are being reprinted to correct technical errors.

The Department of Natural Resources, Office of Conservation has amended LAC 43:XIII and LAC 33 Part V Subpart 3 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana.

The rule changes are required as a part of the Department of Natural Resources certification agreement with the US Department of Transportation and are intended to adopt existing federal regulations as state regulations. This Rule is hereby adopted on the day of promulgation.

Title 43

NATURAL RESOURCES

**Part XIII. Office of Conservation—Pipeline Safety
Subpart 2. Transportation of Natural Gas and Other Gas by Pipeline
[49 CFR Part 191]**

Chapter 3. Annual Reports, Incident Reports and Safety Related Condition Reports [49 CFR Part 191]

**§311. Distribution System: Annual Report
[49 CFR 191.11]**

A. ...

B. Not required. The annual report requirement in this Section does not apply to a master meter system, a petroleum gas system that serves fewer than 100 customers from a single source, or an individual service line directly connected to a production pipeline or a gathering line other than a regulated gathering line as determined in §508. [49 CFR 191.11(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:219 (April 1983), amended LR 10:511 (July 1984), LR 11:255 (March 1985), LR 30:1222 (June 2004), LR 38:111 (January 2012), LR 47:1140 (August 2021), repromulgated LR 47:1330 (September 2021).

Subpart 3. Transportation of Natural Gas or Other Gas by Pipeline: Minimum Safety Standards
[49 CFR Part 192]

Chapter 11. Design of Pipeline Components
[49 CFR Part 192 Subpart D]

§1113. Components Fabricated by Welding
[49 CFR 192.153]

A. ...

B. Each prefabricated unit that uses plate and longitudinal seams must be designed, constructed, and tested in accordance with the ASME BPVC (*Rules for Construction of Pressure Vessels* as defined in either Section VIII, Division 1 or Section VIII, Division 2; incorporated by reference, see §507), except for the following: [49 CFR 192.153(b)]

B.1. - D. ...

E. The test requirements for a prefabricated unit or pressure vessel, defined for this Subsection as components with a design pressure established in accordance with Subsection A or Subsection B of this Section are as follows. [49 CFR 192.153(e)]

1. prefabricated unit or pressure vessel installed after July 14, 2004 is not subject to the strength testing requirements at §2305.B provided the component has been tested in accordance with Subsection A or Subsection B of this Section and with a test factor of at least 1.3 times MAOP. [49 CFR 192.153(e)(1)]

2. A prefabricated unit or pressure vessel must be tested for a duration specified as follows: [49 CFR 192.153(e)(2)]

a. A prefabricated unit or pressure vessel installed after July 14, 2004, but before October 1, 2021 is exempt from §§2305.C and D and 2307.C provided it has been tested for a duration consistent with the ASME BPVC requirements referenced in Subsection A or B of this Section. [49 CFR 192.153(e)(2)(i)]

b. Consider the information gained from past design, operations, and maintenance. [49 CFR 192.153(e)(2)(ii)]

3. For any prefabricated unit or pressure vessel permanently or temporarily installed on a pipeline facility, an operator must either: [49 CFR 192.153(e)(3)]

a. Test the prefabricated unit or pressure vessel in accordance with this Section and Chapter 23 of this Subpart after it has been placed on its support structure at its final installation location. The test may be performed before or after it has been tied-in to the pipeline. Test records that meet §2317.A must be kept for the operational life of the

prefabricated unit or pressure vessel; or [49 CFR 192.153(e)(3)(i)]

b. For a prefabricated unit or pressure vessel that is pressure tested prior to installation or where a manufacturer's pressure test is used in accordance with Subsection E of this Section, inspect the prefabricated unit or pressure vessel after it has been placed on its support structure at its final installation location and confirm that the prefabricated unit or pressure vessel was not damaged during any prior operation, transportation, or installation into the pipeline. The inspection procedure and documented inspection must include visual inspection for vessel damage, including, at a minimum, inlets, outlets, and lifting locations. Injurious defects that are an integrity threat may include dents, gouges, bending, corrosion, and cracking. This inspection must be performed prior to operation but may be performed either before or after it has been tied-in to the pipeline. If injurious defects that are an integrity threat are found, the prefabricated unit or pressure vessel must be either non-destructively tested, re-pressure tested, or remediated in accordance with applicable Subpart 3(Part 192) requirements for a fabricated unit or with the applicable ASME BPVC requirements referenced in Subsections A or B of this Section. Test, inspection, and repair records for the fabricated unit or pressure vessel must be kept for the operational life of the component. Test records must meet the requirements in §2317.A. [49 CFR 192.153(e)(3)(ii)]

4. An initial pressure test from the prefabricated unit or pressure vessel manufacturer may be used to meet the requirements of this Section with the following conditions: [49 CFR 192.153(e)(4)]

a. The prefabricated unit or pressure vessel is newly-manufactured and installed on or after October 1, 2021, except as provided in Subparagraph E.4.b of this Section. [49 CFR 192.153(e)(4)(i)]

b. An initial pressure test from the fabricated unit or pressure vessel manufacturer or other prior test of a new or existing prefabricated unit or pressure vessel may be used for a component that is temporarily installed in a pipeline facility in order to complete a testing, integrity assessment, repair, odorization, or emergency response-related task, including noise or pollution abatement. The temporary component must be promptly removed after that task is completed. If operational and environmental constraints require leaving a temporary prefabricated unit or pressure vessel under this Subsection in place for longer than 30 days, the operator must notify PHMSA and State or local pipeline safety authorities, as applicable, in accordance with § 518. [49 CFR 192.153(e)(4)(ii)]

c. The manufacturer's pressure test must meet the minimum requirements of this Subpart; and [49 CFR 192.153(e)(4)(iii)]

d. The operator inspects and remediates the prefabricated unit or pressure vessel after installation in accordance with Subparagraph E.3.b of this Section. [49 CFR 192.153(e)(4)(iv)]

5. An existing prefabricated unit or pressure vessel that is temporarily removed from a pipeline facility to complete a testing, integrity assessment, repair, odorization, or emergency response-related task, including noise or pollution abatement, and then re-installed at the same location must be inspected in accordance with Subparagraph

E.3.b of this Section; however, a new pressure test is not required provided no damage or threats to the operational integrity of the prefabricated unit or pressure vessel were identified during the inspection and the MAOP of the pipeline is not increased. [49 CFR 192.153(e)(5)]

6. Except as provided in Subparagraphs E.4.b and Paragraph E.5 of this Section, on or after October 1, 2021, an existing prefabricated unit or pressure vessel relocated and operated at a different location must meet the requirements of this Subpart and the following: [49 CFR 192.153(e)(6)]

a. The prefabricated unit or pressure vessel must be designed and constructed in accordance with the requirements of this Subpart at the time the vessel is returned to operational service at the new location; and [49 CFR 192.153(e)(6)(i)]

b. The prefabricated unit or pressure vessel must be pressure tested by the operator in accordance with the testing and inspection requirements of this Subpart applicable to newly installed prefabricated units and pressure vessels. [49 CFR 192.153(e)(6)(ii)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:223 (April 1983), amended LR 10:516 (July 1984), LR 20:444 (April 1994), LR 27:1539 (September 2001), LR 30:1234 (June 2004), LR 44:1037 (June 2018), LR 47:1142 (August 2021) repromulgated LR 47:1331 (September 2021).

Chapter 15. Joining of Materials Other Than by Welding

[49 CFR Part 192 Subpart F]

§1515. Plastic Pipe: Qualifying Persons to Make Joints **[49 CFR 192.285]**

A. - B.2. ...

a. tested under any one of the test methods listed under §1513.A, and for PE heat fusion joints (except for electrofusion joints) visually inspected in accordance with ASTM F2620 (incorporated by reference, see §507) or a written procedure that has been demonstrated to provide an equivalent or superior level of safety, applicable to the type of joint and material being tested; [49 CFR 192.285(b)(2)(i)]

B.2.b. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:231 (April 1983), amended LR 10:524 (July 1984), LR 30:1244 (June 2004), LR 33:480 (March 2007), LR 44:1039 (June 2018), LR 46:1586 (November 2020), LR 47:1144 (August 2021), repromulgated LR 47:1332 (September 2021).

Chapter 29. Maintenance

[49 CFR Part 192 Subpart M]

§2940. Pressure Regulating, Limiting, and Overpressure Protection—Individual Service Lines Directly Connected to Regulated Gathering or Transmission Pipelines **[49 CFR 192.740]**

A. This Section applies, except as provided in Subsection C of this Section, to any service line directly connected to a transmission pipeline or regulated gathering pipeline as determined in §508 that is not operated as part of a distribution system. [49 CFR 192.740(a)]

B. - B.4. ...

C. This Section does not apply to equipment installed on: [49 CFR 192.740(c)]

1. a service line that only serves engines that power irrigation pumps; [49 CFR 192.740(c)(1)]

2. a service line included in a distribution integrity management plan meeting the requirements of Chapter 35 of this Subpart; or [49 CFR 192.740(c)(2)]

3. a service line directly connected to either a production or gathering pipeline other than a regulated gathering line as determined in §508 of this Subpart. [49 CFR 192.740(c)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 44:1042 (June 2018), LR 46:1597 (November 2020), LR 47:1146 (August 2021), repromulgated LR 47:1332 (September 2021).

Chapter 35. Gas Distribution Pipeline Integrity Management (IM)

[49 CFR Part 192 Subpart P]

§3503. What do the Regulations in this Chapter Cover? **[49 CFR 192.1003]**

A. General. Unless exempted in Subsection B of this Section this Chapter prescribes minimum requirements for an IM program for any gas distribution pipeline covered under this Subpart, including liquefied petroleum gas systems. A gas distribution operator must follow the requirements in this Chapter. [49 CFR 192.1003(a)]

B. Exceptions. This subpart does not apply to: [49 CFR 192.1003(b)]

1. Individual service lines directly connected to a production line or a gathering line other than a regulated onshore gathering line as determined in §508; [49 CFR 192.1003(b)(1)]

2. Individual service lines directly connected to either a transmission or regulated gathering pipeline and maintained in accordance with §2940.A and B; and [49 CFR 192.1003(b)(2)]

3. Master meter systems. [49 CFR 192.1003(b)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 38:123 (January 2012), amended LR 44:1044 (June 2018), LR 47:1146 (August 2021), repromulgated LR 47:1332 (September 2021).

Richard P. Ieyoub
Commissioner

2109#012

RULE

Department of Revenue Policy Services Division

Abatement of Presumed Accuracy-Related Penalties (LAC 61.III.2121-2125)

Under the authority of R.S. 47:1511, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, have adopted LAC 61.III.2121-2125, to provide guidance on the exceptions to the presumption of penalties provided in R.S. 47:1604.1 and to provide procedures for requesting abatement of a presumed penalty.

R.S. 47:1511 authorizes the secretary to prescribe rules and regulations to carry out the purposes of Title 47 and the purposes of any other statutes or provisions included under the secretary's authority. Pursuant to R.S. 47:1604.1(A)(2), the negligence penalty is presumed to apply if the taxpayer understates tax liability by ten percent or more. However, such penalty shall not apply if the understatement is due to reasonable cause where the taxpayer acted in good faith. Additionally, pursuant to R.S. 47:1604.1(E)(3), willful disregard is presumed when a taxpayer fails to timely remit tax that is withheld or collected from others, absent a showing of good cause. The purpose of this regulation is to provide further guidance on regarding the reasonable cause and good faith and the good cause exceptions and to provide procedures for requesting relief when the exceptions apply. 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

§2121. Reasonable Cause and Good Faith Exception to Presumption in R.S. 47:1604.1(A)(1)

A. Definitions. For purposes of this Section, the following terms shall have the meaning ascribed herein.

Advice—any communication, including the opinion of a professional tax advisor, setting forth the analysis or conclusion of a person, other than the taxpayer, provided to (or for the benefit of) the taxpayer and on which the taxpayer relies, directly or indirectly, with respect to the imposition of the R.S. 47:1604.1 negligence penalty. Advice does not have to be in any particular form.

Professional Tax Advisor—a person or entity whose job duty, function or service focuses on or involves providing tax and tax related advice or products, which may include the preparation of or providing the use of or access to tax returns, forms or documents

Professional Tax Preparer—a person or entity whose job duty, function or service focuses on or involves the preparation of or providing the use of or access to tax returns, forms or documents, which may include providing tax and tax related advice or products.

B. The penalty for negligent failure to comply authorized in R.S. 47:1604.1(A)(1) is presumed to apply when a taxpayer understates his tax liability by ten percent or more, but did not demonstrate a willful disregard of the tax laws.

C. The presumed penalty shall not apply when the understatement was due to reasonable cause where the taxpayer acted in good faith.

D. A determination of reasonable cause and good faith will be made on a case-by-case basis, considering all relevant facts and circumstances.

1. Generally, the most important factor in determining reasonable cause and good faith is the extent of the taxpayer's effort to assess the proper tax liability.

2. Circumstances that may indicate the extent of the taxpayer's effort to assess the proper tax liability, include but are not limited to:

a. an honest misunderstanding of fact or law that is reasonable in light of all of the facts and circumstances, including the experience, knowledge, and education of the taxpayer;

b. an isolated computational or transcriptional error;

c. Reliance on an information return, advice, or other facts, if under all the circumstances such reliance was reasonable and the taxpayer acted in good faith.

3. Reliance on an information return, including the return of a pass-through entity, or on the advice of a professional tax advisor or tax preparer does not automatically demonstrate reasonable cause and good faith.

a. All facts and circumstances shall be considered when determining whether a taxpayer has reasonably relied in good faith on an information return or the advice of a professional tax advisor or tax preparer. Facts to be considered include, but are not limited to, the taxpayer's education, sophistication and business experience.

b. A determination of whether a taxpayer acted with reasonable cause and in good faith with respect to an underpayment that is related to an item reflected on the return of a pass-through entity will take into account the taxpayer's own actions, as well as the actions of the pass-through entity.

c. Generally, a taxpayer knows, or has reason to know, that the information on an information return is incorrect if such information is inconsistent with other information reported or otherwise furnished to the taxpayer, or with the taxpayer's knowledge of the transaction. This knowledge includes, for example, the taxpayer's knowledge of the terms of his employment relationship or of the rate of return on a payor's obligation.

d. Reliance shall not be considered reasonable or in good faith if the taxpayer knew, or reasonably should have known, that the advice was rendered by a non-tax professional or non-tax preparer, or a professional tax advisor or tax preparer who lacked knowledge in the relevant aspects of federal or Louisiana tax law.

e. The advice relied on by the taxpayer shall be based upon all relevant facts and circumstances and the law as it relates to those facts and circumstances. Reliance shall not be considered reasonable or in good faith if the taxpayer fails to disclose a fact that he knows, or reasonably should know, to be relevant to the proper tax treatment of an item.

f. The advice relied on by the taxpayer shall not be based on unreasonable factual or legal assumptions and shall not unreasonably rely on the un-true or inaccurate assumptions representations, statements, findings, or agreements of the taxpayer or any other person. For example, the advice shall not be based upon a representation or assumption which the taxpayer knows, or has reason to know, is unlikely to be true, such as an inaccurate representation or assumption as to the taxpayer's purposes for entering into a transaction or for structuring a transaction in a particular manner.

g. A taxpayer may not rely on an opinion or advice that a regulation is invalid to establish that the taxpayer acted with reasonable cause and good faith unless the taxpayer discloses the position that the regulation in question is invalid in a statement attached to and filed with the taxpayer's return containing the understatement.

h. A taxpayer may not rely on an opinion or advice that is contrary to existing, applicable case law.

i. For purposes of this Paragraph, advice is any communication, including the opinion of a professional tax advisor, setting forth the analysis or conclusion of a person, other than the taxpayer, provided to (or for the benefit of) the

taxpayer and on which the taxpayer relies, directly or indirectly, with respect to the imposition of the R.S. 47:1604.1 negligence penalty. Advice does not have to be in any particular form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 47:1333 (September 2021).

§2123. Good Cause Exception to Presumption of Willful Disregard

A. For purposes of the penalty for willful disregard provided in R.S. 47:1604.1(D)(1), willful disregard is presumed when a taxpayer fails to timely pay tax that has been collected or withheld from others unless good cause is shown.

B. Examples of good cause for failing to timely pay taxes collected or withheld from others, include:

1. The delinquency was directly attributable to a significant disaster or emergency declared by the President or the governor.

2. The delinquency was directly attributable to an extraordinary circumstance beyond the taxpayer's control such as, but not limited to, the following:

a. An actual or threatened event, other than a presidential or gubernatorial declared disaster or emergency, such as fire or casualty; and

b. An action against the taxpayer's tax preparer or legal representative for acts constituting fraud, theft, embezzlement, fraudulent conversion, or misappropriation of the taxpayer's property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 47:1335 (September 2021).

§2125. Request for Abatement of Presumed Penalty

A. A request for abatement of penalty under this section shall be limited to the following instances:

1. A penalty is assessed pursuant to the presumption in R.S. 47:1604.1(A)(2)(a) and the taxpayer is requesting abatement based on the exception set forth in R.S. 47:1604.1(A)(2)(b); or

2. A penalty is assessed pursuant to a presumption of willful disregard in accordance with R.S. 47:1604.1(E)(3) and the taxpayer is requesting abatement on the basis that good cause exists for the failure to timely pay collected or withheld taxes.

B. This section does not apply to any penalty assessed pursuant to R.S. 47:1604.1(A)(1).

C. Taxpayers requesting an abatement of penalty based on the exception set forth in R.S. 47:1604.1(A)(2)(b) or R.S. 47:1604.1(E)(3) shall comply with the following procedures:

1. a request for abatement shall be in writing, on a form prescribed by the secretary and shall:

a. contain a clear explanation detailing the basis for reasonable cause and good faith, or good cause;

b. be signed and dated by the taxpayer or an authorized representative with personal knowledge of the facts;

c. be accompanied by documentation supporting the basis for the request; and

d. be submitted to the Department of Revenue prior to the date that the assessment of the penalty pursuant to the presumption in R.S. 47:1604.1(A)(2)(a) or R.S.

47:1604.1(E)(3) becomes final in accordance with R.S. 47:1565(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 47:1334 (September 2021).

Kimberly J. Lewis
Secretary

2109#061

RULE

**Department of Revenue
Policy Services Division**

**Claim for Refund Requirements
(LAC 61.I.4909)**

Under the authority of R.S. 47:1511, 47:1621(I), and 47:1623(A), and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, have amended LAC 61.I.4909, to require taxpayers to provide certain documentation and information in support of a claim for refund or credit.

R.S. 47:1621(I) authorizes the secretary to promulgate rules to administer and enforce refunds authorized by 47:1621. R.S. 47:1623(A) authorizes the secretary to prescribe the manner of filing claims for refund or credit. The purpose of this regulation is to provide guidance regarding the information and documentation required to be provided in support of a claim for refund or credit and when that information and documentation must be submitted. This Rule is hereby adopted on the day of promulgation.

Title 61

REVENUE AND TAXATION

Part I. Administrative and Miscellaneous Provisions

Chapter 49. Tax Collection

§4909. Refund Claims

A. Taxpayers filing claims for refunds or credits of overpayments of tax, penalty or interest as authorized by R.S. 47:1621 and in accordance with R.S. 47:1623 must comply with the following procedures.

1. A claim for refund or credit shall be written in the English language, and be:

a. submitted on claims for refund/credit forms provided by the secretary; or

b. written in a format substantially the same as that provided by the secretary; or

c. submitted by timely filing an amended return.

2. A claim for refund shall be signed and dated by the taxpayer or his authorized representative, and shall:

a. contain a clear statement detailing the reason for the claim;

b. indicate the appropriate tax and tax amount by tax period; and

c. be submitted to an appropriate office, division, or representative of the Department of Revenue. An *appropriate office, division, or representative of the Department of Revenue* means:

i. a regional service center or regional audit office;

- ii. the appropriate division located at the department's headquarters in Baton Rouge;
- iii. the Office of Alcohol and Tobacco Control for taxes or fees collected by that office;
- iv. the tax collection officer assigned responsibility for the taxpayer's account for the period and tax related to the refund claim;
- v. the field or office auditor that is examining the taxpayer's account for the period and tax related to the refund claim;
- vi. the audit reviewer responsible for reviewing the audit file relating to the tax and tax period of the refund claim.

3. Information and documentation required by statute or regulation to be provided in support of a claim for refund or credit, shall be attached to and submitted with the taxpayer's claim for refund or credit.

4. Information or documentation required by statute or regulation to be maintained by the taxpayer in regard to a tax levied or credit granted pursuant to Title 47 of the Revised Statutes or any other tax, fee, charge, exclusion, exemption, credit or rebate administered by the secretary shall be provided within thirty days of written request by the secretary.

B. Claims for refund shall be approved or denied by the secretary or his designee in accordance with written Departmental policy and procedures.

C. Claims for refunds that have not been approved within one year of the date received or that have been denied may be appealed by taxpayer to the board of tax appeals in accordance with R.S. 47:1625.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1621, 1623 and 1625.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of the Secretary, LR 26:95 (January 2000); amended by the Department of Revenue, Policy Service Division, LR 47:1334 (September 2021).

Kimberly J. Lewis
Secretary

2109#062

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Domesticated Aquatic Organisms (LAC 76:VII.Chapter 9)

Under the authority of R.S. 56:411, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Wildlife and Fisheries Commission has modified rules and regulations related to Aquaculture and Domesticated Aquatic Organisms. The changes reorganize the existing chapter to be more concise and accurately reflect the current organization in the Louisiana Department of Wildlife and Fisheries. The changes add four groups to the approved Domesticated Aquatic Organism list and remove some that are no longer under LDWF jurisdiction. Legally permitted aquaculture facilities will be able to produce rainbow trout, freshwater prawns and aquarium livestock species including

fancy guppies, species of bristlenose catfish and species of African rift lake cichlids. This will allow the development of additional aquaculture business in Louisiana while providing safeguards to assist in protecting native fish species. This Rule is hereby adopted on the day of promulgation.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 9. Aquaculture

§900. Domesticated Aquatic Organisms (DAO)

A. Definitions

Aquarium Livestock—all animals that are primarily raised for ornamental use in aquariums. The list of approved aquarium livestock species can be found in LAC 76:VII.915.A

Aquarium Livestock Permit—the official document required for the culture of freshwater prawns, and allows for the importation, exportation, transport, culture, possession, disposal, transfer and sale of freshwater prawns in Louisiana as approved by the secretary or designee.

Broodstock—reproductively mature adults held for specific purpose of providing offspring (gametes, larvae, set spat, or later life history stages).

Culture—all activities associated with the rearing and nurturing of approved DAO species and life stages.

Culture System—an approved system designed such that all water containing, or that at any time might contain, DAO species and life stages, is filtered, screened and/or sterilized in such a manner as the department deems adequate to prevent any possibility of escape from the system.

Department—the Louisiana Department of Wildlife and Fisheries (LDWF) or an authorized employee of the department.

Disposal—processing, selling, or purposely removing DAO species from the culture system using departmental approved techniques for each DAO species.

Domesticated Aquatic Organisms (DAO)—all aquaculturally raised species which includes freshwater gamefish, all species of saltwater fish, all endangered or threatened species as well as all nonnative fish as defined by R.S. 56:8 and R.S. 56:411.

Fisheries Permit Manager—Biologist or other staff assigned the duties to manage and issue fisheries related permits.

Freshwater Prawn—any life stages of the shrimp of the species *Marcobrachium rosenbergii*.

Freshwater Prawn Permit—the official document required for the culture of freshwater prawns, and allows for the importation, exportation, transport, culture, possession, disposal, transfer and sale of freshwater prawns in Louisiana as approved by the secretary or designee.

Live Holding System—an approved indoor temporary holding or display system that at any time may contain DAO species (adult fish, juvenile fish, fry or fish eggs) designed such that all water is filtered, screened and/or sterilized prior to release in such manner as the department deems adequate to prevent any possibility of escape.

Permittee—individual that possesses any type of valid Louisiana permit under this Chapter. A permittee can only be a natural person. A permittee may represent himself, a business, corporation or organization. The permittee is

responsible for compliance with all stipulations in the permit.

Rainbow Trout—adult fish, juvenile fish, fingerlings, fry and eggs belonging to the species *Oncorhynchus mykiss*.

Rainbow Trout Permit—the official document required for the culture, importation, exportation, transport, culture, possession, disposal, transfer and sale of Rainbow Trout in Louisiana, as approved by the secretary or designee.

Secretary—the Secretary of the Department of Wildlife and Fisheries.

Shovelnose Sturgeon—pure strain of genetically unaltered fish (adult fish, juvenile fish, fingerlings, fry, and eggs), belonging to the species *Scaphirhynchus platorynchus*.

Shovelnose Sturgeon Permit—the official document required for the culture, importation, exportation, transport, culture, possession, disposal, transfer, and sale of shovelnose sturgeon in Louisiana, as approved by the secretary or designee.

Species Certification—positive species, hybrid, subspecies and/or variation type identification using of department approved procedures.

Tilapia—adult fish, juvenile fish, fingerlings, fry and eggs or body parts belonging to the genera *Tilapia*, *Sarotherdon*, or *Oreochromis* and their hybrids.

Tilapia Culture Permit—the official document required for the importation, exportation, transport, culture, possession, disposal, transfer and sale of tilapia in Louisiana, as approved by the secretary or designee.

Tilapia Live Holding Permit—the official document required for the live holding of tilapia for retail sale and allows for the import, live holding, and sale of tilapia in Louisiana, as approved by the secretary or designee.

Triploid Grass Carp (TGC)—refers to *Ctenopharyngodon idella* fingerlings and larger individuals that are certified as triploid carp (3N chromosomes) by the U.S. Fish and Wildlife Service or a qualified agent or contractor approved by the department.

Triploid Grass Carp Possession and Transportation Permit—the official document required for the importation, transportation, and possession of live triploid grass carp (TGC) in Louisiana for use in privately owned waterbodies, as approved by the secretary or designee.

Triploid Grass Carp Sales Permit the official document required for the importation, transportation, possession, and sale of live triploid grass carp (TGC) in Louisiana, as approved by the secretary or designee.

Triploid Grass Carp Seller—a properly licensed fish farmer who possesses a triploid grass carp (TGC) Sales Permit.

B. Procedures for nominating a new species to the approved list of DAO.

1. An application to consider a new aquatic species shall be submitted in writing to the Louisiana Department of Wildlife and Fisheries, Fisheries Permit Manager by emailing fisheriespermits@wlf.la.gov or by mail:

Louisiana Department of Wildlife and Fisheries
Fisheries Permit Manager
P.O. Box 98000
Baton Rouge, LA 70898-9000

2. The application shall include the following information:

- a. American Fisheries Society approved species and common name(s);
- b. intended use or uses;
- c. biology, including environmental tolerances, diseases, life history, and associated references;
- d. potential sources of broodstock;
- e. proposed restrictions for the culture of the proposed species.

3. Within 30 days of receipt of the completed application, the Fisheries Permit Manager shall convene a technical committee to review the species. The technical committee will consist of a minimum of four members. Those members must consist of at least one Department Biologist from the appropriate Fisheries Division, an Enforcement Division representative as well as at least one committee member not employed by department which may be, but not limited to, a representative from academia or a federal agency representative. The department may nominate a DAO species or amend the list by convening a review panel to review species of interest.

4. The technical committee, by way of the Fisheries Permit Manager, may ask the applicant to provide additional information.

5. The technical committee will be responsible for evaluating all relevant information regarding the species. The committee will consider approving a new aquatic species by evaluating the potential negative risks the new species might pose on native species, habitat, and human health. The committee will also consider mitigation measures that reduce risk. The committee's findings will be summarized by the Fisheries Permit Manager and a recommendation made to the Assistant Secretary, Office of Fisheries to either deny the applicant's request or approve the request with or without mitigating requirements.

6. The assistant secretary shall determine whether to recommend to the secretary to approve the application for the addition of the proposed species to the DAO list, along with any restrictions or mitigating requirements. If approved by the secretary, a formal request will be made to the Wildlife and Fisheries Commission in the form of a Notice of Intent.

C. Except for the species of fish specifically prohibited in La. R.S. 56:319.A, the provisions of this Section shall not apply to activities consistent with noncommercial personal aquarium ownership and commercial retail facilities that do not breed or propagate fish.

D. The following species are approved for commercial sale and transport for aquaculture or mariculture:

1. shadow bass (*Ambloplites ariommus*) not exceeding a maximum total length of 6 inches;
2. white bass (*Morone chrysops*) not exceeding a maximum total length of 6 inches;
3. yellow bass (*Morone mississippiensis*) not exceeding a maximum total length of 6 inches;
4. crappie (*Pomoxis spp.*) not exceeding a maximum total length of 6 inches;
5. bream (*Lepomis spp.*) not exceeding a maximum total length of 6 inches;

6. spotted bass (*Micropterus punctulatus*) of any size;
7. striped bass (*Morone saxatilis*) of any size;
8. largemouth bass (*Micropterus salmoides*) of any size;
9. hybrid striped bass (*Morone saxatilis* x *Morone chrysops*) or (*Morone saxatilis* x *Morone mississippiensis*) of any size;
10. coppernose bluegill (*Lepomis macrochirus purpurescens*) not exceeding a maximum total length of 6 inches;
11. hybrid bream limited to a bluegill (*Lepomis macrochirus*) and green sunfish (*L. cyanellus*) cross or a redear sunfish (*L. microlophus*) and bluegill (*L. macrochirus*) cross not exceeding a maximum total length of 6 inches;
12. common carp (*Cyprinus carpio*) and koi (*Cyprinus rubrofuscus*) and goldfish (*Carassius auratus*)
13. red drum (*Sciaenops ocellatus*);
14. triploid grass carp (*Ctenopharyngodon idella*); LAC 76:VII.901;
15. tilapia (*Oreochromis aurea*, *O. niloticus*, *O. mossambicus* and *O. urolepis hornorum*); LAC 76:VII.903;
16. shovelnose sturgeon (*Scaphirhynchus platyrhynchus*); LAC 76:VII.911;
17. rainbow trout (*Oncorhynchus mykiss*); LAC 76:VII.913;
18. aquarium livestock: A list of approved species can be found in LAC 76:VII.915;
19. cocohoe minnows (*Fundulus grandis*);
20. freshwater prawn (*Marcobrachium rosenbergii*); LAC 76:VII.919

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:327(A)(2) and R.S. 56:411.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 47:1335 (September 2021).

§901. Triploid Grass Carp (TGC)

A. General Provisions

1. No person, firm, or corporation shall at any time possess, sell or cause to be transported into this state, triploid grass carp (TGC) (*Ctenopharyngodon idella*), except in accordance with and in compliance with this Section.

B. Triploid Grass Carp (TGC) Possession and Transport Permit

1. General Rules for TGC Possession and Transportation Permit

a. No person shall stock private waterbodies in the state of Louisiana without a TGC Possession and Transport Permit.

b. No person shall import, transport and/or purchase TGC to be brought into the state unless such fish are certified as TGC by the U.S. Fish and Wildlife Service or a qualified agent or contractor approved by the department.

c. No person shall import, transport or possess fingerlings less than six inches in total length, eggs, or fry within the state.

d. Permits are not transferable from person to person or from site location to site location.

e. Permittee shall provide an adequate number of TGC to the department, at no cost to the department, upon request, to verify ploidy. The permittee shall agree to allow department officials or a department approved contractor to

conduct unannounced random inspections of the transport vehicle, property, waterbody site, and fish.

f. Department officials may be accompanied by other persons during these inspections. The department or its agents have the right to remove or take fish samples for analysis and/or inspection.

g. Permittee is responsible for criminal penalties or civil damages caused by any escapement.

h. In cases of mortality or unavoidable loss, restocking will be permitted as long as permit is still valid.

i. If a permittee terminates the use of TGC in the permitted waterbody, the permittee shall notify the department immediately and dispose of the TGC according to methods approved by the department.

j. In addition to all other legal remedies, failure to comply with any of the provisions in this Section shall be just cause to immediately suspend and/or revoke the permittee's permit. All TGC shall be destroyed at permittee's expense under the department's supervision within 30 days of permit revocation. Violation of any of the provisions of the permit constitutes a Class Four violation in accordance with R.S. 56:319.E

k. Any permittee charged with violation of this Section may make a written response to the alleged violation(s) to the secretary, and may request a hearing to review the alleged violation(s).

1. Universities and public entities conducting research approved by or in conjunction with the department shall be exempt from fee charges.

2. Application Procedure for a TGC Possession and Transport Permit

a. Individuals wishing to import or possess live TGC in Louisiana, but not sell them, must apply for a TGC Possession and Transport Permit from the department for a fee of \$50. TGC Possession and Transport Permittees do not need to possess a Domesticated Aquatic Organism License.

b. The TGC Possession and Transport Permit shall be valid for one year from date of purchase.

c. Permittees may stock up to the recommended 10 fish per acre of water. Request to stock more than 500 fish must be approved by the department through site visitations by a department representative. Fisheries staff of the Louisiana Cooperative Extension Service or other qualified fisheries professional(s) approved by the department may be used as a substitution for departmental site visit.

3. Requirements for transporting and stocking of TGC in private water bodies.

a. Permittee must have in his immediate possession and available upon demand by department representatives, a TGC Possession and Transportation Permit when importing, transporting and/or purchasing live TGC within the state.

b. A bill of lading must accompany those individuals in possession of live TGC during transportation and shall include:

- i. source of TGC (hatchery);
- ii. name, address, and phone number of seller;
- iii. name, address, and phone number of buyer;
- iv. copy of triploid certification;
- v. total number of fish;
- vi. destination of shipment.

c. No person shall stock private waters without a valid TGC Possession and Transportation Permit.

d. Permittee is responsible for containing TGC in his private waterbody.

e. This permit does not authorize the permittee to stock TGC in public waterbodies of the state. Release of any fish into the waters of the state is strictly prohibited, except as provided in Subsection D.

C. TGC Sales Permit

1. Request Procedure for a TGC Sales Permit

a. Individuals wishing to sell live TGC in the state must first obtain a TGC Sales Permit through an application furnished by the department.

b. The TGC Sales Permit shall be valid for one year beginning January 1 and ending December 31 of that same calendar year. The permit may be purchased at any time during the year for the current permit year and beginning November 15 for the immediately following permit year. The cost of a TGC Sales Permit is \$250.

c. An annual report detailing each sales transaction, including name and address of permitted buyer, permit number, date, and number of TGC sold must be submitted with permit renewal application. Reports should be sent to the Louisiana Department of Wildlife and Fisheries, Fisheries Permit Manager by emailing fisheriespermits@wlf.la.gov or by mail:

Louisiana Department of Wildlife and Fisheries
Fisheries Permit Manager
P.O. Box 98000
Baton Rouge, LA 70898-9000

2. Requirement for TGC Sales Permit

a. No person shall import or cause to be imported into the state of Louisiana TGC unless certified as TGC by the U.S. Fish and Wildlife Service or a qualified agent or contractor approved by the department. Such certification must be furnished to and approved by the department prior to importing of any fish into the state of Louisiana for stocking.

b. A TGC seller must possess a valid domestic aquatic organism license.

c. The person shall ship TGC with the words "TRIPLOID GRASS CARP" prominently on at least two sides of the vehicle or hauling tank with block letters that are not less than four inches high.

d. A TGC seller is bound by the TGC possession and transportation regulations as stipulated in LAC 76:VII.901.B; except that:

i. the TGC Sales Permit serves in lieu of the TGC Possession and Transportation Permit;

ii. the holders of a TGC Sales Permit may only sell live TGC to holders of a valid TGC Possession and Transportation Permit or a TGC Sales Permit;

iii. no person shall sell more than 500 TGC to an individual possessing a valid TGC Possession and Transportation Permit unless otherwise stipulated by the department in the permit.

e. A TGC seller shall notify the department at the designated telephone number (1-800-442-2511) of shipments of live TGC to permitted buyers at least 24 hours prior to shipment. Notification shall include seller's permit number, buyer's name, address, buyer's permit number, number of fish, destination of shipment, and date.

f. In addition to all other legal remedies, failure to comply with any of the provisions in this Section shall be

just cause to immediately suspend and/or revoke the permittee's permit. All TGC shall be destroyed at permittee's expense under the department's supervision within 30 days of permit revocation. Violation of any of the provisions of the permit constitutes a class four violation in accordance with R.S. 56:319.E

D. Requirements for Stocking TGC in Public (state or local) Waterbodies

1. No person shall release TGC into the public waters of Louisiana without written approval of the secretary or designee. Individuals, organizations, and local governments may request, in writing, that they be allowed to stock TGC in public waters. The department shall review the request, and if approved, shall provide written approval signed by the secretary or designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318, R.S. 56:319 and R.S. 56:319.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 17:806 (August 1991), amended LR 19:511 (April 1993), LR 24:962 (May 1998), LR 37:3534 (December 2011), repromulgated LR 38:433 (February 2012), amended by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 47:1337 (September 2021).

§903. Tilapia

A. Tilapia Permit Request Procedures

1. Individuals or organizations wishing to import, export, transport, culture, possess, dispose, transfer, or sell live tilapia in Louisiana must first obtain a Tilapia Culture Permit or Tilapia Live Holding Permit—from the Fisheries Permit Manager. The following procedures will be necessary.

a. Applications for permits may be obtained by contacting the Fisheries Permit Manager by emailing fisheriespermits@wlf.la.gov or by mail:

Louisiana Department of Wildlife and Fisheries
Fisheries Permit Manager
P.O. Box 98000
Baton Rouge, LA 70898-9000

b. The completed applications should be returned to the same address whereby the Fisheries Permit Manager will review the application. Department personnel or a department approved contractor, at the applicant's expense, will then make an on-site inspection of the property and culture or live holding system.

c. After the on-site inspection has been completed, department personnel will make a final determination as to whether the applicant is in full compliance with all rules for a Tilapia Culture Permit or Tilapia Live Holding Permit. Department personnel will then recommend to the secretary or designee if the applicant's request should be approved or denied.

d. The Fisheries Permit Manager will notify the applicant, in writing, as to whether or not the permit has been granted. In the event that the permit is denied, the Fisheries Permit Manager shall include written reasons for that determination. Applicants may reapply after correcting specified deficiencies noted in the letter of denial.

B. Rules on Transport of Live Tilapia

1. The department shall be notified in writing at least 2 business days prior to shipments of live tilapia from one Tilapia Culture Permit holder to another Tilapia Culture Permit holder, or to a Tilapia Live Holding Permit holders within the state, or for any shipments out-of-state in a format

provided by the department. Notification shall include the Tilapia Culture Permit number, route, date and time(s) of transport, destination, owner of transport vehicle, total number of each species, permit number of resident tilapia culturist or live holder, and a copy or reference to the genetic certification of shipped stock by species. Anyone possessing live tilapia within the state must have a tilapia culture or live holding permit. Live tilapia showing signs of diseases shall not be transported into or within the state of Louisiana.

2. For each occurrence of importation of tilapia into Louisiana from out of state to a permitted resident culturist or live holder, the permittee must obtain, in writing or by email, approval from the department. Procedures and necessary information for obtaining approval are:

a. requests shall be made by emailing to the Fisheries Permit Manager at fisheriespermits@wlf.la.gov.

b. requests shall include:

i. Louisiana tilapia permit number, or a copy of the permit;

ii. route of transport;

iii. date of transport;

iv. time(s) of transport;

v. destination;

vi. owner of transport vehicle;

vii. species certification made any time new fish are added to the system;

viii. total number of each species;

ix. identification of seller and buyer.

3. A bill of lading must accompany the live tilapia during import, export, transport, transfer, or sale and shall include:

a. copy of the permittee's written approval as described in LAC 76:VII.903.B.2. above;

b. date and approximate time of shipment;

c. route of shipment;

d. source of tilapia (culture facility);

e. name, address and phone number of seller;

f. name, address and phone number of buyer;

g. identification and certification as to species;

h. total number of each species;

i. destination;

j. letter from source stating that tilapia are not showing signs of diseases;

k. display the word "TILAPIA" prominently on at least two sides of the vehicle or hauling tank with letters that are no less than 6 inches high.

4. The permittee assumes all responsibility for the tilapia as soon as it enters the state regardless of the owner of the vehicle. If multiple shipments are contained in the vehicle, all permittees with tilapia in the vehicle are responsible for the shipments. This includes those obligations outlined in LAC 76:VII.903.G.11.

C. Rules for Security of Tilapia Culture or Live Holding Facility

1. Applicant must demonstrate to the satisfaction of department officials that adequate security measures are in place at the culture facility that will guard against vandalism and theft of tilapia.

2. Any changes or modification of a permitted security system must first have the approval of department officials.

3. The department will have just cause to revoke a tilapia permit for lapses in security if:

a. the permittee is found to be in noncompliance with LAC 76:VII.903.C.1 and 2 above;

b. the permittee is determined to be derelict in maintaining the security measures that were approved for the permit;

c. failure to take appropriate measures when vandalism, theft, or accidental release of fish occurs.

4. It shall be the responsibility of the permittee to immediately notify the Fisheries Permit Manager of any tilapia that leave the facility for any reason other than those specifically identified and allowed for under their current permit, including but not limited to accidental releases, theft, etc.

5. It shall be the responsibility of the permittee to have at least one individual who is familiar with the culture system readily available for emergencies, inspections, etc.

D. Rules of Tilapia Culture and Live Holding Site

1. A legal description of the tilapia culture facility site that shows ownership must be submitted along with the permit request.

2. The applicant must agree to allow department officials or a department approved contractor, at the applicant's expense, to conduct unannounced random inspections of the transport vehicle, property, culture system or live holding system, and fish. Department officials may request other officials to accompany them during these inspections. Additionally, those individuals performing these inspections may remove or take fish samples for analysis and/or inspection.

3. All aspects of the tilapia facility must be at least 1 foot above the 100-year flood elevation. Additionally, the department may require a surface hydrological assessment of the proposed site at permittee's expense.

4. The department will require a live holding contingency plan for disposal of live tilapia in the event of impending flooding or other natural disasters.

E. Rules for the Tilapia Culture and Live Holding System

1. Applicant must provide a detailed narrative description, including scale drawings, of the tilapia culture or live holding system.

2. The tilapia culture or live holding system shall be an approved indoor system designed such that tilapia eggs, larvae, juveniles, or adults cannot escape.

3. Water utilized in the culture or live holding of tilapia shall be accounted for and shall be filtered, screened, and/or sterilized prior to leaving the culture or live holding system and the permittee's property in such a manner as the department deems adequate to prevent any possibility of escape from the system.

4. All aspects of the tilapia culture or live holding system and processing shall be completely enclosed so that predation from birds, mammals, amphibians, and reptiles is precluded.

5. A means to dispose of tilapia through chlorination, desiccation, or other appropriate methods, in the event of an emergency must be included as a component of any department approved live holding system.

6. One or more persons responsible for the operation of the live holding system must demonstrate to the department 's satisfaction a basic knowledge and understanding of the culture, biology, and potential local ecological impacts of tilapia.

F. Rules for the Processing of Tilapia

1. All tilapia and tilapia parts other than live tilapia specifically permitted by the department must be properly processed and killed prior to leaving the tilapia culture or live holding facility. Tilapia must be processed using any of the following three approved procedures:

- a. chill killing whole tilapia in an ice slurry for a period of not less than 60 minutes,
- b. removal of tilapia intestines followed by immersion of whole fish in an ice slurry for a period of not less than two minutes,
- c. removal of head and all internal organs. All tilapia heads and internal organs must be put in an ice slurry for a period of not less than 60 minutes or frozen for 24 hours prior to disposal to prevent any possibility of accidental release of fry or fertilized eggs.

2. All tilapia, other than live tilapia specifically permitted by the department, being brought into the state from outside the state must be dead.

3. Records shall be kept at the location of the facility. Records shall be kept of all tilapia processed at a culture or live holding facility for the last five years and shall include the following information:

- a. source of fish;
- b. processed pounds;
- c. date processed;
- d. Tilapia culture facilities must retain all records of sales to live holder facilities.

4. A copy of this information shall be sent to the department 's Fisheries Permit Manager at the end of each year, or at any time upon the request of department officials.

G. General Rules for Tilapia

1. The cost of a tilapia culture permit shall be \$50 and live holding permit shall be \$50 and may include the actual cost of the on-site inspection. Universities conducting research approved by the department shall be exempt from the fee charge.

2. In order for the permit to be valid, the following license is required as a prerequisite:

- a. Domesticated Aquatic Organism License for tilapia culturists;
- b. a retail dealer's license for live holders. Live holders do not need to possess a Domesticated Aquatic Organism License.

3. Permits expire on December 31 every year. Any permit issued after November 15, will be valid for the remainder of that calendar year and the following calendar year. Fees will not be prorated. All existing tilapia culture and live holder permits as of June 2021 will be extended for no charge through December 2021.

4. Permits are not transferable from person to person, or property to property.

5. Live tilapia may be sold within the state only to a holder of a valid Tilapia Culture Permit or Tilapia Live Holding Permit. A Tilapia Culture Permit shall be required for the possession or transport of tilapia eggs, fry, or juveniles.

6. No person may release live tilapia, fish, or eggs into the waters of Louisiana (whether public or private) without the written approval of the secretary.

7. Permittee must agree to collect and provide an adequate number of tilapia to the department or a department approved contractor upon request for identification and analysis, at the permittee's expense.

8. Only those persons or organizations with valid tilapia permits may propagate, culture, or possess the following species and/or hybrids produced from their crosses. These species must be verified any time new stock is added to the culture facility by a genetic certification using an LDWF approved method.

<i>Oreochromis aurea</i>	<i>Oreochromis nilotica</i>
<i>Oreochromis mossambica</i>	<i>Oreochromis urolepis hornorum</i>

9. Tilapia culture permittees and Live Holder permittees shall submit an annual report to the Fisheries Permit Manager on a form provided by the department.

10. The department may employ whatever means it deems necessary to prevent the release or escapement of tilapia or their eggs into the environment. The permittee shall agree to reimburse the department for all costs including, but not limited to, man hours and materials utilized during corrective actions.

11. The department shall be overseer of all escape incidents and may implement or require to be implemented whatever measures deemed necessary to contain, kill, or recapture fish. The permittee shall reimburse Wildlife and Fisheries for all department costs including, but not limited to, man hours and materials utilized during these corrective actions. In order to assure the secretary that the permittee will fulfill their financial obligations, the tilapia culturists permittees and tilapia live holder permittees shall post a performance bond, or present a letter of credit from a financial institution stating that the value of the bond is available to the department on a certificate of deposit.

a. The performance bond for a tilapia culture permittee shall be \$25,000 for permits issued prior to January 1, 2022. For permits issued after this date the performance bond shall increase yearly to a maximum of \$50,000 as outlined in the table below.

Year	Tilapia Culture Permittee Bond Value
2022	\$30,000
2023	\$35,000
2024	\$40,000
2025	\$45,000
2026	\$50,000

b. The performance bond for a tilapia live holder permittee shall be \$10,000 for permits issued prior to

January 1, 2022. For permits issued after this date the performance bond shall increase yearly to a maximum of \$50,000 as outlined in the table below.

Year	Tilapia Live Holder Bond Value
2022	\$18,000
2023	\$26,000
2024	\$34,000
2025	\$42,000
2026	\$50,000

12. At the time of renewal, the Tilapia culture permit holders must provide LDWF a certificate from a certified veterinarian or other certified expert that the tilapia are free of visible diseases and parasites.

13. If a permittee terminates tilapia production or live holding, the permittee shall notify the secretary or designee immediately and dispose of the tilapia according to methods approved by the department.

14. In addition to all other legal remedies, including provisions of R.S. 56:319.E, failure to comply with any of the provisions herein shall be just cause to immediately suspend and/or revoke the permittee's permit. All tilapia shall be destroyed at permittee's expense under the department's supervision within 30 days of permit revocation.

15. Any permittee allegedly in violation of the above rules has a right to submit a written response of the alleged violation(s) to the secretary, requesting a hearing to review the alleged violation(s) within five days of receiving notice of violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318, R.S. 56:319 and R.S. 319.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 17:804 (August 1991), amended LR 20:1022 (September 1994), LR 21:594 (June 1995), LR 25:1987 (October 1999), amended by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 47:1338 (September 2021).

§905. Domesticated Aquatic Organisms

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:327(A)(2) and R.S. 56:411.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 34:2679 (December 2008), amended LR 35:1139 (June 2009), repromulgated LR 35:1263 (July 2009), amended LR 44:1455 (August 2018), repealed LR 47:1341 (September 2021).

§907. Game Fish Fingerling Aquaculture—Rules and Regulations [Formerly LAC 76:VII.159]

A. A fish farmer raising and selling live game fish fingerlings must obtain an annual domesticated aquatic organism license issued by the department.

B. Live game fish fingerlings sold from an approved fish farm shall be subject to all applicable statutes and rule limitations, if any.

C. Fish farmers who raise and sell live game fish fingerlings must maintain a record of all sales and shipments of such fish, and these records must be readily available for inspection by the department.

D. Game fish farmers who transport game fish fingerlings for sale must attach a bill of lading to each shipment showing the species of fish contained in the shipment, number, the origin of the payload, destination of

the shipment, the name of the consignee and consignor, and the grower's name and domesticated aquatic organism license number.

E. All trucks transporting game fish fingerlings for sale must have the words "GAME FISH FARMER" prominently displayed with a minimum of 3-inch block letters.

F. Fish farmers holding a domesticated aquatic organism license are not granted any fishing privileges greater than those stated in Title 56 of the *Louisiana Revised Statutes* and must abide by all statutes pertaining to domestic fish farming.

G. The department shall have the authority to cancel sales or to confiscate and destroy shipments of game fish fingerlings that are determined by department personnel to have fish diseases or parasites that would endanger native fish populations. Game fish farmers must allow department personnel or a department approved contractor to conduct unannounced random inspections of the transport vehicle. Those individuals may remove or take fish samples for analysis and/or inspection.

H. Genetic purity shall be maintained and game fish fingerlings produced shall not be genetically manipulated or altered in any way without prior approval of the department, except for hybrid crosses within the genera of *Lepomis*, *Pomoxis*, *Micropterus*, or *Morone*, or fish produced with polyploid chromosomes.

I. The secretary may revoke any or all licenses issued for the raising and selling of game fish fingerlings if the licensee fails to adhere to any of the above regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:327 (A)(2), R.S. 56:411, and R.S. 56:412.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 17:893 (September 1991), amended by the Department of Wildlife and Fisheries, Office of Fisheries, LR 24:2155 (November 1998), amended by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 40:546 (March 2014), LR 47:1341 (September 2021).

§911. Shovelnose Sturgeon

A. Shovelnose Sturgeon Permit Request Procedures

1. Individuals or organizations wishing to import, export, transport, culture, dispose of, or transfer live Shovelnose Sturgeon in Louisiana must first request a Shovelnose Sturgeon permit from the secretary or designee of the department. A separate permit will be required for each facility or location. The following procedures will be necessary.

a. Applications for permits may be obtained by contacting the Fisheries Permit Manager via email fisheriespermits@wlf.la.gov or by mail:

Louisiana Department of Wildlife and Fisheries
 Fisheries Permit Manager
 P.O. Box 98000
 Baton Rouge, LA 70898-9000

b. The completed applications should be returned to the same address whereby Fisheries Division personnel will review the application. Department personnel or a department approved contractor, at the applicant's expense, will then make an on-site inspection of the property and culture system.

c. After the on-site inspection has been completed, department personnel will make a final determination as to whether the applicant is in full compliance with all rules pertaining to a Shovelnose Sturgeon permit. Department

personnel will then recommend to the secretary or designee if the applicant's request should be approved or denied.

d. The Fisheries Permit Manager will notify the applicant, in writing, as to whether or not the permit has been granted. In the event that the permit is denied, the Fisheries Permit Manager shall include written reasons for that determination, and that applicant may reapply after correcting specified deficiencies noted in letter of denial. Applicants may reapply after correcting specified deficiencies noted in the letter of denial.

B. Rules on Transport of Live Shovelnose Sturgeon

1. A Louisiana Shovelnose Sturgeon Permit does not allow for the export of live Shovelnose Sturgeon from Louisiana.

2. Live Shovelnose Sturgeon being imported into Louisiana from out of state, or live transfer within the state, the permittee must obtain, in writing, approval from the department. These importations will only be allowed from fish that are acquired outside of the Red River drainage, and are limited only to those populations occurring outside of the range for the similarity of appearance listing for the species Shovelnose and Pallid Sturgeon.

3. The permittee must obtain, in writing, approval from the department for all importations or live transfer within the state. Written requests under this Section must be made no less than two business days before the expected date of shipment. Procedures and necessary information required to obtain approval are:

- a. Requests shall be made via email to fisheriespermits@wlf.la.gov;
- b. requests shall include:
 - i. Louisiana Shovelnose Sturgeon permit number;
 - ii. route of transport;
 - iii. date of transport;
 - iv. time(s) of transport;
 - v. destination;
 - vi. owner of transport vehicle;
 - vii. species certification issued within the past 30 days identifying shipped stock to species;
 - viii. total number of Shovelnose Sturgeon;
 - ix. identification of seller, buyer, and any permit numbers from the jurisdiction of origin to the jurisdiction of destination in which they are coming from.

4. A bill of lading must accompany the live Shovelnose Sturgeon during import, transport, transfer, or sale and shall include:

- a. copy of the permittee's written approval as described in LAC 76:VII.911.B.2 above;
- b. date and approximate time of shipment;
- c. route of shipment;
- d. source of Shovelnose Sturgeon;
- e. name, address, and phone number of seller;
- f. name, address, and phone number of buyer;
- g. identification and certification as to species;
- h. total number of Shovelnose Sturgeon;
- i. destination;
- j. if imported, the source must provide certificate of health from a veterinarian or other certified expert stating that Shovelnose Sturgeon are not showing signs of diseases;
- k. display the words "SHOVELNOSE" prominently on at least two sides of the vehicle or hauling tank with letters that are no less than 6 inches high.

C. Rules for Security of Shovelnose Sturgeon Culture Facility

1. Shovelnose Sturgeon live holding facilities will only be permitted in the following parishes: Acadia, Allen, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Caldwell, Cameron, Catahoula, Claiborne, DeSoto, Evangeline, Franklin, Grant, Jackson, Jefferson Davis, LaSalle, Lafayette, Lincoln, Morehouse, Natchitoches, Ouachita, Rapides, Sabine, Union, Vermilion, Vernon, Webster, West Carroll, and Winn.

2. Applicant must demonstrate to the satisfaction of department officials that sufficient security measures are in place at the live holding facility that will guard against vandalism and theft of Shovelnose Sturgeon.

3. Any changes or modification of a permitted security system must first have the approval of department officials.

4. The department will have just cause to revoke a Shovelnose Sturgeon permit for lapses in security if:

- a. the permittee is found to be in noncompliance with LAC 76:VII.911.C.2 and 3 above;
- b. the permittee is determined to be derelict in maintaining the security measures that were approved for the permit;
- c. failure to take appropriate measures when vandalism, theft, or accidental release of fish occurs.

5. It shall be the responsibility of the permittee to immediately notify the secretary or designee of any Shovelnose Sturgeon that leave the facility for any reason other than those specifically identified and allowed for under their current permit, including but not limited to accidental releases due to weather related events, vandalism and theft.

6. It shall be the responsibility of the permittee to have at least one individual who is familiar with the live holder system readily available for emergencies and inspections, both announced and unannounced.

D. Rules of Shovelnose Sturgeon Culture Site

1. A legal description of the Shovelnose Sturgeon live holding facility site that proves ownership must be submitted along with the permit request.

2. The applicant must agree to allow department officials or a department approved contractor, at the applicant's expense, to conduct unannounced random inspections of the transport vehicle, property culture system, and fish. Department officials may request other officials to accompany them during these inspections. Additionally, those individuals performing these inspections may remove or take fish samples for analysis and/or inspection.

3. All aspects of the Shovelnose Sturgeon culture facility must be at least 1 foot above the 100-year flood elevation. Additionally, the department may require a surface hydrological assessment of the proposed site at the permittee's expense.

4. The department will require a live holding contingency plan for disposal of live Shovelnose Sturgeon in the event of impending flooding or other natural disasters.

5. All Shovelnose Sturgeon shall be tagged with a departmental approved non-removable tag.

E. Rules for the Shovelnose Sturgeon Culture System

1. Applicant must provide a detailed narrative description, including scale drawings, of the Shovelnose Sturgeon culture system.

2. The Shovelnose Sturgeon culture system shall be an approved indoor recirculating system designed such that Shovelnose Sturgeon eggs, larvae, fingerlings, juveniles, or adults cannot escape.

3. All water utilized in the culture of Shovelnose Sturgeon shall be accounted for and shall be filtered, screened, and/or sterilized prior to leaving the live holding system and the permittee's property in such a manner as the department deems adequate to prevent any possibility of escape from the system.

4. All aspects of the Shovelnose Sturgeon culture system and processing shall be completely enclosed so that predation from birds, mammals, amphibians, and reptiles is precluded.

5. A means to dispose of Shovelnose Sturgeon through chlorination, desiccation, or other appropriate methods in the event of an emergency must be included as a component of any department approved live holding system.

6. One or more persons responsible for the operation of the live holding system must demonstrate to the department's satisfaction a basic knowledge and understanding of the culture, rearing (care and feeding), biology, and potential local ecological impacts of Shovelnose Sturgeon.

F. Rules for the Processing of Shovelnose Sturgeon

1. All Shovelnose Sturgeon and Shovelnose Sturgeon parts other than live Shovelnose Sturgeon specifically permitted by the department must be properly processed and killed prior to leaving the Shovelnose Sturgeon culture facility. At no time will live Shovelnose Sturgeon be allowed to be moved within Louisiana without expressed approval of the department. No live Shovelnose Sturgeon shall be sold or transferred to any parties outside of Louisiana. Transfer between Louisiana Shovelnose Sturgeon permittees within the state of Louisiana must be approved prior to shipment as described in LAC 76:VII.911.B.2 above.

2. Records of all Shovelnose Sturgeon processed for the previous five years shall be kept at the permitted culture facility and shall include the following information:

- a. source of fish;
- b. processed pounds of both meat and caviar; and
- c. date processed.

3. A copy of this information shall be sent to the Fisheries Permit Manager by December 31 of each year, or at any time upon the request of department officials.

G. General Rules for Shovelnose Sturgeon

1. The cost of a Shovelnose Sturgeon permit shall be \$50 and may include the actual cost of the on-site inspection. Universities and other facilities conducting research approved by the department shall be exempt from the fee charge.

2. In order for the permit to be valid, the following licenses are required as a prerequisite:

- a. Domesticated Aquatic Organism license;

3. Permits expire on December 31 every year. Any permit issued after November 15 will be valid for the remainder of that calendar year and the following calendar year.

4. Permits are not transferable from person to person, or property to property.

5. Live Shovelnose Sturgeon shall not be sold within Louisiana except to a permitted culture facility.

6. No person may release live Shovelnose Sturgeon, fish, or eggs into the waters of Louisiana (whether public or private).

7. Permittee must agree to collect and provide an adequate number of Shovelnose Sturgeon to the department or a department approved contractor upon request for identification and analysis, at the permittee's expense.

8. The only Sturgeon allowed in commercial aquaculture under the Louisiana Shovelnose Sturgeon permit is *Scaphirhynchus platyrhynchus*. No genetically altered Shovelnose Sturgeon or their hybrids are allowed.

9. Shovelnose Sturgeon permittees shall be required to submit an annual report to the secretary or designee on a form provided by the department.

10. The department may employ whatever means it deems necessary to prevent the release or escape of Shovelnose Sturgeon or their eggs into the environment. The permittee shall agree to reimburse the department for all costs including, but not limited to, man hours and materials utilized during corrective actions.

11. The department shall be overseer of all escape incidents and may implement or require to be implemented whatever measures deemed necessary to contain, kill, or recapture fish. The permittee shall agree to reimburse the department for all costs including, but not limited to, man hours and materials utilized during these corrective actions. In order to assure the secretary that the permittee will fulfill their financial obligations, the Shovelnose Sturgeon permittee shall post a \$50,000 performance bond, or present a letter of credit from a financial institution stating that the \$50,000 is available to the department on a certificate of deposit.

12. If a permittee terminates Shovelnose Sturgeon culture, the permittee shall notify the secretary or designee immediately and dispose of the Shovelnose Sturgeon according to methods approved by the department.

13. In addition to all other legal remedies, including provisions of R.S. 56:319.E, failure to comply with any of the provisions herein shall be just cause to immediately suspend and/or revoke the permittee's permit. All Shovelnose Sturgeon shall be destroyed at permittee's expense under the department's supervision within 30 days of permit revocation.

14. Any permittee allegedly in violation of the above rules has a right to make a written response of the alleged violation(s) to the secretary requesting a hearing to review the alleged violation(s) within five days.

H. Collection of Shovelnose Sturgeon Broodstock from Louisiana Waters

1. The department will allow legally permitted Shovelnose Sturgeon permit holders to collect local broodstock from approved locations on the Red River while under the supervision of departmental personnel or other approved third parties. The permittee may be charged for associated costs including, but not limited to, man-power and equipment.

2. This collection of broodstock will be limited to 3 years. The permittee may be granted additional years upon approval by the secretary. The collection must be approved and coordinated with the LDWF Fisheries Permit Manager and the Director of Inland Fisheries and would require a special broodstock collection permit from the secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318 and R.S. 56:319.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 44:1455 (August 2018), amended LR 47:1341 (September 2021).

§913. Rainbow Trout

A. Rainbow Trout Permit Request Procedures

1. Individuals or organizations wishing to import, export, transport, culture, dispose, or transfer live Rainbow Trout for aquaculture in Louisiana must first request a Rainbow Trout permit from LDWF Fisheries Permit Manager. A separate permit will be required for each facility or location. This permit is not needed for stocking into public or private waters, and persons interested in stocking Rainbow Trout should contact the Fisheries Permit Manager to request a special Rainbow Trout stocking permit.

2. Applications for Rainbow Trout permits may be obtained by contacting the Fisheries Permit Manager via emailing fisheriespermits@wlf.la.gov or by mail:

Louisiana Department of Wildlife and Fisheries
Fisheries Permit Manager
P.O. Box 98000
Baton Rouge, LA 70898-9000

3. The completed applications must be returned to the same address whereby the Fisheries Permit Manager will review the application. Department personnel or a department approved contractor will then make an on-site inspection of the property and culture system. The department may charge the applicant for any associated costs to perform the inspection.

4. After the on-site inspection has been completed, the Fisheries Permit Manager will make a final determination as to whether the applicant is in full compliance with all rules pursuant to the Rainbow Trout permit. The Fisheries Permit Manager will then make a recommendation of approval or denial of the applicant's request to the secretary or designee.

5. The Fisheries Permit Manager will notify the applicant, in writing, as to whether or not the permit has been granted. In the event that the permit is denied, the Fisheries Permit Manager shall include written reasons for that determination. Applicant may reapply after correcting specified deficiencies noted in letter of denial.

B. Rules on Transport of Live Rainbow Trout

1. For each occurrence of live Rainbow Trout importation into Louisiana from out of state, or live transfer within the state, the permittee must obtain, in writing, approval from the Fisheries Permit Manager. These requests shall be made no less than two business days before the expected date of shipment.

a. Requests shall be made via email to fisheriespermits@wlf.la.gov

b. Requests shall include:

- i. Louisiana Rainbow Trout permit number,
- ii. date of transport;
- iii. total number of Rainbow Trout;

iv. identification of seller and buyer and any permit numbers from the jurisdiction of origin to the jurisdiction of destination in which they are coming from;

v. a certificate of health from a veterinarian or other certified expert stating that Rainbow Trout are not showing visible signs of diseases or parasites. The facility and delivery vehicle shall be free of diseases, parasites or other organisms such as *Didymosphenia geminate* (commonly known as Didymo or "Rock Snot").

C. Rules of Rainbow Trout Culture

1. It shall be the responsibility of the permittee to immediately notify the secretary or designee of any Rainbow Trout that leave the facility for any reason other than those specifically identified and allowed for under their current permit, including but not limited to, accidental releases due to weather related events, vandalism, and theft.

2. The department will have just cause to revoke a Rainbow Trout permit for lapses in security if the permittee is found to be in noncompliance with LAC 76:VII.913.C.1.

3. The applicant must agree to allow department officials or a department approved contractor, at the applicant's expense, to conduct unannounced random inspections of the transport vehicle, property culture system, and fish. Department officials may request other officials to accompany them during these inspections. Additionally, those individuals performing these inspections may remove or take fish samples for analysis and/or inspection.

4. In order for the permit to be valid, the following licenses are required as a prerequisite:

a. Domesticated Aquatic Organism License.

5. Permits expire on December 31 of every year. Any permit issued after November 15, will be valid for the remainder of that calendar year and the following calendar year.

6. Permits are not transferable from person to person, or property to property.

7. Transfer of fish between Louisiana Rainbow Trout permittees within the state of Louisiana must be approved prior to shipment as described in LAC 76:VII.913.B.1 above.

8. No person may release live Rainbow Trout, fish, or eggs into the waters of Louisiana (whether public or private) without LDWF Secretarial approval.

9. Permittee must agree to collect and provide an adequate number of Rainbow Trout to the department or a department approved contractor upon request for identification and analysis at the permittee's expense.

10. Records for the previous 5 years shall be kept at the facility of all Rainbow Trout processed at a culture facility and shall include the following information:

- a. source of fish;
- b. processed pounds of fish; and
- c. date fish processed.

11. A copy of this information shall be sent annually to the Fisheries Permit Manager at the end of each year prior to permit renewal, or at any time upon request.

12. If a permittee terminates Rainbow Trout culture, the permittee shall notify the secretary or designee immediately and dispose of the Rainbow Trout according to methods approved by the department.

13. In addition to all other legal remedies, including provisions of R.S. 56:319.E, failure to comply with any of the provisions herein shall be just cause to immediately suspend and/or revoke the permittee's permit. All Rainbow Trout shall be destroyed at permittee's expense under the department's supervision within 30 days of permit revocation.

14. Any permittee allegedly in violation of the above rules has a right to make a written response of the alleged violation(s) to the secretary requesting a hearing to review the alleged violation(s) within five days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318 and R.S. 56:319.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 47:1344 (September 2021).

§915. Aquarium Livestock

A. The following species or groups of species have been approved for commercial culture in Louisiana. Any questions on whether a species fits into the categories below should be directed to the Fisheries Permit Manager.

1. "Bristlenose Catfish": *Ancistrus sp.*
2. African Rift Lake Cichlids from the Cichlidae family, tribe Haplochromini
3. Fancy Guppy (*Poecilia reticulata*)

B. Individuals or organizations wishing to import, export, transport, dispose, or transfer live Aquarium Livestock for commercial culture and rearing in Louisiana must first request an Aquarium Livestock permit from the LDWF Fisheries Permit Manager. A separate permit will be required for each facility or location. Retail stores or wholesalers who are not actively breeding or growing Aquarium Livestock and home aquarists who are not selling commercially are all exempt from obtaining an Aquarium Livestock permit as outlined in LAC:76:VII.915.

1. Applications for permits may be obtained by contacting the Fisheries Permit Manager via emailing fisheriespermits@wlf.la.gov or by mail:

Louisiana Department of Wildlife and Fisheries
Fisheries Permit Manager
P.O. Box 98000
Baton Rouge, LA 70898-9000

2. The completed applications should be returned to the same address whereby the Fisheries Permit Manager will review the application. Department personnel or a department approved contractor will then make an on-site inspection of the property and culture system.

3. After the on-site inspection has been completed, the Fisheries Permit Manager will make a final determination as to whether the applicant is in full compliance with all rules for an Aquarium Livestock permit. The Fisheries Permit Manager will then recommend to the secretary if the applicant's request should be approved or denied.

4. The Fisheries Permit Manager will notify the applicant, in writing, as to whether or not the permit has been granted. In the event that the permit is denied, the Fisheries Permit Manager shall include written reasons for that determination. Applicant may reapply after correcting specified deficiencies noted in letter of denial.

C. Rules of Aquarium Livestock Culture

1. It shall be the responsibility of the permittee to immediately notify the secretary or designee of any Aquarium Livestock that leave the facility for any reason

other than those specifically identified and allowed for under their current permit, including but not limited to accidental releases due to weather related events, vandalism, and theft.

2. All aspects of the Aquarium Livestock facility must be at least 1 foot above the 100-year flood elevation. Additionally, the department may require a surface hydrological assessment of the proposed site at permittee's expense.

3. All water utilized in the culture of aquarium livestock shall be accounted for and shall be filtered, screened, and/or sterilized prior to leaving the culture and the permittee's property in such a manner as the department deems adequate to prevent any possibility of escape from the system.

4. All aspects of the Aquarium Livestock culture system and processing shall be completely enclosed so that predation from birds, mammals, amphibians, and reptiles is precluded.

5. A means to dispose of Aquarium Livestock through chlorination, desiccation, or other appropriate methods in the event of an emergency must be included as a component of any department approved system.

6. The department will have just cause to revoke an Aquarium Livestock permit for lapses in security if the permittee is found to be in noncompliance with LAC 76:VII.915.C.1.

7. The applicant must agree to allow department officials or a department approved contractor, at the applicant's expense, to conduct unannounced random inspections of the transport vehicle, property culture system, and fish. Department officials may request other officials to accompany them during these inspections. Additionally, those individuals performing these inspections may remove or take fish samples for analysis and/or inspection.

8. In order for the permit to be valid, the following licenses are required as a prerequisite:

a. Domesticated Aquatic Organism License.

9. Permits expire on December 31 every year. Any permit issued after November 15 will be valid for the remainder of that calendar year and the following calendar year.

10. Permits are not transferable from person to person, or property to property.

11. No person may release live Aquarium Livestock or eggs into the waters of Louisiana (whether public or private) without LDWF Secretarial Approval.

12. Permittee must agree to collect and provide an adequate number of Aquarium Livestock to the department or a department approved contractor upon request for identification and analysis, at the permittee's expense.

13. Records of all Aquarium Livestock processed over the previous five years shall be kept at the culture facility and shall include the following information:

a. source of fish;

b. import and export quantities including information of who purchased or supplied the Aquarium Livestock; and

c. date of all transactions.

14. A copy of this information shall be sent annually to the Fisheries permit manager at the end of each year prior to permit renewal, or at any time upon the request.

15. Any time a new species, hybrid or type is added into the facility, the applicant must contact the Fisheries Permit Manager for approval prior to importation of the species into their facility.

16. The department shall be overseer of all escape incidents and may implement or require to be implemented whatever measures deemed necessary to contain, kill, or recapture fish. The permittee shall agree to reimburse the department for all costs including, but not limited to, man hours and materials utilized during these corrective actions. In order to assure the secretary that the permittee will fulfill their financial obligations, the Aquarium Livestock permittee shall post a \$25,000 performance bond, or present a letter of credit from a financial institution stating that the \$25,000 is available to the department on a certificate of deposit.

17. If a permittee terminates Aquarium Livestock culture, the permittee shall notify the secretary or designee immediately and dispose of the Aquarium Livestock according to methods approved by the department.

18. In addition to all other legal remedies, including provisions of R.S. 56:319.E, failure to comply with any of the provisions herein shall be just cause to immediately suspend and/or revoke the permittee's permit. All Aquarium Livestock shall be destroyed at permittee's expense under the department's supervision within 30 days of permit revocation.

19. Any permittee allegedly in violation of the above rules has a right to make a written response of the alleged violation(s) to the secretary requesting a hearing to review the alleged violation(s) within five days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318 and R.S. 56:319.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 47:1345 (September 2021).

§919. Freshwater Prawns

A. Freshwater Prawn Permit Request Procedures

1. Individuals or organizations wishing to import, export, transport, culture, dispose, or transfer live freshwater prawns for aquaculture in Louisiana must first request a Freshwater Prawn Permit from LDWF Fisheries Permit Manager. A separate permit will be required for each facility or location.

2. Applications for permits may be obtained by contacting the Fisheries Permit Manager via emailing fisheriespermits@wlf.la.gov or by mail:

Louisiana Department of Wildlife and Fisheries
Fisheries Permit Manager
P.O. Box 98000
Baton Rouge, LA 70898-9000

3. The completed application must be returned to the same address whereby the Fisheries Permit Manager will review the application. Department personnel or a department approved contractor will then make an on-site inspection of the property and culture system.

4. After the on-site inspection has been completed, the Fisheries Permit Manager will make a final determination as to whether the applicant is in full compliance with all rules pursuant to the Freshwater Prawn Permit. The Fisheries Permit Manager will then make a recommendation of approval or denial of the applicant's request to the secretary or designee.

5. The Fisheries Permit Manager will notify the applicant, in writing, as to whether or not the permit has been granted. In the event that the permit is denied, the Fisheries Permit Manager shall include written reasons for that determination. Applicant may reapply after correcting specified deficiencies noted in letter of denial.

B. Rules on Transport of Live Freshwater Prawn

1. For each occurrence of live freshwater prawn importation into Louisiana from out of state, or live transfer within the state, the permittee must obtain, in writing, approval from the Fisheries Permit Manager. These requests shall be made no less than two business days before the expected date of shipment.

a. Requests shall be made via email to fisheriespermits@wlf.la.gov

b. Requests shall include:

i. Louisiana Freshwater Prawn Permit number;
ii. date of transport;
iii. total number of freshwater prawns;
iv. identification of seller and buyer and any permit numbers from the jurisdiction of origin to the jurisdiction of destination in which they are coming from;

v. a certificate of health from a veterinarian or other certified expert stating that freshwater prawns are not showing visible signs of diseases or parasites.

C. Rules of Freshwater Prawn Culture

1. It shall be the responsibility of the permittee to immediately notify the secretary or designee of any freshwater prawn that leave the facility for any reason other than those specifically identified and allowed for under their current permit, including but not limited to accidental releases due to weather related events, vandalism, and theft.

2. All aspects of the freshwater prawn facility must be at least 1 foot above the 100-year flood elevation. Additionally, the department may require a surface hydrological assessment of the proposed site at permittee's expense.

3. All water utilized in the culture of freshwater prawn shall be accounted for and shall be filtered, screened, and/or sterilized prior to leaving the culture and the permittee's property in such a manner as the department deems adequate to prevent any possibility of escape from the system.

4. All aspects of the freshwater prawn culture system and processing shall be completely enclosed so that predation from birds, mammals, amphibians, and reptiles is precluded.

5. A means to dispose of freshwater prawn through chlorination, desiccation, or other appropriate methods in the event of an emergency must be included as a component of any department approved system.

6. The department will have just cause to revoke a Freshwater Prawn Permit for lapses in security if the permittee is found to be in noncompliance with LAC 76:VII.919.C.1.

7. The applicant must allow department officials or a department approved contractor, at the applicant's expense, to conduct unannounced random inspections of the transport vehicle, property culture system, and fish. Department officials may request other officials to accompany them during these inspections. Additionally, those individuals

performing these inspections may remove or take prawn samples for analysis and/or inspection.

8. In order for the permit to be valid, the following licenses are required as a prerequisite:

a. Domesticated Aquatic Organism License

9. Permits expire on December 31 every year. Any permit issued after November 15 will be valid for the remainder of that calendar year and the following calendar year.

10. Permits are not transferable from person to person, or property to property.

11. No person may release live any life stages of freshwater prawns or eggs into the waters of Louisiana (whether public or private) without LDWF Secretarial approval.

12. Permittee must agree to collect and provide an adequate number of freshwater prawns to the department or a department approved contractor upon request for identification and analysis, at the permittee's expense.

13. Records for the previous five years shall be kept at the facility of all freshwater prawn processed at a culture facility and shall include the following information:

a. source of freshwater prawns;

b. import and live export quantities including information of who purchased or supplied the live freshwater prawns; and

c. date of all transactions.

14. A copy of this information shall be sent annually to the Fisheries Permit Manager at the end of each year prior to permit renewal, or at any time upon the request.

15. The department shall be overseer of all escape incidents and may implement or require to be implemented whatever measures deemed necessary to contain, kill, or recapture freshwater prawns. The permittee shall agree to reimburse the department for all costs including, but not limited to, man hours and materials utilized during these corrective actions. In order to assure the secretary that the permittee will fulfill their financial obligations, the freshwater prawn permittee shall post a \$25,000 performance bond, or present a letter of credit from a financial institution stating that the \$25,000 is available to the department on a certificate of deposit.

16. If a permittee terminates freshwater prawn culture, the permittee shall notify the secretary or designee immediately and dispose of freshwater prawns according to methods approved by the department.

17. In addition to all other legal remedies, including provisions of R.S. 56:319.E, failure to comply with any of the provisions herein shall be just cause to immediately suspend and/or revoke the permittee's permit. All freshwater prawns shall be destroyed at permittee's expense under the department's supervision within 30 days of permit revocation.

18. Any permittee allegedly in violation of the above rules has a right to make a written response of the alleged violation(s) to the secretary requesting a hearing to review the alleged violation(s) within five days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318 and R.S. 56:319.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 47:1346 (September 2021).

Jack Montoucet
Secretary

2109#018

RULE

Department of Natural Resources Office of Coastal Management

Local Coastal Management Programs (LAC 43:I.725)

Under the authority of R.S. 49:214.21-49:214.41 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:450 et seq., the Department of Natural Resources, Office of Coastal Management has amended LAC 43:725 relative to the rules and procedures for local coastal management programs. Amendments include updating procedural information, clarifying funding mechanisms, and updating technical information.

Title 43

NATURAL RESOURCES

Part I. Office of the Secretary

Subpart 1. General

Subchapter D. Local Coastal Management Programs

§725. Development, Approval, Modification, and Periodic Review of Local Coastal Management Programs

A. Letter of Intent. Parishes intending to prepare a local coastal management program (LCMP) shall notify the secretary of DNR by sending a letter of intent approved by the parish Police Jury or Council.

B. Program Development

1. The process for developing a local program will consist of:

a. a division of the parish's coastal zone into units that have similar environmental and natural resource characteristics (environmental management units) and an identification and mapping of the features, resources, and resource users of those units;

b. an analysis of the projected social and economic growth for the parish. This analysis should include projected population growth, economic analysis of coastal dependent industries, estimated demand for and use of land, and an assessment of how these projected changes will affect the natural resources of each management unit as well as the parish as a whole;

c. an identification of existing and potential resource-use conflicts including their location and severity. Identified problems should be mapped to the extent possible;

d. an identification of special management areas, if any, within the parish requiring special management needs as a result of their unique natural resource or development potentials;

e. the development of goals, objectives and policies for the management of the parish's coastal zone. This shall

include those goals and objectives applicable to the entire parish coastal zone and specific objectives and priorities of use for each management unit and identified particular area, if any. Except as specified in Subparagraph D.1.d below, these policies, objectives and priorities of uses must be consistent with the policies and objectives of the SLCRMA, as amended, the state guidelines, and Louisiana's Comprehensive Master Plan for a Sustainable Coast;

f. the development of procedures providing for the full participation of federal, state, local and municipal government bodies and the general public in the development and implementation of the parish program;

g. the development of the necessary authorities, procedures, and administrative arrangements for reviewing, issuing, and monitoring permits for uses of local concern;

h. the development of special procedures and methods for considering uses within special management areas designated pursuant to §214.29 of the SLCRMA, if any, and the impacts of uses on the special management areas;

i. the development of special procedures and methods for considering uses of greater than local benefit and uses affecting state or national interests.

C. Program Content

1. Local programs may be submitted for approval after being developed in accordance with Subsection B and shall consist of:

a. a summary of the local program;

b. maps and descriptions of the natural features, resources, and existing land use in each management unit. These maps shall depict the division of the coastal areas into coastal waters and wetlands, transitional areas, and lands more than 5 feet above mean sea level;

c. the results of the social and economic analysis carried out pursuant to Subparagraph B.1.b, above;

d. a description of those existing and future resource-use conflicts identified pursuant to Subparagraph B.1.c, above;

e. an identification of those particular areas, if any, requiring special management as described in Subparagraph B.1.d above, as well as the special policies and/or procedures to be applied to these areas;

i. statement of the goals, objectives, policies, and priorities of uses included in the program, as described in Subparagraph B.1.e.;

ii. a statement assuring that the policies of the local program are consistent with the policies and objectives of the SLCRMA, as amended, the state guidelines, and Louisiana's Comprehensive Master Plan for a Sustainable Coast; and that the local program shall be interpreted and administered consistently with such policies, objectives, and guidelines;

f. a description of the authorities and administration arrangements regulating uses of local concern, for reviewing, issuing, and monitoring local coastal use permits, and for enforcing the local program, including:

i. a concise explanation of how the local program's coastal management process is to work;

ii. a description and listing of those areas and uses that will require local coastal use permits;

iii. an illustrative list of particular activities which occur on lands more than 5 feet above mean sea level that

have, or may have, direct and significant impacts on coastal waters;

iv. an analysis of all ordinances included in the local program demonstrating that the effect of such ordinances, when applied to uses not subject to the local coastal use permit program, would result in compliance with the goals and provisions of the SLCRMA, as amended, the objectives of the Louisiana Coastal Resources Program (LCRP), the policies of the coastal use guidelines, and Louisiana's Comprehensive Master Plan for a Sustainable Coast;

v. a description of the administrative means by which the parish will coordinate with other governmental bodies during program implementation regarding:

(a) local program implementation, including copies of any interagency or intergovernmental agreements;

(b) multiparish environmental considerations;

(c) consideration by the parish of regional, state, or national interests; and

(d) regional, state, or national plans affecting the parish coastal zone and other projects affecting more than one parish;

vi. certified copies of all ordinances, plans, programs, and regulations proposed to be included in the program;

vii. a resolution from the governing body of the parish expressing approval of the local program as submitted and its intent to implement the submitted program subsequent to state approval;

g. documentation that the parish has provided a full opportunity for governmental and general public involvement and coordination in the development of the local program. It must be shown that:

i. at least one public hearing was held in the coastal zone on the total scope of the proposed program;

ii. public notice of the availability of the draft proposed program was given at least 30 days prior to the hearing. Copies of the program must have been available for distribution to relevant state, federal and local governmental agencies, and the general public and were available for public inspection at reasonable hours at the parish library and the parish government offices.

iii. full consideration was given to comments received during program development and the public hearings.

D. Program Approval

1. Local programs may be submitted for approval after promulgation of these rules and the state guidelines. The following procedures shall apply.

a. Three hard copies and two electronic copies of the complete proposed local program shall be submitted to the secretary. The local government shall be prepared to provide additional copies available for distribution upon request of the secretary. The secretary shall, within 15 days of the filing of a complete program give public notice of the submittal of the proposed local program, of the availability of copies of the program for public review and of the date, time and place of a public hearing on the program and request public comment. The secretary shall give full consideration to all comments received.

b. The secretary shall, within 90 days of the giving of public notice, either approve the local program or notify

the local government of the specific changes which must be made in order for it to be approved.

c. In order to approve the local program, the secretary must find that:

i. the program is consistent with the state guidelines and with the policies and objectives of the SLCRMA;

ii. the program submitted for approval contains all the elements required by Subsection C above and that the materials submitted are accurate and are of sufficient specificity to provide a basis for predictable implementation of the program;

iii. that the proposed program, and the policies, objectives, and priorities of use in the program, are of a sufficient comprehensiveness and specificity to address the identified resource-use conflicts and are consistent with the goals of the SLCRMA, the objectives of the LCRP, and the policies of the coastal use guidelines, and Louisiana's Comprehensive Master Plan for a Sustainable Coast;

iv. full opportunity has been provided for federal, state, local and municipal governmental bodies and the general public to participate in the development of the program pursuant to Subparagraph C.1.g above;

v. the local government has included within the program all applicable ordinances and regulatory or management programs which affect the coastal zone; that these authorities are of sufficient scope and specificity to regulate uses of local concern; that the regulatory program meets all requirements for procedures and time frames established by the SLCRMA and regulations of the department; that sufficient authority is provided to enforce the local program, including provisions for those penalties provided by §214.36 of the SLCRMA, and that the program has met all substantive requirements of the SLCRMA and the regulations adopted pursuant thereto;

d. in reviewing a local program for consistency with the state guidelines the secretary may make reasonable interpretations of the state guidelines, insofar as they affect that particular program, which are necessary because of local environmental condition or user practices. Local programs that may be inconsistent in part with the state guidelines may be approved notwithstanding the conflicts if the secretary finds that:

i. the local environmental conditions and/or user practices are justified in light of the goals of Act 361, (SLCRMA) the objectives of the LCRP, and the policies of the state guidelines;

ii. approval would result in only minimal and inconsequential variance from the objectives and policies of the Act and the guidelines; and

iii. the local program provides special methods to assure that the conflicts remain minimal and inconsequential;

e. the local program shall become effective when approved by the secretary and officially adopted by the local government.

E. Modifications

1. Any significant proposed alteration or modification to an approved local program shall be submitted to the secretary for review and approval along with the following:

a. a detailed description of the proposed change;

b. if appropriate, maps of sufficient scale and detail depicting geographically how the program would be changed;

c. an explanation of how the proposed change would better accommodate local conditions and better serve to achieve the objectives of the state program and the local program;

d. a resolution from the local government expressing approval of the modification as submitted and its intent to implement the change subsequent to state approval;

e. all parish ordinances relevant to the proposed modification;

f. any comments from governmental units that may be affected by the proposed modification;

g. the record of the public hearing on the proposed modification, including any written testimony or comments received; and

h. documentation that the parish has provided a full opportunity for governmental and public involvement in the development of the proposed modification.

2. Significant alterations or modifications shall be reviewed and approved pursuant to Subsection B, C, and D above. They must be consistent with the guidelines and the state program and meet all pertinent substantive and procedural requirements.

3. An alteration or modification shall become effective when approved by the secretary and officially adopted by the local government. If a proposed alteration or modification is not approved, the provisions of the previously approved program shall remain in effect unless specifically rejected by the governing body of the parish.

F. Periodic Review of Programs

1. Local governments shall submit an annual report on the activities of an approved local program. This annual report shall include:

a. the number, type, and characteristics of applications for coastal use and other permits;

b. the number, type, and characteristics of coastal use and other permits granted, conditioned, denied, and withdrawn;

c. the number, type, and characteristics of permits appealed to the courts;

d. results of any appeals;

e. a record of all variances granted;

f. a record of any enforcement actions taken;

g. a description of any problem areas within the state or local program and proposed solutions to any such problems;

h. proposed changes in the state or local program.

2. The administrator shall from time to time review the approved local programs to determine the extent to which the implementation of the local program is consistent with and achieving the objectives of the state and local programs. Each program shall be reviewed at least once every five years, but may be reviewed more frequently as determined by the secretary.

3. Should the secretary determine that any part of the local program is not consistent with the state program or is not achieving its stated objectives or is not effective, he shall notify the local government and recommend changes and modifications which will assure consistency with, and

achievement of, the objectives of the overall coastal program or improve the efficiency and effectiveness of the local program.

4. If the local government fails to give official assurance within one month after receipt of the secretary's notice that it intends to modify the local program in a timely manner to conform to these recommendations, or thereafter fails to make the necessary changes within three months, the secretary may, after public notice, revoke approval of the local program. In such an event the local government shall no longer have the authority to permit uses of local concern or otherwise carry out the functions of an approved program and will lose eligibility to receive management funds other than those funds appropriate and necessary to make the necessary changes. If and when the secretary determines that the local program has been appropriately modified to meet his recommendations pursuant to Subsection B above, he may, after public notice, reinstate approval.

G. Funding of Local Programs

1. All funds provided to local governments by the department for program development or implementation shall be subject to the following.

a. Any state or federal funds provided to local governments for development or implementation of approved local program shall be by contract with the department. Any such financial assistance shall be subject to these rules and any applicable federal requirements.

b. Such financial assistance shall be on a matching fund basis. The required local match shall be determined by the secretary.

c. Eligibility of a local government for such financial assistance shall be determined by the administrator pursuant to these rules and the contractual requirements of the department.

2. Program development assistance funding shall be subject to the following.

a. Funding for program development of local programs may be available. The level of such funding shall be at the discretion of the administrator and as provided for herein. A base level of funding may be made available to each parish in the coastal zone which does not have an approved program. Any unutilized allocated funds will be available for use by other parishes at the discretion of the administrator for program development.

b. To be eligible to continue receiving program development assistance, the local government must be making substantial progress toward finalization of an approvable local program.

c. Program development funds may only be used for costs incurred in applying for approval from the department, including printing and advertising, holding required public hearings, and making copies of the proposed local program available to governmental bodies and the public.

d. Program development assistance may be provided by the department for a maximum of two years or until a parish receives an approved local program, whichever is sooner.

3. Implementation assistance funding shall be subject to the following.

a. Funding for implementation of a local program shall be available after approval of the local program by the department. A local program shall be eligible for such assistance only so long as it continues to be an approved program.

b. The administrator shall establish and modify, as appropriate, a reasonable allocation formula utilizing objective criteria regarding the coastal zone of the parish.

c. Each parish with an approved program shall be assured of a base level of funding, with additional funding based upon the allocation formula.

d. Implementation funds may only be used to implement the approved local program, carry out planning for or development of approvable alterations or modifications in the local program, and to update or revise the data base utilized by the local program.

H. Written Findings. All findings and determinations required by these rules shall be in writing and made part of the record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:214.30.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 6:493 (August 1980), amended by the Department of Natural Resources, Office of Coastal Management, LR 47:1347 (September 2021).

Keith Lovell
Assistant Secretary

2109#010

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Agricultural Chemistry and Seed Commission

Industrial Hemp (LAC 7:XIII.Chapter 13)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority set forth in R.S. 3:1461 et seq., notice is hereby given that the Department of Agriculture and Forestry (“Department”), through the Office of Agricultural and Environmental Sciences, intends to amend LAC 7:XIII.1301, 1303, 1305, 1307, 1309, 1311, 1313, 1315, 1317, 1319, 1321, 1323, 1327, 1330, 1331, 1333, 1335, 1337 and 1341 of the Industrial Hemp Rules and Regulations. The proposed amendments are being made in accordance with Act 336 of the 2021 Regular Session, pertaining to recent changes in the Louisiana Industrial Hemp Law as it relates to: adding additional definitions, changing the words "contract carrier" to "handler", establishing a handler license, establishing planting report requirements, changing the term “federally defined THC level” to “acceptable industrial hemp THC level,” adding approval method for non-certified seed, adding additional prohibition line items, adding an industrial hemp research regulation, clarifying records requirement, adding a performance-based sampling section and adding a remediation provision in addition to the destruction option. A few of the provisions contain grammatical and formatting corrections as well.

Title 7 AGRICULTURE AND ANIMALS Part XIII. Seeds

Chapter 13. Industrial Hemp Subchapter A. General Provisions

§1301. Authority

A. The Louisiana Department of Agriculture and Forestry adopts these regulations under the authority of R.S. 3:1461 et seq. for the purpose of regulation, licensure, and enforcement of the cultivation, processing, and handling of industrial hemp.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1464.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:170 (February 2020), amended LR 47:

§1303. Definitions

A. ...

B. The following words and terms shall have the following meanings.

Acceptable Industrial Hemp THC Level—when the application of the measurement of uncertainty to the reported total delta-9 tetrahydrocannabinol content concentration level on a dry weight basis produces a distribution range that includes 0.3 percent or less.

Certificate of Analysis—Repealed.

Corrective Action Plan – a plan proposed by LDAF for correcting a negligent violation or non-compliance for any licensed industrial hemp grower, seed producer, handler or other person(s) found to be in violation of these rules.

Destruction Report—an official document issued by LDAF that must be completed by a licensed producer of industrial hemp and submitted to LDAF prior to destruction of any industrial hemp plot.

Federally Defined THC Level for Hemp—Repealed.

Grower—a licensee authorized to obtain industrial hemp seed, possess industrial hemp seed for planting cultivating, cultivate an industrial hemp crop, harvest industrial hemp plant parts, as well as possess, store, transport, and market unprocessed plant parts grown under their grower’s license, pursuant to this Chapter.

Handle or Handling—includes all of the following:

- a. transporting or delivering industrial hemp material in intrastate commerce for compensation;
- b. commercially harvesting, storing, or grinding industrial hemp material received from a grower;
- c. cleaning or packaging industrial hemp seed received from a seed producer;
- d. brokering industrial hemp material; or
- e. receiving industrial hemp material for testing.

Handler—a licensee authorized to engage in handling as defined herein.

Harvest Report—an official document issued by LDAF that must be completed by a licensed grower or seed producer of industrial hemp and submitted to LDAF prior to harvest of any industrial hemp plot.

Industrial Hemp—the plant *Cannabis sativa L.* and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a total delta-9 tetrahydrocannabinol concentration level of not more than 0.3 percent on a dry weight basis.

Industrial Hemp Plant Parts—any floral buds, leaves, roots, seeds, stalks, or stems of the plant *Cannabis sativa L.* with a total delta-9 tetrahydrocannabinol concentration level of not more than 0.3 percent on a dry weight basis.

Key Participants—Repealed.

LDAF—the Louisiana Department of Agriculture and Forestry.

License Application—a document executed by a person and LDAF authorizing the person to grow, handle, process, or store industrial hemp at one or more specified locations in

Louisiana under the terms set forth in the document, R.S. 3:1461 et seq., and this Chapter.

Licensee—any person possessing a handler, grower, processor or seed producer license issued by LDAF under the authority of this Chapter.

Negligence or *Negligent Violation*—failure to exercise the level of care that a reasonably prudent person would exercise in complying with the requirements set forth in this Chapter.

Non-Consumable Hemp—any product derived from industrial hemp that does not contain any cannabinoid, including cannabidiol, and is not intended for consumption or topical use.

Notice of Analysis—an official document issued by a laboratory approved by LDAF which includes, along with other sample information, the unique sample number and THC level test results of the submitted sample.

* * *

Processing—converting industrial hemp into a non-consumable, marketable form.

Processor—any licensed individual, partnership, corporation, cooperative association, or other business entity that receives industrial hemp for processing into non-consumable hemp commodities or products. Processor shall not include a consumable hemp processor as defined in R.S. 3:1481.

Prohibited Variety—an industrial hemp variety or strain that meets one or more of the following:

- a. more than 50 percent of official LDAF sample test results are above the 0.30 percent total THC concentration level;
- b. an official LDAF sample test result that is equal to or greater than 1.0 percent total THC;
- c. information in the public domain that supports the fact that the variety or strain is not industrial hemp.

Remediate or *Remediation*—the process of rendering non-compliant cannabis compliant by removing and destroying, in the presence of and by a method approved by LDAF, all flower material, while retaining stalk, stems, leaf material, and seeds, or by shredding the entire plant into a biomass-like material, then re-testing the shredded biomass material for compliance.

Research Institution—an accredited institution of higher learning or a research facility that conducts scientific research on industrial hemp, or any licensee producing industrial hemp for research purposes, when none of the industrial hemp grown is intended for commerce.

Seed Producer—a licensee authorized to obtain, produce, transport, and sell industrial hemp seed pursuant to this Chapter.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1462 and R.S. 3:1464.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:170 (February 2020), LR 47:438 (April 2021), amended LR 47:

Subchapter B. Licenses

§1305. Licensing

A. Each industrial hemp seed producer, grower, processor, or handler shall obtain a license from LDAF prior to engaging in the regulated activity.

B. - I. ...

J. The licensee shall submit to LDAF in writing any requests for license modification if there is any change to the information submitted in the application including but not limited to: sale of a business or any modifications to any information concerning the licensee's approved fields, greenhouses, indoor growing structures, or any other sites where that licensee stores, processes or handles industrial hemp plants or plant parts. Requests for license modifications shall be submitted to LDAF within 15 days of any change of the information submitted in the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1462, R.S. 3:1464, and R.S. 3:1465.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:171 (February 2020), LR 47:438 (April 2021); amended LR 47:

§1307. Seed Producer License

A. - C. ...

D. The application shall include, at a minimum, the following information for consideration:

1. type of license being requested as set forth in R.S. 3:1465;
2. applicant's full name, Louisiana mailing and physical address, telephone number, email address, and proof of identification;
3. physical address, legal description, location ID, and GPS coordinates for each field, greenhouse, indoor growing structure, or site where industrial hemp will be grown, handled, or stored;
4. if the applicant is a business entity:
 - a. the full name of the business;
 - b. the principal Louisiana business physical address;
 - c. the full name, title and email address of the individual applying for the license;
 - d. the full name, title, and email address of the designated responsible party;
 - e. the full name and mailing address of the registered agent; and
 - f. the employer identification number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1462, R.S. 3:1464, and R.S. 3:1465.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:171 (February 2020), LR 47:439 (April 2021), amended LR 47:

§1309. Grower License

A. ...

B. A grower license issued by LDAF shall authorize the licensee to obtain industrial hemp seed, possess industrial hemp seed for planting, cultivate an industrial hemp crop, harvest industrial hemp plant parts, as well as possess, store, transport, and market plant parts grown under their grower's license pursuant to this Chapter.

C. - C.1. ...

2. applicant's full name, Louisiana mailing and physical address, telephone number, email address, and proof of identification;
3. - 4.d. ...
 - e. the full name and mailing address of the registered agent; and
 - f. the employer identification number;
5. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1462, R.S. 3:1464, and R.S. 3:1465.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:172 (February 2020), LR 47:439 (April 2021), amended LR 47:

§1311. Processor License

A. No person shall process industrial hemp into a non-consumable product without first applying for and receiving an industrial hemp processor license from LDAF.

B. A processor license issued by LDAF shall authorize the licensee to possess, process, store, or transport industrial hemp plant parts for processing pursuant to this Chapter.

C. The application shall include, at a minimum, the following information for consideration:

1. applicant's full name, Louisiana mailing and physical address, telephone number, email address, and proof of identification;

2. if the applicant is a business entity:

a. - d. ...

e. the full name and mailing address of the registered agent; and

f. the employer identification number.

3. detailed maps, legal description, physical address, location ID, and GPS coordinates for each building or site where industrial hemp will be processed, handled, or stored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1462, R.S. 3:1464, and R.S. 3:1465.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:172 (February 2020), LR 47:439 (April 2021), amended LR 47:

§1313. Handler License

A. No person shall handle industrial hemp without first applying for and receiving an industrial hemp handler license from LDAF.

B. A handler license issued by LDAF shall authorize the licensee to:

1. transport or deliver industrial hemp in intrastate commerce for compensation;

2. commercially harvest, store, or grind industrial hemp material received from a grower;

3. clean or package industrial hemp seed received from a seed producer:

4. broker industrial hemp material; and

5. receive industrial hemp for testing.

C. The application shall require applicants to submit, at a minimum, the following information and documents:

1. applicant's full name, Louisiana mailing and physical address, telephone number, email address, and proof of identification;

2. if the applicant is a business entity:

a. - c. ...

d. the full name, title, and email address of the designated responsible party;

e. the full name and mailing address of the registered agent; and

f. the employer identification number.

3. detailed maps, legal description, physical address, location ID, and GPS coordinates for each building or site where industrial hemp will be cleaned, packaged, handled, or stored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1462, R.S. 3:1464, and R.S. 3:1465.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:172 (February 2020), amended LR 47:

§1315. Criminal Background Check

NOTE: See §1305.H.1-2 for criminal conviction prohibitions regarding licensure

A. The applicant for each seed producer, grower, processor, or handler license shall undergo and pay for an annual criminal background check.

B. If the applicant is a business entity, the individual applying for a license, and the designated responsible party shall undergo and pay for an annual criminal background check.

C. - E. ...

F. Substitution of a designated responsible party shall require the submission of a current criminal background check report for the proposed substituted designated responsible party issued within the last 60 days. Licensee must obtain prior written approval from LDAF for the substitution of a designated responsible party.

1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1464 and R.S. 3:1465.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:173 (February 2020), LR 47:439 (April 2021), amended LR 47:

Subchapter C. Fees

§1317. Licensing and Testing Fees

A. License Fees

1. The annual fee for a seed producer, grower, processor, and handler license shall be \$500 each.

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1464 and R.S. 3:1467.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:173 (February 2020), LR 47:439 (April 2021), amended LR 47:

Subchapter D. Seed Producers and Growers

§1319. Requirements for Seed Producers and Growers

A. ...

B. LDAF may sample and test any industrial hemp material in a licensee's possession at any time if there is reason to believe that a violation of this Chapter has occurred.

C. A licensee shall submit in writing a completed Harvest or Destruction report to LDAF within 15 days of the intended harvest date or intended destruction date of a failed crop.

D. Planting Reports

1. Grower licensees shall submit a completed first report of planting on a form provided by LDAF for all hemp plantings within 15 days of planting;

2. For all true seed production, seed producer licensees shall submit a completed first report of planting on a form provided by LDAF within 15 days of planting; and

3. For all vegetative stock plantings, seed producer licensees shall submit a completed quarterly planting report on a form provided by LDAF on or before March 31, June 30, September 30, and December 31 of each year.

E. Representatives of LDAF shall be provided with complete and unrestricted access to all industrial hemp

plants, whether growing or harvested, and all land, buildings, and other structures used for the cultivation, handling, and storage of all industrial hemp plants and all locations listed in the license application.

F. An industrial hemp crop shall not be harvested more than 30 days following the date of sample collection by LDAF, unless specifically authorized in writing by LDAF.

G. An industrial hemp crop planted or cultivated in a field, greenhouse, or indoor growing structure shall be planted or cultivated in a manner to allow LDAF to collect a representative sample throughout the entire crop. If a crop is not planted or cultivated in such a manner that allows for the collection of a sample throughout the entire crop, then the grower shall make modifications to the crop to allow collection and sampling throughout the entire crop.

H. A licensee shall destroy any unharvested industrial hemp plants contained in a field, greenhouse, or indoor growing structure or any portion thereof resulting from crop failure or that licensee's failure to harvest for any reason. LDAF shall approve the written destruction method of the unharvested industrial hemp plants.

I. A licensee shall monitor and destroy volunteer industrial hemp plants from the licensee's cultivation for a period of three years after cultivation ends.

J. A licensee who fails to timely submit a Harvest or Destruction Report or who harvests a crop prior to a sample being collected by LDAF may be subject to crop destruction and regulatory action up to and including license revocation.

K. Licensed seed producers and growers shall report industrial hemp crop acreage or square footage to the USDA Farm Service Agency and shall provide, at a minimum, the following information:

1. street address and, to the extent practicable, GPS location for each field, greenhouse, or indoor growing structure where industrial hemp will be cultivated;

2. acreage or square footage for each field, greenhouse, or indoor growing structure dedicated to the cultivation of industrial hemp; and

3. LDAF license number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1464, R.S. 3:1467, and R.S. 3:1468.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:173 (February 2020), LR 47:439 (April 2021), amended LR 47:

§1321. Seed Acquisition and Approval

A. - B.1. ...

2. seed originating from a Louisiana licensed seed producer or handler, or an out-of-state person authorized to produce hemp seed by the USDA or under an approved state plan pursuant to the Agriculture Improvement Act of 2018, P.L. 115-334, or under an authorized state pilot program pursuant to the Agriculture Improvement Act of 2014, P.L. 113-79, and that is accompanied by the following official documentation:

- a. certificate of analysis issued by a third party independent laboratory showing that the industrial hemp from which the seed was harvested had a THC concentration of not more than the acceptable industrial hemp THC level;

B.2.b. - E. ...

F. No person shall sell or transfer industrial hemp seed to any person in Louisiana without first verifying that the person receiving the seed is licensed by LDAF.

G. No person shall buy or otherwise acquire industrial hemp seed from any person in Louisiana without first verifying that the person distributing the seed is a seed producer or handler licensed by LDAF.

H. Upon request from LDAF, a licensed seed producer shall provide a seed distribution list within 48 hours of the request showing locations where and to whom industrial hemp seed was distributed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1431, R.S. 3:1436, R.S. 3:1445, 3:1463, R.S. 3:1464, R.S. 3:1465, and R.S. 3:1466.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:174 (February 2020), LR 47:440 (April 2021), amended LR 47:

Subchapter E. Restrictions and Prohibitions

§1323. Land Use Restrictions

A. A licensee shall not grow, handle, process, or store industrial hemp in any structure that is used or appears to be used for residential purposes.

B. A licensee shall not grow, handle, process or store industrial hemp in any outdoor field or site that is located within 1,000 feet of a school, daycare or similar public areas frequented by children as determined by LDAF.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1464 and R.S. 3:1465.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:175 (February 2020), LR 47:440 (April 2021), amended LR 47:

§1327. Prohibitions

A. - A.10. ...

11. sell or transfer, or permit the sale or transfer of living industrial hemp plants or plant parts to a person in the state who does not hold an industrial hemp license issued by LDAF;

12. commingle harvested industrial hemp plant parts from one plot with harvested industrial hemp plant parts from another plot prior to receipt of compliant THC concentration level test results from LDAF;

13. commingle different varieties of industrial hemp plants in a single plot; or

14. adulterate industrial hemp plants or plant parts in any manner that renders it non-compliant with this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1464, R.S. 3:1465, R.S. 3:1466, R.S. 3:1467, R.S. 3:1468, R.S. 3:1470, and R.S. 3:1471.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:175 (February 2020), LR 47:440 (April 2021), amended LR 47:

Subchapter F. Reporting, Research, and Record-Keeping

§1330. Industrial Hemp Research

A. Except for those entities exempted pursuant to R.S. 3:1469, all research institutions who intend to perform industrial hemp research shall possess a valid license with LDAF, and submit an annual industrial hemp research plan to LDAF. The research plan shall include, but not be limited to, the following information:

1. a detailed research summary outlining the purpose and objectives that demonstrates to LDAF's satisfaction that research of hemp is being performed;

2. all locations where industrial hemp research will be conducted;

3. strain(s) and/or variety(ies) of industrial hemp used in the research;

4. a timeline of all research activities;

5. a destruction plan for all cannabis plants involved in the research;

6. results of hemp-related research information and findings conducted by the licensee during the previous 12-month period. Trade secret or patent information developed from hemp research may be omitted from the annual research plan so long as it is necessary for the research institution to protect such information; and

7. any other information as may be requested by LDAF.

B. No industrial hemp research shall be performed without first obtaining written approval of a research plan from LDAF;

C. No industrial hemp research shall be performed on strains or varieties not pre-approved by LDAF;

D. Any change(s) to the research plan must be submitted in writing to, and approved by, LDAF prior to implementation of the change(s);

E. Industrial hemp or industrial hemp plant parts grown for research purposes shall not be offered for sale or enter the stream of commerce, except as otherwise provided in this Chapter;

F. Industrial hemp grown for research purposes shall be subject to the inspection, record keeping, sampling, and testing requirements as set forth in this Chapter;

G. Licensees producing industrial hemp for both commercial and research purposes at the same location shall meet the following minimum isolation requirements between commercial and research plants and plant parts:

1. material grown or stored indoors shall be separated at all times by contiguous walls extending from the floor to the structure's ceiling; and

2. material grown or stored outdoors shall be separated by a minimum distance of twenty (20) feet at all times;

H. Each industrial hemp lot and harvested plant material produced for research purposes shall be plainly and clearly identified with the following information;

1. "for research purposes," and

2. the name of the strain or variety.

I. Research institutions shall be assessed a negligent violation if the THC content of a sample collected by LDAF exceeds 1 percent total delta-9 tetrahydrocannabinol. Research institutions shall not receive more than one negligent violation in a growing season.

J. If during the course of cultivation, the research institution decides to convert an industrial hemp research plot into commercial production, then the plot shall comply with the sampling and testing requirements set forth in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1464 and R.S. 3:1469.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 47:

§1331. Records

A. - A.2. ...

3. for seed producers and growers, documentation of traceability from seed acquisition to harvest or crop termination; and

4. ...

B. All licensees transporting or delivering industrial hemp or industrial hemp plant parts shall have a copy of their license(s) in their possession at all times during transport or delivery.

C. Any person transporting or delivering industrial hemp or industrial hemp plant parts entered into commerce shall also have a dated invoice, bill of lading, or manifest in his or her possession at all times during transport or delivery, which shall include:

1. the seller's and purchaser's name and address;

2. the specific origin and destination of the industrial hemp being transported; and

3. the quantity of industrial hemp being transported.

D. All records required under R.S. 3:1466 and this Chapter shall be maintained by the licensee while the license is valid and for a minimum of three years after the expiration of the license

E. Required records shall be provided for inspection within 48 hours upon request by LDAF.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1464 and R.S. 3:1466.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:176 (February 2020), amended LR 47:

Subchapter G. Inspections

§1333. Site Access and Compliance

A. When there is reason to believe that a violation of any provision of R.S. 3:1461 et seq. or this Chapter has occurred, the commissioner or his authorized agent(s) shall have access, during normal working hours, to any premises where industrial hemp plants or plant parts are transported, produced, cultivated, handled, and/or stored for the purpose of inspection, investigation, and/or collection of samples for testing. The commissioner or his authorized agent(s) may inspect and/or sample any industrial hemp seed, plant, or plant parts located on the premises. LDAF shall not charge a testing fee for samples collected pursuant to an investigation initiated by LDAF.

B. LDAF shall conduct inspections, at least annually, of a random sample of licensees to verify that industrial hemp is not being produced in violation of this R.S. 3:1461 et seq., or this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1464 and R.S. 3:1468.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:176 (February 2020), amended LR 47:

Subchapter H. Sampling, Testing, Remediation, and Destruction

§1335. THC Sampling and Testing

A. All industrial hemp plants or plant parts, whether harvested or unharvested, shall be subject to sampling and testing for THC levels by LDAF as set forth in this Section.

B. ...

C. Sample Collection

1. Licensees shall submit a Harvest Report for each field, greenhouse or indoor growing structure to LDAF prior to harvesting any industrial hemp plants.

2. - 5. ...

6. All samples collected by LDAF become the property of the LDAF and are non-returnable. No compensation shall be owed by LDAF for samples collected under this Chapter.

7. ...

8. The licensee shall harvest industrial hemp plants or plant parts within 30 days of the sample collection by LDAF, unless an exception is authorized in writing by LDAF. Should a licensee fail to complete harvest within 30 days and no exception was authorized by LDAF, a second sample and test of the plot shall be performed and the licensee shall be assessed an additional testing fee per sample in an amount not to exceed \$250 per sample.

D. Performance-based Sampling

1. Industrial hemp lots produced for research purposes may not be subject to sampling and testing requirements outlined in this Section when all of the following requirements are met:

a. LDAF has a confidence level that 95 percent of the industrial hemp plants in each lot subject to alternate method will not test above the acceptable industrial hemp THC level;

b. no industrial hemp will enter the stream of commerce;

c. the research institution has submitted and received written approval of an industrial hemp research plan from LDAF;

d. the research institution maintains records documenting the strain or variety's compliance with the acceptable industrial hemp THC level.

2. LDAF may inspect, sample, and test any industrial hemp plants or plant parts, at any time to ensure compliance with this Chapter.

3. LDAF shall conduct random inspections, including records reviews on research institutions, regardless of whether or not they are subject to the sampling and testing requirements.

E. Laboratory Testing

1. Quantitative determination of THC levels measured using liquid chromatography with ultraviolet detection (LC-UV) or mass spectral detection if required by matrix interference (LC/MS/MS) shall be the accepted analytical technique to avoid the risk of incomplete decarboxylation, therefore, removing the need for any post-decarboxylation.

2. The testing methodology shall consider the potential conversion of THC-A in industrial hemp into THC and the test result shall measure the total available THC derived from the sum of the THC and THC-A content. Appropriately, the THC-A result will be modified by the molecular weight conversion factor 0.877 prior to summation with THC. The total THC concentration level shall be reported on a dry weight basis.

3. Analytical testing for purposes of detecting the concentration levels of THC shall meet the following standards:

a. laboratory quality assurance must ensure the validity and reliability of test results;

b. analytical method selection, validation, and verification must ensure that the testing method used is appropriate (fit for purpose), and that the laboratory can successfully perform the testing;

c. the demonstration of testing validity must ensure consistent, accurate analytical performance;

d. method performance specifications must ensure analytical tests are sufficiently sensitive for the purposes of detectability requirements of this Chapter;

e. an effective disposal procedure in accordance with DEA regulations for samples of industrial hemp plants and industrial hemp plant parts that do not meet the requirements of R.S. 3:1461 et seq. or this Chapter.

f. the measurement of uncertainty shall be estimated and reported with the results.

4. All testing of industrial hemp samples shall be conducted by LDAF or by any public postsecondary education institution in which LDAF has entered into a contract, cooperative endeavor agreement, memorandum of understanding, or other agreement for THC testing.

5. The results of the THC analysis shall be reported to the licensee and, if tested by an approved third party laboratory, to LDAF.

6. A notification of analysis shall be issued for samples with a THC concentration that do not exceed the acceptable industrial hemp THC level and no further action shall be required. The plot or harvested plant material from which the sample was obtained shall be released for marketing or further processing.

7. A notification of analysis shall be issued for samples that exceed the acceptable industrial hemp THC level and a licensee may request a resample of any harvested cannabis that has undergone remediation as set forth in Section 1337 of this Chapter. If no request is made within 10 calendar days of the sample results being reported to the licensee, or the retested sample results exceed the acceptable industrial hemp THC level, then the plot or harvested plant material from which the sample was taken shall be subject to destruction as set forth in §1337.

8. No industrial hemp plants or plant parts for which a THC analysis is pending shall be transferred, transported, sold, marketed, or otherwise disposed of until approved by LDAF.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1462, R.S. 3:1464, R.S. 3:1467, and R.S. 3:1468.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:177 (February 2020), LR 47:440 (April 2021), amended LR 47:

§1337. Remediation and Destruction

A. All industrial hemp plants or plant parts that are non-compliant with the acceptable industrial hemp THC level shall be remediated or destroyed in compliance with this Chapter.

B. Producers may choose to remediate any non-compliant industrial hemp plants by one of the following methods:

1. removing and destroying all flower material, while retaining stalk, stems, leaf material, and seeds; or

2. shredding the entire plant into a biomass-like material.

C. All remediated industrial hemp plants or plant parts shall be resampled and tested for THC concentration levels, and shall comply with the acceptable industrial hemp THC level.

D. Industrial hemp plants or plant parts that are not in compliance with the acceptable industrial hemp THC level after remediation shall be:

1. prohibited from being further handled, processed, or entered into the stream of commerce; and

2. destroyed in accordance with the USDA AMC published list of Hemp Disposal Activities. The method of destruction shall be approved by LDAF.

E. Licensees shall submit a Destruction Report for each plot to LDAF prior to destruction. LDAF shall approve the method of destruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1462, R.S. 3:1464, R.S. 3:1467, and R.S. 3:1468.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:177 (February 2020), amended LR 47:

Subchapter I. Enforcement

§1341. Corrective Action Plan for Negligent Violations and Mandatory Reporting

A. In addition to being subject to license suspension, license revocation, civil penalties, and industrial hemp destruction, a person who is determined by LDAF to have negligently committed the following violations may be subject to a corrective action plan:

1. - 2. ...

3. producing industrial hemp exceeding the acceptable hemp THC level. A person that has made reasonable efforts to grow industrial hemp and produces industrial hemp of containing less than 1.0 percent THC on a dry weight basis shall not be deemed to have committed a negligent violation.

B. - C. ...

D. A person who is determined by LDAF to have negligently violated R.S. 3:1461 et seq. and this Chapter three times in a five-year period shall be ineligible to hold an industrial hemp license for a period of five years beginning on the date of the third violation.

E. ...

F. Licensed growers and seed producers of industrial hemp shall not receive more than one negligent violation per growing season.

G. LDAF shall report a person who is found by LDAF to have violated R.S. 3:1461 et seq. and this Chapter with a culpable mental state greater than negligence to the USDA, United States Attorney General, and the Louisiana Attorney General within 30 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1464.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:178 (February 2020), amended LR 47:

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 Statement

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 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, data, opinions and arguments regarding the proposed Rules via U.S. Mail or hand delivery. Written submissions must be directed to Lester Cannon, Director of the Seed Programs, Department of Agriculture & Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806 and must be received no later than 4:00 p.m. on October 10, 2021. All written comments must be signed and dated.

Mike Strain, DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Industrial Hemp

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules will have no associated costs or saving to the Louisiana Department of Agriculture and Forestry

(LDAF) other than the cost of rule promulgation in FY 22, which is normally included in the department's annual operating budget. The proposed rules will have no associated costs or savings to local governmental units. The rules are being proposed in accordance with Act 336 of the 2021 Regular Session, pertaining to recent changes in the Louisiana Industrial Hemp Law. The proposed rules bring the existing rules in compliance with the new law. The proposed rule amends LAC 7:XXIII.1301, 1303, 1305, 1307, 1309, 1311, 1313, 1315, 1317, 1319, 1321, 1323, 1327, 1330, 1331, 1333, 1335, 1337 and 1341 of the Industrial Hemp Rules and Regulations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules remove the authority of LDAF to license processors of consumable hemp products, which is anticipated to decrease revenue by \$16,000. The proposed rules are not anticipated to have any effect on revenue collections for local government entities. The proposed rules do not add any additional fees.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Under the proposed rules, LDAF will no longer license processors of consumable hemp products. Therefore, processors of consumable hemp products are anticipated to realize a savings of \$16,000 in licensing fees.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Implementation of the proposed rules is not anticipated to impact competition and employment.

Dane Morgan
Assistant Commissioner
2109#030

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

Restrictions on Application of Certain Pesticides (LAC 7:XXIII.1103)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., and pursuant to the authority set forth in R.S. 3:3203, notice is hereby given that the Louisiana Department of Agriculture and Forestry ("Department") intends to amend LAC 7:XXIII.1103 to repeal the herbicide application permitting program for the Sabine River Authority as it pertains to Giant Salvinia on and around the Toledo Bend Reservoir and to repeal the herbicide application permitting program on and around the waters of Lake Bistineau. The Sabine River Authority and the Louisiana Department of Wildlife and Fisheries have both requested that these rules be repealed. These rules were originally enacted in 2011 and required private citizens wishing to apply approved aquatic herbicides to nuisance vegetation (Giant Salvinia) located on their property on the Toledo Bend Reservoir or Lake Bistineau to attend an in-person training, submit records and retain those records. There has been very little spray effort by private individuals and no requests for additional training by uncertified citizens and the use of this herbicide program has not been active in many years. It is the opinion of the Department that the EPA rules already in place that govern the public's ability to apply aquatic herbicides to their private property are sufficient to govern any such activities

on these lakes and these administrative rules are no longer necessary.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticides

Chapter 11. Regulations Governing Application of Pesticides

§1103. Restrictions on Application of Certain Pesticides

A. - I. ...

J. No person shall apply, use, or incorporate the use of any herbicide, as defined in §103, including but not limited to, those registered with and/or approved by the U.S. Environmental Protection Agency or the department, for the management, control, eradication or maintenance of weeds, grass, trees, shrubs, foliage, vegetation or other natural growth in any parish right-of-way, ditch, servitude, drainage area, roadside, road shoulder, green area, buffer zone, waterway, neutral ground or median in the unincorporated areas of St. Tammany Parish.

1. Definitions as used in this Subsection

Ditch—natural or dedicated area which provides for the containment or flow of water from rain or adjacent drainage areas or waterways such as streams, creeks, ponds, lakes or rivers.

Drainage Area—an area maintained for the purpose of channeling or preventing accumulation of water from surrounding land.

Easement—a designated right to use the property of another for a specific purpose, i.e., drainage, utility easement.

Median/Neutral Ground—the area dividing or separating a roadway and not used for right of passage.

Right-of-Way—any public way, street, road, alley, easement, servitude or access, which was dedicated to or acquired by the St. Tammany Parish to provide means of access to abutting properties; whether paved, improved or unimproved, including those areas dedicated for proposed or future uses.

Roadside/Road Shoulder—natural or dedicated areas which are parallel, contiguous to, abut, adjoin, border, edge, connect or approach any public right-of-way, road, street or highway.

Servitude—a right-of-way through or across property belonging to another.

2. Exemptions are hand held manual pump sprayers up to a maximum three-gallon capacity.

K. An ultra low volume (ULV) malathion and a ULV pyrethroid insecticide (tank mixed) may be applied to control plant bugs in cotton only between sunrise on May 15 through sunrise on September 15 of each year, subject to the following.

1. Applications shall be made at no less than seven-day intervals at an application rate not to exceed the individual pesticide product labels and with no other dilutions or tank mixes.

2. Each application shall be reported, in writing and within 24 hours of the application, to the appropriate Boll Weevil Eradication Program district office by the farmer, agricultural consultant or owner/operator.

3. The report shall include the names and addresses of the farmer, agricultural consultant (if appropriate), owner/operator and applicator; the applicator's number

issued by the department; the field name or number; the number of acres treated; the name and EPA registration number of the pesticide product; and the application date and time.

N. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:189 (April 1983), amended LR 10:196 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), LR 19:1119 (September 1993), LR 21:668 (July 1995), LR 24:281 (February 1998), LR 24:2076 (November 1998), LR 26:1428 (July 2000), LR 26:1966 (September 2000), LR 27:279 (March 2001), LR 27:1672 (October 2001), LR 33:1855 (September 2007), LR 35:628 (April 2009), LR 36:1980 (September 2010), LR 37:269 (January 2011), LR 37:809 (March 2011), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3478 (December 2011), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 38:1556 (July 2012), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 42:732 (May 2016), LR 47:

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 impact 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;
5. the effect on taxes and tax credits;
6. 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 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 impact 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, data, opinions and arguments regarding the proposed Rule via U.S. Mail or hand delivery. Written submissions must be directed to Harry Schexnayder, Director of the Division of Pesticide and Environmental Programs, Department of Agriculture and Forestry, 5825 Florida Blvd., Suite 3000, Baton Rouge, LA 70806 and must be received no later than 4:00 p.m. on October 10, 2021. All written comments must be signed and dated.

Mike Strain, DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Restrictions on Application of Certain Pesticides

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules will have no associated costs or saving to the Louisiana Department of Agriculture and Forestry (LDAF) other than the cost of rule promulgation in FY 22, which is normally included in the department's annual operating budget. The proposed rules will have no associated costs or savings to local governmental units. The proposed rules repeal two provisions that require private property owners on the Toledo Bend Reservoir or Lake Bistineau to complete a training program prior to applying herbicide to Giant Salvinia (an aquatic nuisance vegetation) located on their property.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules are not anticipated to have any effect on revenue collections for state or local government entities.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated additional costs or economic benefits to affected small businesses, or non-governmental groups as a result of the proposed rules. Citizens who live along the banks of the Toledo Bend Reservoir or Lake Bistineau would no longer be required to attend an in-person training or keep training records if they decided to treat the Giant Salvinia along the banks of their property with a herbicide, but they are still required to follow the EPA guidelines for private applicators.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules are not anticipated to impact competition and employment.

Dane Morgan
Assistant Commissioner
2109#031

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of Agro Consumer Services**

**Weights and Measures
(LAC 7:XXXV.113, 123, 125, and 127)**

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority set forth in R.S. 3:4603, R.S. 3:4606, 4607, 4608, and R.S. 3:4622, notice is hereby given that the Department of Agriculture and Forestry (“department”) and the Weights and Measures Commission intends to adopt the rule change set forth below by amending LAC 7:XXXV.101, 113, 123, 125, and 127.

The Weights and Measures program has adopted by reference the standards and requirements set forth by the National Institute for Standards and Technology (NIST) in its Handbook 44, which is an industry-accepted publication.

The amendment to Section 113 is being repealed as it contains obsolete and unnecessary language. The department has adopted NIST Handbook 44 “Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices” which addresses the suitability of scales of all kinds, including scales used to purchase aluminum cans.

The amendment to Section 123 aligns the licensing dates for weighmaster licenses with all the other Weights and Measures licenses (January 1 through December 31).

The amendment to Section 125 sets the annual fees for registration of commercial weighing devices based on Act 145 of the 2021 Regular Legislative Session, which amends and reenacts R.S. 3:4622(B)(1) through (3), (C), and (E). Act 145 amended the fee schedule set forth in R.S. 3:4622 to increase the existing fees for registration of commercial weighing devices and sets a statutory range for the new fees. Previously, the statutory language established set fees. The proposed amendment to this section establishes set fees within the new statutory fee range.

The amendment to Section 127 adds late fees for late payment of weighmaster, service agency, and service technician licenses. Currently, these types of licenses have no late fees and are often paid after the deadline of December 31, as set forth in LAC 7:XXXV.127(F), for all other Weights and Measures licenses.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

§113. Scales for Use with Purchases of Aluminum

Cans

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1532 (December 1993). Repealed LR 47:

§123. Weighmaster

A. - B. ...

C. The effective dates of all weighmaster licenses shall be January 1 through December 31 of any given year, and licenses must be renewed annually. Applications for

weighmaster licenses may be submitted to LDAF at any time during the year, and are effective upon approval by LDAF through the end of that year.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4603 (formerly R.S. 55:3).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Commission of Weights and Measures, LR 13:158 (March 1987), amended LR 19:1533 (December 1993), LR 47:

§125. Weights and Measures Fee Structure

A. - H. ...

I. The annual fee for registration of commercial weighing devices shall be as follows:

Category	Device Capacity	Annual Fee
1	Zero to 1,000 pounds	\$50
2	Over 1,000 pounds to 10,000 pounds	\$115
3	Over 10,000 pounds	\$215

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608 and 3:4622.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1534 (December 1993), amended LR 23:857 (July 1997), LR 30:1142 (June 2004), LR 42:218 (February 2016), LR 42:1649 (October 2016), LR 47:852 (July 2021), LR 47:

§127. Registration

A. Each commercial weighing and measuring device in use in Louisiana, and every weighmaster, service agency, and service technician currently active in Louisiana, shall be registered as required by this Chapter.

B. - E.5. ...

F. A late fee of \$25 will be assessed for each commercial weighing and measuring device, weighmaster, service agency, and service technician, when the application is submitted after December 31, with a maximum penalty of \$100 per location.

G. - R. ...

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Commission of Weights and Measures, LR 13:158 (March 1987), amended LR 15:78 (February 1989), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1534 (December 1993), LR 23:857 (July 1997), LR 41:2098 (October 2015), LR 42:1649 (October 2016), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services LR 47:562 (May 2021), LR 47:

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

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 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, data, opinions and arguments regarding the proposed Rule. Written submissions must be directed to Paul Floyd, Weights and Measures Program, Department of Agriculture and Forestry, 5825 Florida Boulevard, Suite 5000, Baton Rouge, Louisiana, 70806, and must be received by no later than 4:00 p.m. on the 10th day of October, 2021.

Mike Strain, DVM
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: *Weights and Measures***

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes are intended to clarify current rules and regulations and eliminate outdated and conflicting provisions of current rules. The proposed rule changes to Sections 125 and 127 will have an estimated cost of \$500 in FY 22. This cost includes the time spent to update registration forms, software, website pages, and internal documents to reflect the fee increases and changes to late fees.

The proposed rule changes to Sections 101, 113, and 123 are not anticipated to have a cost or savings to the Louisiana Department of Agriculture and Forestry ("LDAF"), other than the cost of promulgation for FY 22, which is normally include the agency's annual operating budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes to Sections 125 and 127 are estimated to increase revenue collections in the amount of \$394,030 based on analysis by LDAF staff and internal auditor. The proposed rule changes to Sections 101, 113, and 123 are not anticipated to increase or decrease revenue collections of state or local governmental units. The proposed rule changes are intended to clarify current rules and regulations and eliminate outdated and conflicting provisions of current rules.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes to Sections 125 and 127 are estimated to cost licensees a total of \$394,030. The proposed fee increases are as follows:

- Section 125: Category 1 (Small) Scales - fee increase from \$35 to \$50
- Category 2 (Medium) Scales - fee increase from \$80 to \$115
- Category 3 (Large) Scales - fee increase from \$185 to \$215
- Section 127: Late fee of \$25 will be extended to include Weighmaster, Service Agency, and Service Technician licenses.

The proposed rule changes to Sections 101, 113, and 123 are not anticipated to increase or decrease costs to the market.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes are not anticipated to influence competition or employment.

Dane Morgan
Assistant Commissioner
2109#065

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Children and Family Services
Economic Stability Section**

TANF Grant Amounts
(LAC 67:III.1229, 5329, and 5703)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953(A), the Department of Children and Family Services (DCFS) proposes to amend LAC 67:III, Subpart 2, Section 1229 Income; Subpart 13, Section 5329 Income; and Subpart 16, Section 5703 Program Administration.

Pursuant to Louisiana's Temporary Assistance for Needy Families (TANF) Block Grant, the department considers these amendments necessary to facilitate the expenditure of TANF funds for FITAP and KCSP.

Amendment of Section 1229 is required to increase the FITAP flat grant amounts. Amendment of Section 5329 is required to update the KCSP child's monthly countable income threshold from \$222 to \$450, and to update the KCSP payment amount from \$222 per month to \$450 per month for each eligible child. Amendment of Section 5703 is required to maintain compliance with Act 209 of the 2021 Regular Session of the Louisiana Legislature, which allows the department more flexibility in the coordination and delivery of services, and removes the requirement to provide workers' compensation and liability insurance coverage for participants engaged in work experience or community service activities.

**Title 67
SOCIAL SERVICES**

Part III. Economic Stability

Subpart 2. Family Independence Temporary Assistance Program

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§1229. Income

A. - B.2. ...

C. Earned Income Deductions. Each individual in the income unit who has earned income is entitled to the following deductions only:

1. standard deduction of \$120;

2. \$900 time-limited deduction. This deduction is applied for six months when a recipient's earnings exceed the \$120 standard deduction. The months need not be consecutive nor within the same certification periods. The deduction is applicable for a six-month lifetime limit for the individual;

3. dependent care deduction. Recipients may be entitled to a deduction for dependent care for:

- a. an incapacitated adult;
- b. a child who is included in the filing unit; or
- c. effective May 1, 2006, the amount charged by a child care provider that exceeds the CCAP maximum for a child in care.

D. Flat Grant Amounts, effective January 1, 2022

Number of Persons	Flat Grant Amount
1	\$244
2	\$376
3	\$484
4	\$568
5	\$654
6	\$732
7	\$804
8	\$882
9	\$954
10	\$1,024
11	\$1,102
12	\$1,180
13	\$1,260
14	\$1,340
15	\$1,424
16	\$1,514
17	\$1,582
18	\$1,678
18+	See NOTE 1

NOTE 1: To determine the amount for households exceeding 18 persons, add the flat grant amount for the number in excess of 18 to the flat grant amount for 18 persons and subtract \$100.

E. - G ...

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq., and 10602(c), R.S. 36:474, R.S. 46:231.1(B), R.S. 46:231.2, P.L. 108-447, Act 16, 2005 Reg. Session, and 7 CFR 273.2(j).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999), amended LR 26:1342 (June 2000), LR 26:2831 (December 2000), LR 31:2956 (November 2005), LR 32:1616 (September 2006), LR 32:1912 (October 2006), LR 34:2678 (December 2008), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2524 (November 2010), amended by the Department of Children and

Family Services, Economic Stability Section, LR 40:1675 (September 2014), LR 42:1651 (October 2016), LR 44:444 (March 2018), LR 47:

**Subpart 13. Kinship Care Subsidy Program (KCSP)
Chapter 53. Application, Eligibility, and Furnishing Assistance**

Subchapter B. Conditions of Eligibility

§5329. Income

A. - B.3. ...

C. Income after Pretest. The child is determined eligible for KCSP if the child's monthly countable income is, effective January 1, 2022, less than \$450. If the child's monthly countable income is, effective January 1, 2022, \$450 or more, the child is ineligible.

D. Payment Amount

1. Effective January 1, 2022, the KCSP basic assistance payment amount is \$450 per month for each eligible child.

2. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq. and 10602(c), R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237, and P.L. 108-447, Act 16, 2005 Reg. Session, 7 CFR 273.2(j).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:353 (February 2000), amended LR 26:2832 (December 2000), LR 31:2958 (November 2005), LR 32:1617 (September 2006), LR 32:1913 (October 2006), repromulgated LR 32:2098 (November 2006), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2537 (November 2010), LR 38:1390 (June 2012), amended by the Department of Children and Family Services, Economic Stability Section, LR 45:1443 (October 2019), LR 47:

Subpart 16. Strategies to Empower People (STEP) Program

Chapter 57 Strategies to Empower People (STEP) Program

Subchapter A. Designation and Authority of State Agency

§5703. Program Administration

A. The Department of Children and Family Services (DCFS) shall develop, implement, and administer STEP as the employment program for work-eligible recipients of the Family Independence Temporary Assistance Program (FITAP) in accordance with the provisions of the Federal Welfare Reform Act and make available to eligible FITAP recipients the allowable work, training, and education activities of the STEP Program.

B. Prior to receipt of FITAP, a work-eligible participant shall be notified in writing of program expectations and participant responsibilities. When possible, notification may be delivered via e-mail or other electronic means, and notification delivered in this manner shall be deemed to satisfy the written notification requirement established in this Chapter.

C. DCFS may collaborate with the Louisiana Workforce Commission (LWC) to identify and coordinate employment services for the program. Employment services may be delivered pursuant to performance-based contracts between the department and LWC, other government agencies, or any community partner.

D. A grievance procedure is available for resolving displacement complaints by regular employees or their representatives relating to STEP participants. A grievance

procedure is also available for resolving complaints by, or on behalf of, STEP participants in a work-related activity. This grievance procedure hears complaints relating to on-the-job working conditions and workers' compensation coverage.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:497 (March 2004), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1676 (September 2014), LR 47:

Family Impact Statement

The proposed Rule is not anticipated to have an adverse impact on family formation, stability, and autonomy as described in R.S. 49:972. This rule is anticipated to help alleviate poverty for those participating in the program.

Poverty Impact Statement

The proposed Rule is not anticipated to have a significant negative 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 the Regulatory Flexibility Act.

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, October 26, 2021, to Shavana Howard, Assistant Secretary of Family Support, Department of Children and Family Services, P.O. Box 94065, Baton Rouge, LA 70804.

Public Hearing

A virtual public hearing on the proposed Rule will be held at 11 a.m. on October 26, 2021, by the Department of Children and Family Services. All interested persons will be afforded an opportunity to submit data, views, or arguments via PC, Mac, Linux, iOS or Android at <https://stateoflacfcs.zoom.us/j/81245514862?pwd=MIJHR3J6YzlaUmFHQW51czdLV0RKZz09> using password 725878; via telephone by dialing (713) 353-0212 and entering conference code 430033. To find local AT&T numbers visit <https://www.teleconference.att.com/servlet/glbaccess?process=1&accessNumber=USA7133530212&accessCode=430033>. Individuals with disabilities who require special services should contact the DCFS Appeals Unit at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Marketa Garner Walters
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: TANF Grant Amounts

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

In FY 22, the Department of Children and Family Services (DCFS) will incur \$5,832,637 in Federal Funds costs from TANF associated with this rule change. This cost will be annualized in future fiscal year. Additionally, there will be a one-time cost of \$1,172 (Federal) in FY 22 associated with the publication of this rule.

Family Independence Temporary Assistance Program (FITAP) Cash Benefits (\$2,765,847 increase)

The proposed rule change doubles the maximum monthly benefit for FITAP recipients. As of October 2020, there were 2,197 FITAP cases (5,553 recipients) with an average monthly benefit of \$209.82 per case, for total benefit payments of \$460,975 per month or \$5,531,695 per year. The effect of the proposed rule increases the average monthly benefit per case to \$419.64. The total estimated cost of the increase is \$2,765,847 in FY 22, which will be annualized to \$5,531,695 in future fiscal years.

Kinship Care Subsidy Program (KCSP) (\$3,094,416 increase)

The proposed rule also increases the maximum kinship care monthly subsidy amount from \$222 to \$450. As of October 2020, there were 2,262 recipients with a monthly benefit of \$222 per recipient, for total benefit payments of \$515,736 per month or \$6,188,832 per year. The effect of the proposed rule increases the monthly benefit per case by \$228. The total estimated cost of the increase is \$3,094,416 in FY 22, which will be annualized to \$6,188,832 in future fiscal years.

Workers' Compensation coverage (\$27,626 decrease)

The proposed rule removes the requirement that DCFS must pay for workers' compensation and liability insurance coverage for FITAP recipients. Historically, DCFS incurred \$27,626 in expenses per year associated with paying for this coverage.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not impact revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will have an economic benefit for FITAP and Kinship Care Subsidy recipients given that this will result in increased payments to these recipients. Families that receive FITAP cash assistance will receive on average an additional \$209.82 in monthly benefits. Kinship Care Subsidy recipients will receive an additional \$228 in monthly subsidy payments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Implementation of this proposed rule change is not expected to have an effect on competition and employment.

Shavana Howard
Assistant Secretary
2109#036

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Children and Family Services Economic Stability Section

TANF NRST Benefits and Post-FITAP
Transitional Assistance
(LAC 67:III.1229, 5329, 5551, and 5729)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953(A), the Department of Children and Family Services (DCFS) proposes to amend LAC 67:III, Subpart 2, Section 1229 Income; Subpart 13, Section 5329 Income; Subpart 15, Section 5551 Community Response Initiative; and Subpart 16, Section 5729 Support Services.

Pursuant to Louisiana's Temporary Assistance for Needy Families (TANF) Block Grant, amendment of Sections 1229 and 5329 is required to allow TANF nonrecurrent, short-term

(NRST) benefit payments to FITAP and KCSP recipients to mitigate the impact of a specific crisis situation or episode of need such as an economic crisis, disaster, pandemic, etc. Under the American Rescue Plan Act of 2021, \$7,905,732 has been allotted to Louisiana in Pandemic Emergency Assistance Funds (PEAF), which are a supplemental appropriation to the basic TANF block grant, to assist needy families impacted by the COVID-19 pandemic. The proposed change would allow the department to issue PEAF-funded NRST benefits directly to TANF-eligible recipients of FITAP and KCSP.

Section 5551 is being amended to change earned income eligibility for those services meeting TANF goals 1 and 2 from 200 to 250 percent of the federal poverty level.

Section 5729 is being amended to provide time-limited Post-FITAP transitional assistance to families who are leaving cash assistance when their FITAP case closes due to earned income. Families that leave TANF for work continue to face hardships in making ends meet once cash assistance ends and may be unable to maintain employment. Transitional benefits provided to working families can reduce poverty by providing transitional assistance on top of the earnings families receive when they go to work and improve their ability to maintain employment.

This action was made effective by an Emergency Rule dated and effective August 1, 2021.

Title 67

SOCIAL SERVICES

Part III. Economic Stability

Subpart 2. Family Independence Temporary Assistance Program

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§1229. Income

A. - D. ...

E. Payment Amount

1. For FITAP basic assistance, the budgetary deficit is the amount remaining after subtracting applicable income from the total assistance needs (flat grant amount). Round down to the next lower dollar of the budgetary deficit to determine the payment amount. Prorate the initial assistance payment from the date of application if otherwise eligible.

2. Within the limits of appropriations, a FITAP household may also receive a nonrecurrent, short-term (NRST) benefit that meets the regulatory definition (45 CFR 260.31(b)(1)) to mitigate the impact of a specific crisis situation broadly affecting needy families or a specific episode of need affecting a specific family, such as an economic crisis, disaster, pandemic, etc. The department has flexibility to respond with a sufficient and appropriate response regarding the duration of payments up to four months, type of payment (lump-sum or monthly installments), number of NRST benefits provided for different episodes of crisis or need, payment amount for each NRST benefit, and any lifetime limits imposed for eligible families.

F. - G. ...

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq., and 10602(c), R.S. 36:474, R.S. 46:231.1(B), R.S. 46:231.2, P.L. 108-447, Act 16, 2005 Reg. Session, and 7 CFR 273.2(j).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999), amended LR 26:1342 (June 2000), LR 26:2831 (December 2000), LR 31:2956 (November 2005), LR 32:1616 (September 2006), LR 32:1912 (October 2006), LR 34:2678 (December 2008), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2524 (November 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1675 (September 2014), LR 42:1651 (October 2016), LR 44:444 (March 2018), LR 47:

Subpart 13. Kinship Care Subsidy Program (KCSP) Chapter 53. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§5329. Income

A. - C. ...

D. Payment Amount

1. ...

2. Within the limits of appropriations, a KCSP household may also receive a nonrecurrent, short-term (NRST) benefit that meets the regulatory definition (45 CFR 260.31(b)(1)) to mitigate the impact of a specific crisis situation broadly affecting needy families or a specific episode of need affecting a specific family, such as an economic crisis, disaster, pandemic, etc. The department has flexibility to respond with a sufficient and appropriate response regarding the duration of payments up to four months, type of payment (lump-sum or monthly installments), number of NRST benefits provided for different episodes of crisis or need, payment amount for each NRST benefit, and any lifetime limits imposed for eligible families.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq. and 10602(c), R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237, and P.L. 108-447, Act 16, 2005 Reg. Session, 7 CFR 273.2(j).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:353 (February 2000), amended LR 26:2832 (December 2000), LR 31:2958 (November 2005), LR 32:1617 (September 2006), LR 32:1913 (October 2006), repromulgated LR 32:2098 (November 2006), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2537 (November 2010), LR 38:1390 (June 2012), amended by the Department of Children and Family Services, Economic Stability Section, LR 45:1443 (October 2019), LR 47:

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

Chapter 55 TANF Initiatives

§5551. Community Response Initiative

A. The department may enter into Memoranda of Understanding or contracts to develop innovative and strategic programming solutions suited to the unique needs of Louisiana's communities.

B. The services provided by the various partners must meet one, or a combination of, the four TANF goals:

1. Goal 1—to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;

2. Goal 2—to end dependence of needy parents on government benefits by promoting job preparation, work, and marriage;

3. Goal 3—to prevent and reduce the incidence of out-of-wedlock pregnancies; and

4. Goal 4—to encourage the formation and maintenance of two-parent families.

C. Eligibility for those services meeting TANF goals 1 and 2 is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Supplemental Nutrition Assistance Program (SNAP) benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaChip) benefits, Supplemental Security Income (SSI), Free or Reduced Lunch, or who has earned income at or below 250 percent of the federal poverty level. For TANF goals 1 and 2 a family consists of minor children residing with custodial parents, or caretaker relatives of minor children.

D. Eligibility for those services meeting TANF goals 3 and 4 may include any family in need of the provided services regardless of income. For TANF goals 3 and 4 a family consists of a minor child residing with a custodial parent or caretaker relative of the minor child, and non-custodial parents, and legal guardians.

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

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2374 (November 2002), amended LR 34:695 (April 2008), amended by the Department of Children and Family Services, Economic Stability Section, LR 47:

Subpart 16. Strategies to Empower People (STEP) Program

Chapter 57 Strategies to Empower People (STEP) Program

Subchapter C. STEP Program Process

§5729. Support Services

A. Clients may be provided support services that include but are not limited to:

1. a full range of case maintenance and case management services designed to lead to self-sufficiency;
2. transportation assistance;
3. Supplemental Nutrition Assistance Program (SNAP) benefits;
4. Medicaid benefits;
5. child care;
6. TANF-funded services;
7. other services necessary to accept or maintain employment; and
8. Post-FITAP transitional assistance benefits.

a. Effective September 1, 2021, these services may be provided to participants who are or become ineligible for cash assistance due to earned income within the limits of appropriations. They include a monthly transportation payment, other supportive service payments used to cover certain costs deemed necessary for employment, housing assistance used to address a specific episode of need deemed necessary to maintain employment, educational assistance, and a work retention incentive. The payments may begin with the first month of FITAP ineligibility and continue through the twelfth month of ineligibility or through the last

month of employment, whichever comes first. The twelve months need not be consecutive.

B. Support services may be provided to:

1. persons participating in the family assessment;
2. persons referred by the department to other activities, such as drug counseling, prior to their participation in a work activity;
3. FITAP recipients participating in approved activities necessary to meet exemptions to the FITAP time limits;
4. FITAP recipients to facilitate their attendance in the FITAP Drug Testing Program or Parenting Skills Program;
5. allow participation in educational activities for FITAP recipients who are exempt from STEP.

C. Electronic disbursement of support services payments shall be mandatory for all payment types.

1. Electronic disbursement of support services payments includes direct deposit to the STEP participant's bank account (checking or savings) or payments to a stored value card account for the STEP participant.

D. The department shall inform participants of available supportive services as part of the initial family assessment and shall integrate the provision of any necessary supportive services to the family success agreement developed and signed by the department and the participant.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session, ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:500 (March 2004), amended LR 32:2098 (November 2006), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 38:1391 (June 2012), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1678 (September 2014), LR 47:

Family Impact Statement

The proposed Rule is not anticipated to have an adverse impact on family formation, stability, and autonomy as described in R.S. 49:972. This rule is anticipated to help alleviate poverty for those participating in the program.

Poverty Impact Statement

The proposed Rule is not anticipated to have a significant negative impact on poverty as described in R.S. 49:973.

Small Business Impact Analysis

The proposed Rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

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, October 26, 2021, to Shavana Howard, Assistant Secretary of Family Support, Department of Children and Family Services, P.O. Box 94065, Baton Rouge, LA 70804.

Public Hearing

A virtual public hearing on the proposed Rule will be held at 10 a.m. on October 26, 2021, by the Department of Children and Family Services. All interested persons will be afforded an opportunity to submit data, views, or arguments via PC, Mac, Linux, iOS or Android at

https://stateoflacfdfs.zoom.us/j/81595255466?pwd=aFlJc3JG emZ3YWxBcjZrUTZIS2w0dz09 using password 924410; via telephone by dialing (713) 353-0212 and entering conference code 430033. To find local AT&T numbers visit https://www.teleconference.att.com/servlet/glbAccess?process=1&accessNumber=USA7133530212&accessCode=430033. Individuals with disabilities who require special services should contact the DCFS Appeals Unit at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Marketa Garner Walters
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: TANF NRST Benefits and Post-FITAP Transitional Assistance

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

In FY 22, the Department of Children and Family Services (DCFS) will likely incur \$14,811,501 in Federal Funds costs from TANF associated with this rule change. DCFS is budgeted to expended \$7,905,732 (Federal Funds) in nonrecurrent, short-term (NRST) benefits and \$6,903,000 (Federal Funds) in Post FITAP benefits. The budget for these initiatives will vary in future fiscal years and depends on the allocation of future Federal TANF block grant funding. The cost of publishing this rule change is approximately \$2,769.

Proposed rule changes modify earned income eligibility for certain TANF programs from 200 to 250 percent of the federal poverty level. Proposed rule also makes provisions for NRST and Post FITAP benefit payments to TANF recipients as explained below:

Nonrecurrent, short-term (NRST) - \$7,905,732

Sections 1229 and 5329 are required to allow TANF nonrecurrent, short-term benefit payments to FITAP and Kinship Care Subsidy Program (KCSP) recipients to mitigate the impact of a specific crisis situation or episode of need such as an economic crisis, disaster, pandemic, etc.

Post FITAP - \$6,903,000

Section 5729 is being amended to provide time-limited Post FITAP transitional assistance to families who are leaving cash assistance when their FITAP case closes due to earned income.

Finally, the rule deletes obsolete language related to child care assistance payments. The Child Care Assistance program moved to the Department of Education and is no longer under the purview of DCFS.

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)

Implementation of this proposed rule will have an economic benefit for TANF recipients given that this will result in increased payments to recipients for nonrecurrent, short-term and Post FITAP benefits. The benefit per recipient is dependent on the recipient's income and the total amount of TANF funding allocated for this purpose. The budget in FY 22 for these payments initiatives is \$14,808,732. This amount will vary in future fiscal years depending on the allocation of future Federal TANF block grant funding.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Implementation of this proposed rule change is not expected to have an effect on competition and employment.

Shavana Howard
Assistant Secretary
2109#037

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Children and Family Services Licensing Section

Sanctions, Child Placing Supervisory Visits, and Specialized
Provider Provisions

(LAC 67:V.6712, 6962, 7109, 7111, 7112, 7117, 7309,
7311, 7313, 7314, 7315, 7319, 7321 and 7508)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953(A), the Department of Children and Family Services (DCFS) proposes to amend LAC 67:V, Subpart 8, Sections 6712, 6962, 7109, 7111, 7112, 7117, 7309, 7311, 7313, 7314, 7315, 7319, 7321 and 7508.

The implementation of this rule to Sections 7109, 7111, and 7311 places in the rule, the authority of the Department to institute intermediate sanctions and levy fines against licensed providers that fail to comply with the requirement of a state central registry clearance for individuals owning, working in, and having access to children/youth in DCFS licensed facilities and agencies. In accordance with R.S. 46:1430, as amended by Act 31 of the 2021 Regular Legislative Session, it is necessary to promulgate this rule to make permanent the implementation of R.S. 46:1430 which was effective August 1, 2021.

Pursuant to Children's Code Article 1213, as amended by Act 6 of the 2021 Regular Legislative Session, the department is adopting rules to Sections 7313 and 7321 to make permanent the emergency rule in accordance with the required law which was effective August 1, 2021. The department considers action necessary to meet the requirements of Act 6 of the 2021 Regular Legislative Session.

In addition, the department proposes to amend Sections 6712, 6962, 7112, 7109, 7309, 7314, 7315, 7319, and 7508. The proposed rule requires individuals to request a state central registry clearance every 5 years if the individual resides in a state other than Louisiana. The current rule only requires submission if the individual is a resident of Louisiana. Section 7117 allows a nurse practitioner to complete a medical examination, in addition to a physician. Section 7314 removes the term children of residents from the rule as this is not a term associated with child placing agency regulations. In addition, Section 7319 clarifies the requirements of a legally married couple when applying to become a foster/adoptive parent.

Title 67

SOCIAL SERVICES

Part V. Child Welfare

Subpart 8. Residential Licensing

Chapter 67. Maternity Home

§6712. State Central Registry

A. - A.2. ...

3. In accordance with R.S. 46:1414.1, an inquiry of the State Central Registry for all owners and operators shall

be conducted prior to a license being issued or if currently licensed, prior to the addition of a new board member who meets the definition of an owner. The Louisiana State Central Registry clearance form shall be dated no earlier than 45 days prior to the application being received by the Licensing Section or the addition of a new board member who meets the definition of an owner. For states other than Louisiana, clearance forms shall be dated no earlier than 120 days prior to application being received by the licensing section or the addition of a new board member who meets the definition of an owner; however, individuals who continue to reside outside of the state of Louisiana but own/operate a maternity home in the state of Louisiana, their clearances shall be dated prior to the issuance of the initial license, but no earlier than 45 days prior to the initial application being received by the Licensing Section. A request for a state central registry clearance from the state in which the owner/operator resides shall be submitted by provider every five years prior to the date noted on the most current clearance and at any time upon the request of DCFS. No person who is recorded on any state's child abuse and neglect registry with a valid justified (valid) finding of abuse or neglect of a child shall be eligible to own, operate, or participate in the governance of the maternity home.

3.a. - 4.a. ...

A.5. - B.1.b. ...

c. In accordance with R.S. 46:1414.1, an inquiry of the State Central Registry for all staff (paid, non-paid and volunteers) shall be conducted prior to employment being offered to a potential hire. Staff (paid, non-paid, and volunteers) persons who have resided in another state within the preceding five years, provider shall request a check and obtain State Central Registry clearance from that state's child abuse and neglect registry. Louisiana State Central Registry clearance forms shall be dated no earlier than 45 days prior to the staff (paid, non-paid, and volunteers) being present on the premises or having access to residents and/or infants of residents. Other states' State Central Registry clearance forms shall be dated no earlier than 120 days prior to the staff (paid, non-paid, and volunteers) being present on the premises or having access to residents and/or infants of residents ; however, individuals who continue to reside outside of the state of Louisiana but volunteer with or work for the maternity home or with residents and/or infants of residents in the state of Louisiana, their clearances shall be dated prior to hire and/or providing services to residents and/or infants of residents, but no earlier than 45 days of hire or providing services. A request for a state central registry clearance from the state in which the staff/volunteer resides shall be submitted by provider every five years prior to the date noted on the most current clearance and at any time upon the request of DCFS. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed maternity home.

B.1.c.i. - C.1.c.i. ...

d. Louisiana State Central Registry clearance forms shall be dated no earlier than 45 days prior to the individual providing services or having access to residents and/or infants of residents. Other states' State Central Registry clearance information shall be dated no earlier than 120 days prior to the individual providing services or having access to

residents and/or infants of residents however, individuals who continue to reside outside of the state of Louisiana but contract with or provide services for the maternity home or with residents and/or infants of residents in the state of Louisiana, their clearances shall be dated prior to hire and/or providing services to residents and/or infants of residents, but no earlier than 45 days of hire or providing services. A request for a state central registry clearance from the state in which the contractor resides shall be submitted by provider every five years prior to the date noted on the most current clearance and at any time upon the request of DCFS. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed maternity home.

C.1.e. - D.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1414.1.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:516 (April 2019), effective May 1, 2019, LR 46:672 (May 2020), effective June 1, 2020, LR 47:

Chapter 69. Child Residential Care, Class B

§6962. State Central Registry

A. - A.2. ...

3. In accordance with R.S. 46:1414.1, an inquiry of the State Central Registry for all owners and operators shall be conducted prior to a license being issued or if currently licensed, prior to the addition of a new board member who meets the definition of an owner. The Louisiana State Central Registry clearance form shall be dated no earlier than 45 days prior to the application being received by the Licensing Section or the addition of a new board member who meets the definition of an owner. For states other than Louisiana, clearance forms shall be dated no earlier than 120 days prior to the application being received by the Licensing Section or the addition of a new board member who meets the definition of an owner; however, individuals who continue to reside outside of the state of Louisiana, but own/operate a residential home in Louisiana, their clearances shall be dated prior to the issuance of the initial license, but no earlier than 45 days prior to the initial application being received by the Licensing Section. A request for a state central registry clearance from the state in which the owner/operator resides shall be submitted by provider every five years prior to the date noted on the most current clearance and at any time upon the request of DCFS. No person who is recorded on any state's child abuse and neglect registry with a valid justified (valid) finding of abuse or neglect of a child shall be eligible to own, operate, or participate in the governance of the residential home.

3.a. - B.1.b. ...

c. In accordance with R.S. 46:1414.1, an inquiry of the State Central Registry for all staff (paid, non-paid and volunteers) shall be conducted prior to employment being offered to a potential hire. Staff (paid, non-paid, and volunteers) persons who have resided in another state within the preceding five years, provider shall request a check and obtain State Central Registry clearance from that state's child abuse and neglect registry. Louisiana State Central Registry clearance forms shall be dated no earlier than 45 days prior to the staff (paid, non-paid, and volunteers) being present on the premises or having access to children/youth.

Other states State Central Registry clearance forms shall be dated no earlier than 120 days prior to the staff (paid, non-paid, and volunteers) being present on the premises or having access to children/youth; however, individuals who continue to reside outside of the state of Louisiana, but volunteer with and/or work for a licensed provider in the state of Louisiana, their clearances shall be dated no earlier than 45 days prior to hire and/or having access to children/youth. A request for a state central registry clearance from the state in which the staff/volunteer resides shall be submitted by provider every five years prior to the date noted on the most current clearance and at any time upon the request of DCFS. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed residential home.

B.1.c.i. - C.1.c.i. ...

d. Louisiana State Central Registry clearance forms shall be dated no earlier than 45 days prior to the individual providing services or having access to children/youth. Other state's State Central Registry clearance information shall be dated no earlier than 120 days prior to the individual providing services or having access to children/youth; however, individuals who continue to reside outside of the state of Louisiana, but contract with and/or work for a licensed provider in the state of Louisiana, their clearances shall be dated no earlier than 45 days prior to hire and/or having access to children/youth. A request for a state central registry clearance from the state in which the contractor resides shall be submitted by provider every five years prior to the date noted on the most current clearance and at any time upon the request of DCFS. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed residential home.

C.1.e. - D.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1414.1.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:510 (April 2019), effective May 1, 2019, LR 46:688 (May 2020), effective June 1, 2020, LR 47:

Chapter 71. Residential Homes - Type IV

§7109. Critical Violations/Fines

A. - A.5. ...

6. §7107.A.8, §7107.A.9, §7107.D.4.f.iv., §7107.E.2.g, §7111.A.2.c.iii, §7111.A.5.c, §7111.B.2.a.x, §7112.A-D, and/or §7117.A.14.k state central registry clearance effective August 1, 2021.

B. - E.1.k. ...

1. When the cited critical violation was for a state central registry clearance not being completed prior to hire as required, but obtained before the individual was on the premises and/or had access to a resident or child of a resident, the fine shall be decreased by \$25.

m. When the cited critical violation was for state central registry clearance not being completed prior to the individual being on the premises and/or having access to a resident or child of a resident, the fine shall be increased by \$25.

F. - H.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 43:258 (February 2017), amended LR 43:1725 (September 2017), LR 44:1991 (November 2018), effective December 1, 2018, amended by the Department of Children and Family Services, Licensing Section, LR 45:521 (April 2019), effective May 1, 2019, LR 46:674 (May 2020), effective June 1, 2020, LR 47:

§7111. Provider Requirements

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

iii. have a state central registry clearance form from Child Welfare as required in §7112;

A.2.c.iv. - J.1. ...

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:811 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:979, 984 Title 67, Part V 247 Louisiana Administrative Code April 2021 (April 2012), LR 42:221 (February 2016), amended by the Department of Children and Family Services, Licensing Section, LR 43:261 (February 2017), LR 43:1725 (September 2017), LR 44:1992 (November 2018), effective December 1, 2018, amended by the Department of Children and Family Services, Licensing Section, LR 45:521 (April 2019), effective May 1, 2019, LR 46:674 (May 2020), effective June 1, 2020, LR 47:

§7112. State Central Registry

A. - A.2. ...

3. In accordance with R.S. 46:1414.1, an inquiry of the State Central Registry for all owners and operators shall be conducted prior to a license being issued or if currently licensed, prior to the addition of a new board member who meets the definition of an owner. The Louisiana State Central Registry clearance form shall be dated no earlier than 45 days prior to the initial application being received by the Licensing Section or the addition of a new board member who meets the definition of an owner. For states other than Louisiana, clearance forms shall be dated no earlier than 120 days prior to the initial application being received by the Licensing Section or the addition of a new board member who meets the definition of an owner; however, individuals who continue to reside outside of the state of Louisiana but own/operate a residential home in the state of Louisiana, their clearances shall be dated prior to the issuance of the initial license, but no earlier than 45 days prior to the initial application being received by the Licensing Section. A request for a state central registry clearance from the state in which the owner/operator resides shall be submitted by provider every five years prior to the date noted on the most current clearance and at any time upon the request of DCFS. No person who is recorded on any state's child abuse and neglect registry with a valid justified (valid) finding of abuse or neglect of a child shall be eligible to own, operate, or participate in the governance of the residential home.

A.3.a. - B.1.b. ...

c. In accordance with R.S. 46:1414.1, an inquiry of the State Central Registry for all staff (paid, non-paid and volunteers) shall be conducted prior to employment being offered to a potential hire. Staff (paid, non-paid, and volunteers) persons who have resided in another state within the preceding five years, provider shall request a check and obtain State Central Registry clearance from that state's child abuse and neglect registry. Louisiana State Central

Registry clearance forms shall be dated no earlier than 45 days prior to the staff (paid, non-paid, and volunteers) being present on the premises or having access to residents and/or children of residents. Other states' State Central Registry clearance forms shall be dated no earlier than 120 days prior to the staff (paid, non-paid, and volunteers) being present on the premises or having access to residents and/or children of residents; however, individuals who continue to reside outside of the state of Louisiana and volunteer with and/or work for a licensed provider in the state of Louisiana, their clearances shall be dated no earlier than 45 days prior to hire and/or having access to residents and/or children of residents. A request for a state central registry clearance from the state in which the staff/volunteer resides shall be submitted by provider every five years prior to the date noted on the most current clearance and at any time upon the request of DCFS. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed residential home.

B.1.c.i. - C.1.c.i. ...

d. Louisiana State Central Registry clearance forms shall be dated no earlier than 45 days prior to the individual providing services or having access to residents and/or children of residents. Other states' State Central Registry clearance information shall be dated no earlier than 120 days prior to the individual providing services or having access to children/youth; however, individuals who continue to reside outside of the state of Louisiana and provide services for and/or work for a licensed provider in the state of Louisiana, their clearances shall be dated no earlier than 45 days prior to hire and/or having access to residents and/or children of residents. A request for a state central registry clearance from the state in which the contractor resides shall be submitted by provider every five years prior to the date noted on the most current clearance and at any time upon the request of DCFS. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed residential home.

C.1.e. - D.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1414.1.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:521 (April 2019), effective May 1, 2019, LR 46:674 (May 2020), effective June 1, 2020, LR 47:

§7117.Provider Services

A. - D.1.a.viii. ...

2. Medical Care

a. The provider shall ensure that a medical examination by a physician or nurse practitioner for the resident or child of a resident is conducted within a week of admission unless the resident or child of a resident has received such an examination within 30 days before admission and the results of this examination are available to the provider. If the resident or child of a resident is being transferred from another residential home and has had a medical examination within the last 12 months, a copy of this examination may be obtained to meet the requirement of the admission medical examination. The medical examination shall include:

D.2.a.i. - F.19. ...

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:823 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:985 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 43:278 (February 2017), LR 43:1725 (September 2017), LR 46:675 (May 2020), effective June 1, 2020, LR 47:

Chapter 73. Child Placing Agencies—General Provisions

§7309. Background Checks

A. - B.2. ...

3. In accordance with R.S. 46:1414.1, an inquiry of the State Central Registry for all owners and operators shall be conducted prior to a license being issued or if currently licensed, prior to the addition of a new board member who meets the definition of an owner. The Louisiana State Central Registry clearance form shall be dated no earlier than 45 days prior to the application being received by the Licensing Section or the addition of a new board member who meets the definition of an owner. For states other than Louisiana, clearance forms shall be dated no earlier than 120 days prior to the application being received by the Licensing Section or the addition of a new board member who meets the definition of an owner; however, individuals who continue to reside outside of the state of Louisiana but own/operate a child placing agency in Louisiana, their clearances shall be dated prior to the issuance of the initial license, but no earlier than 45 days prior to the initial application being received by the Licensing Section. A request for a state central registry clearance from the state in which the owner/operator resides shall be submitted by provider every five years prior to the date noted on the most current clearance and at any time upon the request of DCFS. No person who is recorded on any state's child abuse and neglect registry with a valid justified (valid) finding of abuse or neglect of a child shall be eligible to own, operate, or participate in the governance of the child-placing agency.

B.3.a. - E.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:357 (March 2019), effective April 1, 2019, LR 46:679 (May 2020), effective June 1, 2020, LR 47:

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

A. - B.5.g.v. ...

vi. if an individual resided in a state other than Louisiana in the previous five years, State Central Registry clearance from those states dated no earlier than 120 days prior to hire; however, individuals who continue to reside outside of the state of Louisiana and work for a licensed provider in the state of Louisiana, their clearances shall be dated no earlier than 45 days prior to hire and/or having access to children/youth or if a currently hired staff person assuming the position of program director, then a copy of the SCR clearance which is on file for individual's previous position with the agency. A request for a state central registry clearance from the state in which the director resides shall be submitted by provider every five years prior to the date

noted on the most current clearance and at any time upon the request of DCFS.

B.5.h. - D.2.r. ...

s. documentation of out of State Central Registry clearance forms for owners dated no earlier than 120 days prior to the CHOL application being received by the Licensing Section as noted in §7309.B ; however, individuals who continue to reside outside of the state of Louisiana but own/operate a child placing agency in the state of Louisiana, their clearances shall be dated prior to the issuance of the initial CHOL license, but no earlier than 45 days prior to the initial application being received by the Licensing Section. A request for a state central registry clearance from the state in which the owner resides shall be submitted by provider every five years prior to the date noted on the most current clearance and at any time upon the request of DCFS.

t. - u. ...

v. documentation of out of State Central Registry clearance forms for foster/adoptive parents and household members age 18 years and older, excluding youth in DCFS custody, dated no earlier than 120 days prior to the CHOL application being received by the Licensing Section as noted in §7315.C; however, for household members over the age of 18 years who continue to reside outside of the state of Louisiana, but their official domicile is a certified foster/adoptive home in the state of Louisiana, their clearances shall be dated prior to the issuance of the initial license, but no earlier than 45 days prior to the initial CHOL application being received by the Licensing Section; A request for a state central registry clearance from the state in which the household member resides shall be submitted by provider every five years prior to the date noted on the most current clearance and at any time upon the request of DCFS.

w. - x. ...

y. documentation of out of State Central Registry clearance forms for staff (paid, non-paid, and volunteers) and contractors dated no earlier than 120 days prior to the application being received by the Licensing Section as noted in §7313.I.9.and/or §7313.M.1., as applicable; however, individuals who continue to reside outside of the state of Louisiana, but volunteer with, provide services for, and/or work for a licensed provider in the state of Louisiana, their clearances shall be dated no earlier than 45 days prior to hire and/or having access to children/youth. A request for a state central registry clearance from the state in which the staff/contractor resides shall be submitted by provider every five years prior to the date noted on the most current clearance and at any time upon the request of DCFS.

D.2.z. - E.2.q. ...

r. documentation of out of State Central Registry clearance forms for owners dated no earlier than 120 days prior to the CHOW application being received by the licensing section as noted in §7309.B;however, individuals who continue to reside outside of the state of Louisiana but own/operate a child placing agency in the state of Louisiana, their clearances shall be dated prior to the issuance of the initial license, but no earlier than 45 days prior to the initial CHOW application being received by the Licensing Section. A request for a state central registry clearance from the state in which the owner resides shall be submitted by provider

every five years prior to the date noted on the most current clearance and at any time upon the request of DCFS.

s. - t. ...

u. documentation of out of State Central Registry clearance forms for staff (paid, non-paid, and volunteers) and contractors dated no earlier than 120 days prior to the CHOW application being received by the Licensing Section as noted in §7313.I.10.and/or §7313.M.2., as applicable, however, individuals who continue to reside outside of the state of Louisiana but volunteer with, provide services for, and/or work for a licensed provider in the state of Louisiana, their clearances shall be dated no earlier than 45 days prior to hire and/or having access to children/youth. A request for a state central registry clearance from the state in which the staff/contractor resides shall be submitted by provider every five years prior to the date noted on the most current clearance and at any time upon the request of DCFS.

v. - w. ...

x. documentation of out of State Central Registry clearance forms for foster/adoptive parents and household members age 18 years and older, excluding youth in DCFS custody, dated no earlier than 120 days prior to the application being received by the Licensing Section as noted in §7315.C; however; for household members over the age of 18 years who continue to reside outside of the state of Louisiana, but their official domicile is a certified foster/adoptive home in the state of Louisiana, their clearances shall be dated prior to the issuance of the initial license, but no earlier than 45 days prior to the initial CHOW application being received by the Licensing Section. A request for a state central registry clearance from the state in which the household member resides shall be submitted by provider every five years prior to the date noted on the most current clearance and at any time upon the request of DCFS.

E.2.y. - M.1. ...

a. §7309.A, §7309.C.1-9, §7309.D.1-4, §7311.B.5.d.vi-vii., §7311.B.5.g.iv., §7311.B.5.h.v., §7311.C.2.g, §7313.I.9, §7313.L.5, §7313.M.1, §7314.A-G, §7315.B, and/or §7321.J.1-2 - criminal background check;

b. - c. ...

d. §7309.B., §7311.B.5.d.viii, §7311.B.5.g.v. – vi, §7311.B.5.h.iv, §7311.C.2.h, §7313.I.10, §7313.L.6, §7313.M.2, §7315.C., and/or §7321.J. 1-2 – state central registry clearance effective August 1, 2021.

M.2. - M.7.i. ...

j. When the cited critical violation was for a state central registry clearance not being completed prior to hire as required, but obtained before the individual was on the premises and/or had access to a child/youth, the fine shall be decreased by \$25.

k. When the cited critical violation was for state central registry clearance not being completed prior to the individual being on the premises and/or having access to a child/youth, the fine shall be increased by \$25.

M.8. - 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), LR 47:

§7313. Administration and Operation

A. - H.6.d. ...

7. Effective April 1, 2019, staff conducting supervisory visits with foster parents, children/youth in certified foster home placements, and/or youth in transitional placing placements shall possess, at a minimum, a bachelor's degree in social work or a human service related bachelor's degree.

8. Effective August 1, 2021 in accordance with Act 6 of the 2021 Regular Legislative Session, all supervisory visits noted in Section 7321. H. shall be conducted by a social worker in the employ of the licensed adoption agency, licensed social worker, licensed professional counselor, licensed psychologist, medical psychologist, licensed psychiatrist, or licensed marriage and family therapist.

I. - I.10.b. ...

c. In accordance with R.S. 46:1414.1, an inquiry of the State Central Registry for all staff (paid, non-paid and volunteer staff) shall be conducted prior to employment being offered to a potential hire. Staff persons who have resided in another state within the preceding five years, provider shall request a check and obtain State Central Registry clearance from that state's child abuse and neglect registry. Louisiana State Central Registry clearance forms shall be dated no earlier than 45 days prior to the staff being present on the premises or having access to children/youth. Other states' State Central Registry clearance forms shall be dated no earlier than 120 days prior to the staff being present on the premises or having access to children/youth; however, individuals who continue to reside outside of the state of Louisiana, but volunteer with and/or work for a licensed provider in the state of Louisiana, their clearances shall be dated no earlier than 45 days prior to hire and/or having access to children/youth. A request for a state central registry clearance from the state in which the staff resides shall be submitted by provider every five years prior to the date noted on the most current clearance and at any time upon the request of DCFS. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed child-placing agency.

I.10.c.i. - J.7. ...

8. All staff hired effective January 1, 2022 whose job duties will include working with foster/adoptive parents, birth parents, children and youth and their adoptive or kinship families or conducting/approving home studies shall complete the NTI Training for Child Welfare Professionals (20 hours) offered by the National Adoption Competency Mental Health Training Initiative available at <https://adoptionsupport.org/nti/> prior to working unsupervised with foster/adoptive parents, birth parents, children and youth and their adoptive or kinship families or conducting/approving home studies. Documentation of training shall be the certificate obtained upon successful completion of the training.

K. - K.6. ...

7. All staff hired prior to January 1, 2022 who currently work with foster/adoptive parents, birth parents, children and youth and their adoptive or kinship families or conduct/approve home studies shall complete the NTI Training for Child Welfare Professionals (20 hours) offered by the National Adoption Competency Mental Health

Training Initiative available at <https://adoptionsupport.org/nti/> by March 31, 2022. Documentation of training shall be the certificate obtained upon successful completion of the training. If an adoption competency training other than the NTI training was previously completed by staff prior to January 1, 2022, provider shall submit the certificate obtained upon successful completion of the training as well as a description of the topics/areas addressed in the training to DCFS for approval by January 31, 2022.

L. - M.2.c.i. ...

d. Louisiana State Central Registry clearance forms shall be dated no earlier than 45 days prior to the individual providing services or having access to children/youth. Other states' State Central Registry clearance information shall be dated no earlier than 120 days prior to the individual providing services or having access to children/youth; however, individuals who continue to reside outside of the state of Louisiana, but contract with and/or work for a licensed provider in the state of Louisiana, their clearances shall be dated no earlier than 45 days prior to hire and/or having access to children/youth. A request for a state central registry clearance from the state in which the contractor resides shall be submitted by provider every five years prior to the date noted on the most current clearance and at any time upon the request of DCFS. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed child-placing agency.

M.2.c.i.e. - U.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:368 (March 2019), effective April 1, 2019, LR 46:683 (May 2020), effective June 1, 2020, LR 47:351 (March 2021), effective April 1, 2021, repromulgated LR 47:441 (April 2021).

§7314. Criminal Background Checks

A. - E.4. ...

5. Upon notification that the contractor has been convicted of a crime listed in 15:587.1(C), the individual shall no longer be eligible to provide services for the provider. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after notification has been made indicating that the contract has been terminated and the individual is no longer allowed access to the children/youth. If this statement is not received by Licensing within the aforementioned timeframe, the license shall be immediately revoked.

E.6. - F. ...

1. Contractors hired to perform work which does not involve any contact with children/youth shall not be required to have a criminal background check if accompanied at all times by a staff person when children/youth are present in the agency.

2. A person shall not be deemed a contractor if he/she is a staff person of the agency.

3. Contractors hired to perform work which involves contact with children/youth shall be required to have documentation of a satisfactory fingerprint-based criminal background check through the Federal Bureau of Investigation (FBI) as required by R.S. 15:587.1 and R.S. 46:51.2. This check shall be obtained prior to the individual

being present in the agency or having access to the children/youth.

F.4. - G.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 46:683 (May 2020), effective June 1, 2020, LR 47:

§7315. Foster and Adoptive Certification

A. - C.5. ...

6. The DCFS State Central Registry clearance form shall be dated no earlier than 45 days of the foster/adoptive parents being certified or household members over the age of 18 years being present in the home. Out-of-state clearance forms shall be dated no earlier than 120 days of foster/adoptive parents being certified. However, for household members over the age of 18 years who continue to reside outside of the state of Louisiana but their official domicile is a certified foster/adoptive home in the state of Louisiana, their clearances shall be dated no earlier than 45 days prior to certifying the foster/adoptive parents. A request for a state central registry clearance from the state in which the household member resides shall be submitted by provider every five years prior to the date noted on the most current clearance and at any time upon the request of DCFS.

C.7. - V.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:377 (March 2019), effective April 1, 2019, LR 46:686 (May 2020), effective June 1, 2020, LR 47:351 (March 2021), effective April 1, 2021, repromulgated LR 47:442 (April 2021), LR 47:

§7319. Foster Care Services

A. - C. ...

1. The provider shall place a child/youth only with certified foster parents in an approved home. If a couple is legally married and is seeking to foster a child/youth, both individuals shall meet certification requirements. If an individual is seeking to foster a child/youth, he/she has not yet been judicially separated or divorced and his/her spouse continues to reside in the home, both individuals shall meet certification requirements.

C.2. - G.2.g. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:385 (March 2019), effective April 1, 2019, LR 47:

§7321. Adoption Services

A. - B.2....

3. A child shall not be placed in an adoptive placement until the adoptive parents are certified and the home has been approved. If a couple is legally married and is seeking to adopt a child/youth, both individuals shall meet certification requirements. If an individual is seeking to adopt a child/youth, he/she has not yet been judicially separated or divorced and his/her spouse continues to reside in the home, both individuals shall meet certification requirements.

C. - H.1....

2. Provider shall conduct an initial in home in person supervisory visit with the child and one adoptive parent within seven calendar days of the child's placement.

Effective August 1, 2021, in accordance with Act 6 of the 2021 Regular Legislative Session, the next in home in-person supervisory visit shall occur within 30 days of the initial in home in-person supervisory visit.

3. ...

4. Provider shall conduct a private supervisory visit without the presence of the adoptive parents with each child age one year and above; every other month with at least a segment of the visit occurring in the adoptive home.

5. - 10. ...

11. Effective August 1, 2021 and in accordance with Act 6 of the 2021 legislative session, provider shall submit a confidential report to DCFS, Child Welfare concerning requirements noted in Section 7321.H.2-10 upon completion and to the court prior to the hearing on the final decree of the adoption. If DCFS requests additional information, the provider shall submit the requested information to the department by the date specified in the notification correspondence.

I. - L. ...

1. In domestic adoptions, DCFS may request information and/or documents from the provider required to be submitted to the court. The provider shall submit the requested information and/or documents to the department by the date specified in the notification correspondence.

L.2. - M.4....

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:388 (March 2019), effective April 1, 2019, LR 47:353 (March 2021), effective April 1, 2021, repromulgated LR 47:443 (April 2021), LR 47:

Chapter 75. Juvenile Detention Facilities

§7508. State Central Registry

A. - E. ...

1. Effective November 1, 2018, and in accordance with R.S. 15:1110.2, an inquiry of the state central registry for all staff (paid, non-paid and volunteers) shall be conducted prior to employment being offered to a potential hire or volunteer services provided. For staff persons who have resided in another state within the preceding five years, provider shall request a state central from that state's child abuse and neglect registry prior to hire. While awaiting the results of the out of state central registry results, the individual shall be directly supervised by a paid staff (employee) of the juvenile detention facility at any and all times when he/she is on the premises and/or in the presence of a child/youth. The employee responsible for supervising the individual shall not also be awaiting the results of an out of state central registry clearance. Under no circumstances shall the individual awaiting out of state central registry results be left alone and unsupervised with a child/youth pending the official determination from that state that the individual is or is not listed on the state central registry. Louisiana state central registry clearances shall be dated no earlier than 45 days prior to the staff being present on the premises or having access to children/youth. Out-of-state state central registry clearances shall be dated no earlier than 120 days prior to staff being present on the premises or having access to children/youth in the facility.

E.1.a. - G. ...

1. Effective November 1, 2018, and in accordance with R.S. 15:1110.2, an inquiry of the state central registry for all contractors and LDE staff shall be conducted prior to providing contracted services or having access to children/youth. For contractors and LDE staff who have resided in another state within the preceding five years, provider shall request a state central registry check from that state's child abuse and neglect registry prior to the individual providing services or having access to children/youth. While awaiting the results of the out of state central registry results, the individual shall be directly supervised by a paid staff (employee) of the juvenile detention facility at any and all times when he/she is on the premises and/or in the presence of a child/youth. The employee responsible for supervising the individual shall not also be awaiting the results of an out of state central registry clearance. Under no circumstances shall the individual awaiting out of state central registry results be left alone and unsupervised with a child/youth pending the official determination from that state that the individual is or is not listed on the state central registry. Louisiana state central registry clearances shall be dated no earlier than 45 days prior to the individual providing services or having access to children/youth. Out-of-state state central registry clearances shall be dated no earlier than 120 days prior to contractors and LDE staff being present on the premises or having access to children/youth in the facility.

G.1.a. - H.1 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.2.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:653 (May 2019), effective June 1, 2019, LR 47:

Family Impact Statement

The proposed rule is not anticipated to have an adverse impact on family formation, stability, and autonomy as described in R.S. 49:972. This rule is anticipated to help alleviate poverty for those participating in the program.

Poverty Impact Statement

The proposed rule is not anticipated to have a significant negative impact on poverty as described in R.S. 49:973.

Small Business Impact Statement

The proposed rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

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, October 26, 2021, to Angie Badeaux, Licensing Program Director, Department of Children and Family Services, P.O. Box 3078, Baton Rouge, LA 70821.

Public Hearing

A virtual public hearing on the proposed Rule will be held at 9:00 a.m. on October 26, 2021, by the Department of Children and Family Services. All interested persons will be afforded an opportunity to submit data, views, or arguments via PC, Mac, Linux, iOS or Android at <https://stateofladcfs.zoom.us/j/86394477781>; via telephone by dialing (713)353-0212 and entering conference code

430033. To find local AT&T numbers visit <https://www.teleconference.att.com/servlet/glbAccess?process=1&accessNumber=USA7133530212&accessCode=430033>. Individuals with disabilities who require special services should contact the DCFS Appeals Unit at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Marketa Garner Walters
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Sanctions, Child Placing Supervisory Visits, and Specialized Provider Provisions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Department of Children and Family Services (DCFS) will incur \$7,029 (\$3,304 State General Fund and \$3,725 Federal Funds) in expenses associated with the publication of this proposed rule change.

This proposed rule amends several chapters within LAC 67, Part V. Child Welfare, Subpart 8. Residential Licensing. Specifically, the rule provides that certain individuals, such as contractors, volunteers and owner/operators, who reside outside of the state of Louisiana must request a state central registry clearance from the state in which they reside every five years or anytime at the request of DCFS. The rule also clarifies that when a married couple applies to become a foster or adoptive parent, that both individuals must meet the certification requirements to become a foster or adoptive parent. Additionally, the rule provides that certain staff must complete a 20-hour training that is offered at no cost by the National Adoption Competency Mental Health Training Initiative. Finally, the rule provides that foster care and adoption supervisory visits can only be conducted by specifically licensed medical providers.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change may result in an indeterminable change in self generated revenue for DCFS related to facilities being fined for failure to comply with state central registry clearance. In current rule, the base amount of a fine can range from \$200 to \$250 per day. If a facility is cited for a state central registry clearance not being completed prior to hire as required, but obtained before the individual was on the premises and/or had access to a resident or child of a resident, proposed rule decreases the base fee by \$25. If a facility is cited for state central registry clearance not being completed prior to the individual being on the premises and/or having access to a resident or child of a resident, proposed rule increases the base fee by \$25.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Certain individuals, such as contractors, volunteers and owner/operators, who reside outside of the state of Louisiana may be required to pay a fee for a state central registry clearance every five years to another state if an individual resides in a state other than Louisiana. This fee, if assessed by another state varies, by state and is expected to be minimal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The implementation of this rule may reduce the number of available contractors, volunteers and owner/operators given

that some individual's adverse incidents contained in their home state's central registry will likely be unemployable in DCFS licensed facilities and agencies.

Terri Ricks
Deputy Secretary
2109#035

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Culture, Recreation, and Tourism Office of State Parks

Rosedown Plantation Admission Fee
(LAC 25:IX.500)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(A), the Department of Culture Recreation, and Tourism- Office of State Parks (DCRT-OSP) proposes to amend LAC 25, Part IX, Office of State Parks, Chapter 5, §500.

DCRT-OSP is amending the current Louisiana Administrative Code Title 25, Part IX, Chapter 5, §500.B.3.a.i., to change the entrance fee for Rosedown Plantation State Historic Site from \$15 to \$12 per adult (ages 18-61).

Title 25 CULTURAL RESOURCES Part IX. Office of State Parks

Chapter 5. Procedures and Fees

§500. Admission Fees and Exemptions

A. - B.2. ...

3. Rosedown Plantation State Historic Site

a. Charges for Admission to the plantation house and the gardens surrounding the house at the following rates:
i. \$12 per adult (ages 18 to 61)

B.3.a.ii. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:636 (December 1982), amended LR 12:89 (February 1986), LR 14:774 (November 1988), LR 16:1053 (December 1990), LR 19:309 (March 1993), LR 26:29 (January 2000), LR 27:1673 (October 2001), LR 31:1986 (August 2005), LR 36:1228 (June 2010), LR 39:1266 (May 2013), LR 43:294 (February 2017, LR 47:

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 business; 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

Interested persons may submit written data, views, arguments, information or comments on the proposed Rule until 5 p.m., October 20, 2021, to Kevin P. Kleinpeter, Attorney for the Office of State Parks, P.O. Box 44426, Baton Rouge, LA 70804. He is responsible for responding to inquiries regarding the proposed Rule.

H. Brandon Burriss
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Rosedown Plantation Admission Fee

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No savings are anticipated with the proposed rule. The Office of State Parks is correcting the current Louisiana Administrative Code to reflect the entrance fee for Rosedown Plantation State Historic Site from \$15 to \$12 per adult (ages 18 to 61).

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 government.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated costs and/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 effect on competition and employment.

H. Brandon Burriss
Assistant Secretary
2109#005

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs and Criminal Investigations Division

Conditional Exclusion for Carbon Dioxide (CO2)
Streams in Geologic Sequestration Activities
(LAC 33:V.105 and 109)(HW128ft)

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 Hazardous Waste regulations, LAC 33:V.105 and 109 (Log #HW128ft).

This Rule is identical to federal regulations found in 40 CFR Part 260.10 and 261.4(h), which are applicable in Louisiana. For more information regarding the federal requirement, contact Deidra Johnson 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. 49:953(F)(3) and (4).

This rulemaking adopts the federal Rule published by the U.S. Environmental Protection Agency on January 3, 2014. The proposed Rule revises the regulations for hazardous waste management under the Resource Conservation and Recovery Act (RCRA) to conditionally exclude carbon dioxide (CO₂) streams that are hazardous from the definition of hazardous waste, provided these hazardous CO₂ streams are captured from emission sources, are injected into Underground Injection Control Class VI wells regulated under the Safe Drinking Water Act for purposes of geologic sequestration, and meet certain other conditions. The management of these CO₂ streams, when meeting certain conditions, does not present a substantial risk to human health or the environment, and therefore additional regulation pursuant to hazardous waste regulations is unnecessary.

Geologic sequestration is the process of injecting CO₂ captured from an emission source into deep subsurface rock formations in order to isolate the CO₂ permanently. Geologic sequestration is a key component of carbon capture and storage, which is a set of climate change mitigation technologies. This Rule will substantially reduce the uncertainty associated with identifying these CO₂ streams under RCRA subtitle C, and will also facilitate the deployment of geologic sequestration by providing additional regulatory certainty. The basis and rationale for this Rule are to mirror the federal regulations. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality— Hazardous Waste

Chapter 1. General Provisions and Definitions

§105. Program Scope

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to the denial of a permit for the active life of a hazardous waste management facility or individual unit at a treatment, storage, and disposal (TSD) facility under LAC 33:V.706. Definitions appropriate to these rules and regulations, including *solid waste* and *hazardous waste*, appear in LAC 33:V.109. Wastes that are excluded from regulation are found in this Section.

A. - D.9.b.iii ...

10. Carbon Dioxide Stream Injected for Geologic Sequestration. A carbon dioxide stream that is captured and transported for purposes of injection into an underground injection well subject to the requirements for Class VI Underground Injection Control wells, including the

requirements in 40 CFR Parts 144 and 146 of the Underground Injection Control Program of the Safe Drinking Water Act (or LAC 43:XVII.Subpart 6.Chapter 36 of the Louisiana Underground Injection Control Program for underground injection wells located in Louisiana), is not a hazardous waste, provided the following conditions in Subparagraphs a-d are met.

a. Transportation of the carbon dioxide stream shall be in compliance with U.S. Department of Transportation requirements, including the pipeline safety laws (49 U.S.C. 60101 et seq.) and regulations (49 CFR Parts 190-199) of the U.S. Department of Transportation, and pipeline safety regulations (LAC 33:V.Subpart 2.Chapter 301) adopted and administered by the Louisiana Department of Natural Resources, Office of Conservation, pursuant to a certification under 49 U.S.C. 60105, as applicable.

b. Injection of the carbon dioxide stream shall be in compliance with the applicable requirements for Class VI Underground Injection Control wells, including the applicable requirements in 40 CFR Parts 144 and 146 (or LAC 43:XVII.Subpart 6.Chapter 36 of the Louisiana Underground Injection Control Program for underground injection wells located in Louisiana).

c. No hazardous wastes shall be mixed with, or otherwise co-injected with, the carbon dioxide stream.

d. Certification statements are required from the generator of the carbon dioxide stream and the owner or operator of the well, as stated below in Clauses d.i-iii.

i. Any generator of a carbon dioxide stream, who claims that a carbon dioxide stream is excluded under Paragraph D.10 of this Section, shall have an *authorized representative*, as defined in LAC 33:V.109, sign a certification statement worded as follows:

I certify under penalty of law that the carbon dioxide stream that I am claiming to be excluded under LAC 33:V.105.D.10 has not been mixed with hazardous wastes, and I have transported the carbon dioxide stream in compliance with (or have contracted with a pipeline operator or transporter to transport the carbon dioxide stream in compliance with) U.S. Department of Transportation requirements, including the pipeline safety laws (49 U.S.C. 60101 et seq.) and regulations (49 CFR Parts 190-199) of the U.S. Department of Transportation, and pipeline safety regulations (LAC 33:V.Subpart 2.Chapter 301) adopted and administered by the Louisiana Department of Natural Resources, Office of Conservation, pursuant to a certification under 49 U.S.C. 60105, as applicable, for injection into a well subject to the requirements for the Class VI Underground Injection Control Program of the Safe Drinking Water Act.

ii. Any Class VI Underground Injection Control well owner or operator, who claims that a carbon dioxide stream is excluded under Paragraph D.10 of this Section, shall have an *authorized representative*, as defined in LAC 33:V.109, sign a certification statement worded as follows:

I certify under penalty of law that the carbon dioxide stream that I am claiming to be excluded under LAC 33:V.105.D.10 has not been mixed with, or otherwise co-injected with, hazardous waste at the Underground Injection Control (UIC) Class VI permitted facility, and that injection of the carbon dioxide stream is in compliance with the applicable requirements for UIC Class VI wells, including the applicable requirements in 40 CFR Parts 144 and 146 (or LAC 43:XVII.Subpart 6.Chapter 36 of the Louisiana Underground Injection Control Program for underground injection wells located in Louisiana).

iii. The signed certification statement shall be kept on-site for no less than three years, and shall be made available within 72 hours of a written request from a duly

designated representative of the department. The signed certification statement shall be renewed every year that the exclusion is claimed, by having an *authorized representative*, as defined in LAC 33:V.109, annually prepare and sign a new copy of the certification statement within one year of the date of the previous statement. The signed certification statement shall also be readily accessible on the facility's publicly-available website, if such website exists, as a public notification with the title of "Carbon Dioxide Stream Certification" at the time the exclusion is claimed.

E. - R.8.h. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq., and in particular, 2186(A)(2).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217, LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362, 368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813, 831 (September 1996), amended by the Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:564, 567 (May 1997), LR 23:721 (June 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), LR 23:1511 (November 1997), LR 24:298 (February 1998), LR 24:655 (April 1998), LR 24:1093 (June 1998), LR 24:1687, 1759 (September 1998), LR 25:431 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:268 (February 2000), LR 26:2464 (November 2000), LR 27:291 (March 2001), LR 27:706 (May 2001), LR 29:317 (March 2003), LR 30:1680 (August 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:605 (April 2006), LR 32:821 (May 2006), LR 33:450 (March 2007), LR 33:2097 (October 2007), LR 34:614 (April 2008), LR 34:1008 (June 2008), LR 34:1893 (September 2008), LR 34:2395 (November 2008), LR 35:1878 (September 2009), LR 36:2553 (November 2010), LR 38:791 (March 2012), amended by the Office of the Secretary, Legal Division, LR 40:1336 (July 2014), LR 42:2178, 2181 (December 2016), LR 43:1151 (June 2017), repromulgated by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:1523 (August 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 46:896 (July 2020), LR 47:

§109. Definitions

For all purposes of these rules and regulations, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise.

* * *

Carbon Dioxide Stream—carbon dioxide that has been captured from an emission source (e.g., power plant), plus incidental associated substances derived from the source materials and the capture process, and any substances added to the stream to enable or improve the injection process.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790, 791 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:218, 220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 19:626 (May 1993), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:655 (April 1998), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000), LR 26:2465 (November 2000), LR 27:291 (March 2001), LR 27:708 (May 2001), LR 28:999 (May 2002), LR 28:1191 (June 2002), LR 29:318 (March 2003); amended by the Office of the Secretary, Legal Affairs Division, LR 31:2452 (October 2005), LR 31:3116 (December 2005), LR 32:606 (April 2006), LR 32:822 (May 2006), LR 33:1625 (August 2007), LR 33:2098 (October 2007), LR 34:71 (January 2008), LR 34:615 (April 2008), LR 34:1009 (June 2008), LR 34:1894 (September 2008), LR 34:2396 (November 2008), LR 36:1235 (June 2010), repromulgated LR 36:1535 (July 2010), amended LR 36:2554 (November 2010), LR 38:774, 781 (March 2012), repromulgated LR 38:1009 (April 2012), amended by the Office of the Secretary, Legal Division, LR 40:1338 (July 2014), LR 41:2600 (December 2015), LR 42:565 (April 2016), LR 42:2178 (December 2016), LR 43:1138 (June 2017), repromulgated by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:1531 (August 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 46:898 (July 2020), LR 47:

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. 49:978.1-978.8.

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 October 27, 2021, at 1:30 p.m. Interested persons are invited to attend and submit oral comments PC, Mac, Linux, iOS or Android at <https://deqlouisiana.zoom.us/j/9373792954> or by telephone by dialing 636-651-3182 using the conference code 725573. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (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 HW128ft. Such

comments must be received no later than October 27, 2021, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Affairs and Criminal Investigations Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or by fax (225) 219-4068 or by e-mail to DEQ.Reg.Dev.Comments@la.gov. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of HW128ft. This regulation is available on the Internet at <https://www.deq.louisiana.gov/page/monthly-regulation-changes-2021%20>.

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
General Counsel

2109#016

NOTICE OF INTENT
Office of the Governor
Auctioneers Licensing Board

Auctioneers (LAC 46:III.Chapters 10, 11, 17 and 25)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:3101 that the Auctioneers Licensing Board proposes to amend its existing rules and regulations to further clarify the existing requirement for online auctions, eliminate unnecessary licensing application requirements, to add the acceptance of credit cards and personal checks for payment of licensing fees, to add rules relative to Act 200, Session 2020- Military licensing, to add rules relative to Act 279, Session 2021- Healthcare dependent licensing, and to add rules relative to Act 275, Session 2020- occupational licensing and examination fee waiver.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part III. Auctioneers

Chapter 10. General Provisions

§1001. Definitions

Absolute Auction—an auction which will result in a change of ownership regardless of price.

Applicant—any person applying for a license under this Chapter.

Apprentice—any person who is employed, either directly or indirectly, by an auctioneer to deal or engage in auctions or who is studying to become an auctioneer.

Auction—the sale by competitive bid of any property which sale consists of a series of invitations for offers to

purchase property made by the auctioneer and offers to purchase made by members of the audience culminating in the acceptance by the auctioneer of the highest or most favorable bid. The term "auction" or "sale at auction" includes but is not limited to the following:

1. live auctions;
2. online auctions;
3. real-time auctions;
4. extended auctions;
5. any similar such events as may be devised with the development of technology; and
6. any combination of the foregoing.

Auction House, Auction Company, and Auction Business—synonymous and interchangeable terms and mean any entity, whether a sole proprietorship, partnership, limited liability partnership, limited liability company, corporation, or any other legal entity defined by the board, which arranges, manages, sponsors, advertises, or carries out two or more auctions within any twelve-month period and which regularly represents that goods are sold at auction. However, a public livestock auction business which exclusively auctions livestock and which is regulated as a livestock market by the Louisiana Board of Animal Health pursuant to R.S. 3:2091 et seq. shall not be defined as an auction business for purposes of this Chapter. An auction house includes those businesses defined herein which conduct business on an internet-based platform.

1. Auction houses which conduct business solely through internet-based platforms are not required to employ a licensed auctioneer to call the auction. Any live or simulcast auctions are required to employ a licensed auctioneer to call the live or real-time auction.

2. Auction houses which conduct any auction through an internet-based platform are responsible for the actions of the platform.

Auctioneer—any person who, for another, with or without receiving or collecting a fee, commission, or other valuable consideration, sells or offers to sell property at an auction.

Board—the Louisiana Auctioneers Licensing Board created as created in R.S. 37:3111.

Department—the Office of the Governor.

Licensee—any person or business holding a license under this Chapter.

Person—an individual, partnership, company, corporation, association, or group however organized.

Property—any property, tangible and intangible, movable or immovable, real, personal, or mixed.

Secured Party—a person holding a security interest in a property, whether movable or immovable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3103.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Auctioneers Licensing Board, LR 47:

Chapter 11. License of Auctioneer

§1101. Auction Requirements

A. No person, firm, auction house, or corporation, or combination thereof shall sell, dispose of, or offer for sale at public auction or cause or permit to be sold, disposed of, or offered for sale at any public auction any property of whatsoever nature unless said auction is conducted by a duly licensed auctioneer and if such sale takes place at an auction house, by a duly licensed auction house.

B. Notwithstanding any other provision of law to the contrary, a person, firm or corporation, or combination thereof, may sell, dispose of, or offer for sale at any public auction any property of whatever nature without the necessity of any other license, provided that the auction is conducted by a person who is a duly licensed Louisiana auctioneer or Louisiana apprentice auctioneer working under the supervision of a Louisiana licensed auctioneer, whichever is applicable, or otherwise meets the exceptions in accordance with the provisions of this Chapter.

C. The auctioneer license is required in the state of Louisiana for all sales conducted within the state boundaries of the state of Louisiana and for the sales of all immovable and movable properties which are physically located in the state of Louisiana.

D. The following do not require an auctioneer license or an auction house license:

1. a sale conducted by order of any United States Court pursuant to Title 11 of the United States Code relating to bankruptcy.

2. a sale conducted by an employee of the United States or the state of Louisiana or its political subdivisions in the course and scope of his employment.

3. a sale conducted by a charitable or nonprofit organization. This exclusion is only available if the following applies:

a. the Internal Revenue Service has recognized the organization as a nonprofit or charitable organization, or the State of Louisiana has recognized the sale as one for a charitable benefit; and

b. the person conducting the auction as the auctioneer is not paid for his services;

4. a sale conducted by an individual of his own property if such individual is not engaged in the business of selling such property as an auctioneer on a regular basis:

a. anyone selling his own property at auction more than once in a rolling 12-month period will be considered to be in the business of auctioneering and be required to have a license.

b. if any third party's property is included with the individual's own property, the individual selling the property will be required to have a license;

5. a foreclosure sale of realty conducted personally by a trustee under a recorded deed of trust;

6. a foreclosure sale of personal property conducted personally by the mortgagee or other secured party or an employee of such mortgagee or other secured party acting in the course and scope of his employment under a recorded chattel mortgage or other security or agreement;

7. a sale conducted by sealed bid. This exclusion includes silent auctions unless there is an active solicitation of individual bids.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3104 and R.S. 37:3105.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Auctioneers Licensing Board, LR 47:

§1102. Qualifications for Applicant [Formerly §1101]

A. The board shall base determination of satisfactory minimum qualifications for licensing as follows:

1. be of good moral character;
2. be a citizen, or a legal resident of the United States;
3. be at least 18 years of age;

4. has completed one of the following:

a. completed a series of studies at a school of auctioneering licensed or approved by the board;

b. completed an apprenticeship of one year working with and under an auctioneer duly licensed in the state of Louisiana.

B. An applicant for licensing shall fill out and file with the board an application form provided by the board. The form shall require relevant information about the applicant's character, knowledge and experience in application of that knowledge. Among the data required on the application form, the applicant shall submit the following information:

1. education background;

2. previous occupational experience in the auction business;

3. three references, including their business addresses, who attest to the applicant's reputation and adherence to ethical standards.

C. If, in the opinion of the board, the applicant provides inadequate information to allow the board to ascertain whether the applicant satisfies the qualifications for licensing, the applicant shall be required to provide additional information for purposes of the application or may be required to present himself for an interview for this purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3113.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:336 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:784 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1325 (June 2005).

§1103. Licensing Procedure

A. Applications for the license to be obtained under provision of the board's enabling act shall be on the forms prescribed by the board and furnished to such applicants. The applications shall contain such information as the board deems necessary to enable it to fully determine the qualifications and eligibility of the applicant for the license applied for.

B. - B.5. ...

6. check, money order, or credit card in the sum of \$300 for all fees covered in the initial licensing procedure;

7. Repealed

8 - 15. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112 and R.S. 37:3113.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:337 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:784 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1325 (June 2005). LR 37:2147 (July 2011), LR 47:

§1109. Examination Procedure

A. ...

B. The board shall issue a numbered license to an applicant who meets the requirements of this statute and rules, passes satisfactorily 70 percent the examination administered by the board and pays the fee to be a licensed auctioneer.

C. The board shall give examinations for licensure as needed.

D - H. ...

I. The board may establish such procedures for applicants to take the examination outside the parish of the domicile of the board office, through providers approved by the board, as long as the applicant pays all costs of the examination and the procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112 and R.S. 37:3113.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:337 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:784 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1326 (June 2005), LR 37:2147 (July 2011).

§1113. Fees

A. - A.13. ...

B. All fees shall be paid by check, money order, or credit card made payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3116.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:337 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:785 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1326 (June 2005), amended LR 37:2147 (July 2011), LR 47:

§1117. Qualifications for Licensing as an Apprentice Auctioneer

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

b. Repealed

4.c. - 5.

6. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3118.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:338 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:786 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1326 (June 2005), LR 37:2147 (July 2011), LR 40:2541 (December 2014), LR 47:

§1119. Apprentice Auctioneer Licensing

A - J.1. ...

2. Repealed

3 - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:338 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:786 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1326 (June 2005), LR 40:2541 (December 2014), LR 47:

§1120. Auction Business Licensing.

A. Every applicant seeking to operate an auction house shall file with the board a completed application (on a form provided by the board) for a license for each auction business to be operated by that person. Although an auction business may operate in more than one location, at all times, it may only operate under the name licensed with the Louisiana Auctioneers Licensing Board. Auction businesses which sell property, either immovable or movable, located within the State of Louisiana are required to have a business license.

B. Auction houses which conduct business solely through internet-based platforms are not required to employ a licensed auctioneer to call the auction. Any live or simulcast auctions are required to employ a licensed auctioneer to call the live or real-time auction.

C. Auction houses which conduct any auction through an internet-based platform are responsible for the actions of the platform.

D. Licensing Fee. Each application for licensing shall be accompanied by a license fee in the amount of \$300. Renewal of each auction business license shall be on an annual basis, no later than February 1 of each calendar year. An auction business license renewal fee shall be \$300.

E. Application Information. Each applicant shall submit the following information on the designated application form:

1. the name of each owner of the entity and the length of time each such person has been an owner;

2. each business address of the entity;

3. each auctioneer licensed by the date of application who has been employed by the business for more than one auction in the previous calendar year;

4. the nature of the business and the product to be sold;

5. two references who shall be auctioneers currently licensed in this state in good standing with the board;

6. a good and sufficient surety bond executed by the applicant as principal and by a surety company qualified to do business in the state of Louisiana as surety in the amount of \$10,000.

F. If, in the opinion of the board, the applicant provided inadequate information to allow the board to ascertain whether the applicant satisfies the qualifications for licensing, the applicant shall be required to provide additional information for purposes of the application or may be required to present himself for an interview for this purpose.

G. The qualifications of an applicant applying for an auction business license shall be the same as those articulated at R.S. 37:3113(a)1 through 37:3113(b)4, pertaining to the licensing of auctioneers.

H. An auction business licensee with a physical location within this State shall be able to operate the licensed auction business in any parish of the state of Louisiana. Should the licensee desire to operate the business at more than one location or change the location, the licensee shall give the Louisiana Auctioneers Licensing Board written notice of the change at least five days prior to the change of address or establishment of new location, as well as provide a physical and mailing address of the new or additional location of the business. Failure by licensee to give notice to the Louisiana Auctioneers Licensing Board after such change of location (or establishment of an additional location) shall be grounds for revocation of the auction business license by the board.

I. A licensee's auction business license shall automatically be suspended if no licensed auctioneer is engaged in conducting the auctions for the licensee if the auction house conducts live or simulcast auctions. Such license may be reinstated by the board for the unexpired term upon proof that a duly licensed auctioneer has been affiliated with the auction business. This subsection will not

apply to auction houses which conduct business solely through internet-based platforms which are not required to employ a licensed auctioneer to call the auction.

J. The provision of R.S. 37:3115 relative to renewal of license, certificate and penalties for failure to renew the license of auctioneers, shall also apply to an auction business license.

K. No auction business license shall be issued or renewed unless the applicant presents a bond in the amount of \$10,000 in a form approved by the board.

L. A resident Louisiana licensed auctioneer may operate an auction business without a fee, and without posting of an additional surety bond if a surety bond guaranteeing his performance as an auctioneer has previously been posted.

M. An auction business must display in its office or offices, its current license to do business as an auction business at all times. An auction business must display its Louisiana license number on its website and in all advertising in a prominent location with the license number preceded by "LA" to indicate the issuing state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3103.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Auctioneers Licensing Board, LR 47:

§1123. Issuing of Licenses for Military

A. All licenses issued to those with military training, spouse, or dependent of a member of the military or a United States Department of Defense civilian employee who received military orders for a change of station to a military installation or assignment located in Louisiana will be issued in accordance with Act 2020, No. 200.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3651

HISTORICAL NOTE: Promulgated by the Office of the Governor, Auctioneers Licensing Board, LR 47:

§1125. Issuing of Licenses for Healthcare Professional Dependents

A. All licenses issued to dependents of healthcare professionals will be issued in accordance with Act 2021, No. 279.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1751.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Auctioneers Licensing Board, LR 47:

§1127. Occupational License and Examination Fee Waiver

A. All licenses issued to qualified individuals will be issued in accordance with Act 2020, No. 275.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:23.4

HISTORICAL NOTE: Promulgated by the Office of the Governor, Auctioneers Licensing Board, LR 47:

Chapter 17. Responsibilities of Licensed Auctioneer

§1706. Absolute Auction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Auctioneers Licensing Board, LR 37:2148 (July 2011), repealed LR 47:

Chapter 25. Auctioneer Business

§2501. Licensing of Auction Business

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3119.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Auctioneers Licensing Board, LR 20:1367 (December 1994), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1328 (June 2005), repealed LR 47:

Family Impact Statement

The proposed Rule has no known adverse impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule will have no known adverse impact on poverty as described in R.S. 49:973.

Small Business Statement

The proposed Rule will have no known adverse impact on small businesses as described in R.S. 49:965.2 et seq.

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.

Public Comments

Interested persons may submit written comments or request for a hearing until 3:30 p.m., October 10, 2021, to Sandy Edmonds, Auctioneers Licensing Board, 11736 Newcastle Avenue, Bldg. 2, Suite C, Baton Rouge, LA 70816.

Sandy Edmonds
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Auctioneers

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no impact on state or local government expenditures. The proposed rule change clarifies existing rules specific to online auctions, eliminates unnecessary application requirements, and adds the acceptance of credit card payments.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact. The requirement for a license to conduct online auctions is not new but intended to clarify existing requirements.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will have no additional cost or economic benefit. The rule is simply a measure to further define the requirements already set by statute regarding online auctions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and/or employment.

Sandy Edmonds
Executive Director
2109#026

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Board of Examiners for New Orleans and Baton Rouge
Steamship Pilots for the Mississippi River**

Qualifications and Examination of Pilots
(LAC 46:LXX.Chapter 62)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River hereby gives notice of intent to promulgate and amend its rules. The new and revised rules are in the public’s interest and will promote public safety. The revised rules provide expanded opportunities for entry into the Pilot Development Program by modifying the education and experiential requirements and the procedure by which applications are accepted. The revised rules improve the general application requirements to ease burdens on potential applicants and to reflect current licensure and training requirements. This rule revises provisions regarding the Pilot Development Program to reflect the manner in which the program is currently run.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXX. River Pilots

**Subpart 3. Board of Examiners for the New Orleans and
Baton Rouge Steamship Pilots**

**Chapter 62. Qualifications and Examination of Pilots
§6203. Definitions**

A. ...

Accredited Institution of Higher Learning—an institution that is accredited by one of the six regional accreditation agencies recognized by the United State Department of Education for the accreditation of degree-granting institutions of higher education.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2472 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:495 (March 2010), LR 47:

§6204. Application

A. ...

B. All applications shall be in writing, signed by the applicant and initially either presented to a member of the board or their authorized representative by the applicant or submitted via email at applications@nobraexaminers.com. All applications shall be notarized and be accompanied by satisfactory proof of compliance with all of the board’s objective requirements. Upon submission all applicants will be provided confirmation that the board has received their application indicating the date and time of submission. The board or their authorized representative shall reject all deficient applications and provide an applicant written notice of the specific deficiency. Pursuant to §6207, the board may allow applicants submitting deficient applications an opportunity to cure.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2473 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:495 (March 2010), LR 38:3165 (December 2012), LR 47:

§6205. General Requirements

A. An applicant must be of good moral character. An applicant shall be required to submit to a background check conducted by Louisiana State Police Department. An applicant shall sign all pertinent authorization forms allowing the board to obtain and verify the authenticity of all documents submitted to the board.

B. An applicant must have been a registered voter of the State of Louisiana for the preceding two consecutive years prior to the date of selection into the Pilot Development Program.

C. An applicant shall submit proof of a current satisfactory United States Coast Guard approved physical (Merchant Mariner Physical Examination Report). Upon notification of an impending NOBRA selection of apprentices, the applicant shall submit to a physical examination administered by a board appointed physician specializing in occupational medicine no more than 40 days prior to the date of selection into the Pilot Development Program.

D. ...

E. An applicant shall submit evidence of satisfactory completion of training programs approved by the board for the following courses of instruction:

- 1. bridge resource management;
- 2. basic ship handling (5 day); and
- 3. CPR.

F. Upon notification of a pending NOBRA selection of apprentices, an applicant shall submit a board approved drug screen test consistent with the board’s drug screen policy (See Chapter 65 of the board’s rules) within 30 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2473 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:495 (March 2010), LR 38:3166 (December 2012), LR 47:

§6206. Licenses/Education/Experience

A. In addition to the above, an applicant must submit satisfactory proof of the following licensing, education and experience criteria.

1. An applicant must hold at least a current First Class Pilots License, Any Gross Tons, upon the Lower Mississippi River from Chalmette, Louisiana to Baton Rouge Railroad and Highway Bridge at Baton Rouge, Louisiana.

a. Notwithstanding Paragraph A.1 of this Section, an applicant with first class pilotage from mile marker 88.0 AHP to mile marker 232.2 AHP shall be eligible for selection into the Pilot Development Program. However, an applicant selected for the Pilot Development Program shall be required to obtain first class pilotage from mile marker 232.2 AHP to mile marker 234.0 AHP prior to commissioning.

2. An applicant must meet one of the following requirements prior to the date of selection into the Pilot Development Program:

a. Hold a United States Coast Guard Third Mate's License to be held by the applicant 1 year prior to apprentice selection as described in §6207 AND a bachelor's degree or higher from an accredited Maritime Academy approved by and conducted under rules prescribed by the Federal Maritime Administrator and listed at title 46, Code of Federal Regulations, part 310; or

b. Hold a United States Coast Guard Masters' License of Steam or Motor Vessels of not less than 1600 gross tons or any upgrade thereof upon Inland Waters, Rivers or Lakes to be held by the applicant for a minimum of 2 years prior to apprentice selection as described in §6207 AND a Bachelor's Degree or Diploma from an Accredited Institution of Higher Learning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2473 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:495 (March 2010), LR 38:3166 (December 2012), LR 44:44 (January 2018), LR 47:

§6207. Notice of Apprentice Selection

A. For any apprentice selection occurring prior to December 31, 2022, the following provisions shall be utilized:

1. at least 60 days prior to an apprentice selection, NOBRA must inform the board, in writing, that a selection will be held and the date of the selection;

2. at least 50 days prior to the apprentice selection, the board will advertise the date of the apprentice selection, as well as the deadline for submission of application materials, in at least two periodicals, one of which shall have a circulation of the greater New Orleans area and one of which shall have a circulation of the greater Baton Rouge area. In addition, all relevant dates will be posted on the board's website;

3. at least 40 days prior to the apprentice selection, the board will give notice, via U.S. Mail, to all applicants of the date of the selection and the deadline for submitting documentation in support of their application;

4. the deadline for submitting an application and supporting documentation, shall be 3 p.m., 30 days prior to the apprentice selection;

5. at least 20 days prior to the apprentice selection, the board will forward to NOBRA a list of all qualified candidates who meet the criteria for selection, as enumerated in the board's rules;

6. at the conclusion of a NOBRA apprentice selection, NOBRA shall provide the board, in writing, a list of those candidates selected for admission into the Pilot Development Program as an Apprentice Pilot. The board shall unilaterally determine the maximum number apprentices admitted into the Pilot Development Program. After receipt of notification from NOBRA, the board will notify the selected applicant via U.S. Mail of the time, date and location of the commencement of the Pilot Development Program.

B. The following provisions shall be effective immediately and utilized for any apprentice selection process occurring on January 1, 2023 or later.

1. The board will accept initial applications for apprentice selection from January 1 to October 31 of each year. No initial applications will be accepted after October 31.

2. Annually, the board will advertise the deadline for submission of application materials, in at least two periodicals, one of which shall have a circulation of the greater New Orleans area and one of which shall have a circulation of the greater Baton Rouge area and all relevant dates will be posted on the board's website. Additionally, when NOBRA notifies the board that a selection is to be held, the board shall notify all applicants as soon as practicable.

3. The Board will review all initial application received by October 31, schedule physicals, conduct background checks on the applicants, and certify that the applicants meet the criteria set forth by the board. At the Board's discretion, the applicant may be given the opportunity to cure a deficient application prior to December 31. Prior to December 31, all applicants shall have completed an in-person application review with a member of the board or their authorized representative. All applications meeting the requirements set forth in §6205 and §6206 shall be considered complete on December 31.

4. On or about January 1 the board will prepare a list of apprentice candidates eligible to be selected. The list shall remain in place until December 31 at which time the list will be withdrawn and a new list will be prepared in accordance with this section.

5. At least 60 days prior to an apprentice selection, NOBRA must inform the board, in writing, that a selection will be held and the date of the selection.

6. When NOBRA notifies the board that a selection is to be held, the board will submit to the pilots the list of eligible apprentice candidates as described in §6207F. At the conclusion of a NOBRA apprentice selection, NOBRA shall provide the board, in writing, a list of those candidates selected for admission into the Pilot Development Program as an Apprentice Pilot. The board shall unilaterally determine the maximum number apprentices admitted into the Pilot Development Program. After receipt of notification from NOBRA, the board will notify the selected applicant via U.S. Mail of the time, date and location of the commencement of the Pilot Development Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2474 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:496 (March 2010), LR 38:3166 (December 2012), LR 44:44 (January 2018), LR 47:

§6208. Expiration of Applications

A. In accordance with §6207, all apprentice applications shall be valid for one calendar year, upon which time they will be deemed expired and destroyed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2474 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:496 (March 2010), LR 38:3166 (December 2012), LR 44:44 (January 2018), LR 47:

§6209. Pilot Development Program

A. The Pilot Development Program is a mandatory program administered by the board for all Association selected applicants wherein each applicant must successfully and satisfactorily perform such duties, receive training and instruction, meet required standards, pass examinations and obtain such licensure as determined by the board. The program will last not less than three calendar years and be comprised of an apprentice period and a deputy pilot period. Successful completion of the program is required prior to the board approving the deputy pilot for unrestricted pilot status.

A.1. - C. ...

1. The Deputy Pilot Period of the Pilot Development Program shall last for a period of not less than two calendar years. The Deputy Pilot Period shall include the following:

- a. movement of vessels of particular types and sizes and at times under specific conditions set by the board;
- b. any necessary license preparation and upgrades;
- c. successful completion of licensure and education requirements; and
- d. any other industry related professional development that may be relevant and necessary.

D. - D.2. ...

3. The Deputy Pilot Period may be extended up to one additional year after the initial three years at the discretion of the board. If, after the one year extension period, the deputy pilot fails to meet the criteria and standards set by the board, said deputy pilot may be released from the Pilot Development Program and a recommendation may be made to the governor to have the deputy pilot's state commission revoked.

E. ...

1. Any program participant who fails to meet the criteria and standards set by the board may be released from the Pilot Development Program and may not be recommended to the governor for commissioning. If, already commissioned, a recommendation may be made to have the deputy pilot's state commission revoked.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2474 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:496 (March 2010), LR 38:3167 (December 2012), LR 47:

Family Impact Statement

The proposed Rule of the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability, and autonomy. The implementation of these amended rules will have no known or foreseeable effect on:

1. the stability of the family;

2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budgets;
5. the behavior and personal responsibility of children; and
6. the ability of the family or a local government to perform this function.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on poverty 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

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 business. The agency, consistent with health, safety, environmental, and economic welfare factors has been considered and, where possible, utilized regulatory methods in the drafting of the proposed rules 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 or the 2104 Regular Legislative Session. In particular, there should be no known or foreseeable effects on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of services;
2. the total direct and indirect effect on the cost to providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provider the same level of service.

Public Comments

All interested persons are invited to submit written comments on the proposed rule. Such comments must be received no later than October 20, 2021 at 4:30p.m., and should be sent to Capt. Casey Clayton, President, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, via U.S. mail at 2805 Harvard Avenue, Suite 101, Metairie, LA 70006, via fax at (504) 887-5799, or e-mail at cc@nobraexaminers.com. Copies of these proposed rules can be obtained by contacting the Board of Examiners at (504) 887-5797 or online at www.doa.la.gov/doa/osr/louisiana-register/.

Public Hearing

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the board within 20 days of the date of this notice. If a public hearing is requested to provide data, views, arguments, information,

or comments orally in accordance with the Louisiana Administrative Procedures Act, the board will set a time and place for hearing within the appropriate timeframe. Any person wishing to attend should call to confirm that a hearing is being held.

Casey E. Clayton
President

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Qualifications and Examination of Pilots**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will have no impact on state or local governmental unit expenditures. All expenses, if any, are paid by the New Orleans-Baton Rouge Steamship Pilots Association (NOBRA) by law. The proposed rule changes provide expanded opportunities for entry into the Pilot Development Program by modifying the education and experiential requirements and the procedure by which applications are accepted. Under the proposed rule, applicants will be able to possess various combinations of education and experience and will no longer be required to attend a maritime academy to be eligible. Additionally, applications will be accepted on a rolling basis between January and October for any election(s) occurring in the following calendar year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes are not anticipated to have an impact on revenue collections of state and local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes will not subject current or potential pilots to additional costs. Further, these rules revise the application process as well as the educational and experiential requirements for becoming a pilot and are anticipated to create a larger applicant pool. This will allow for a greater number of individuals with diverse backgrounds to be eligible to enjoy the economic benefits of becoming a riverboat pilot.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will increase competition for a state pilot commission by offering alternative routes to obtaining the necessary experience to become a pilot and modifying the application process itself.

Casey E. Clayton
President
2109#038

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Board of Examiners for New Orleans and Baton Rouge
Steamship Pilots for the Mississippi River**

Standards of Conduct (LAC 46:LXX.Chapter 63)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River

hereby gives notice of intent to promulgate and amend its rules. The new and revised rules are in the public's interest and will promote public safety. The revised rules expand continuing professional education options, make permanent a prior emergency rule requiring twelve hours of rest between turns, and modify the recency requirement to allow for a greater number of turns to count towards recency. The new rule mandates a retirement age of 70 years old in accordance with Louisiana Law.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXX. River Pilots

**Subpart 3. Board of Examiners for the New Orleans and
Baton Rouge Steamship Pilots**

Chapter 63. Standards of Conduct

§6307. Standards of Conduct

A. - A.3. ...

4. failure to maintain a current satisfactory United States Coast Guard approved physical (Merchant Mariner Physical Examination Report), which is to be submitted to the board annually;

5. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2476 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:498 (March 2010), LR 38 3167 (December 2012), LR 44:45 (January 2018), LR 47:

§6310. Continuing Professional Education

A.1. - A.1.b. ...

c. A course or seminar on marine incident management for pilots;

d. A course of seminar in marine electronic navigation for pilots; and

e. One of the following:

i. a marine technical course or seminar, which includes vessel traffic service training;

ii. a course or seminar on applicable United States Coast Guard navigation regulations (Rules of the Road); or

iii. a course or seminar on manned model ship handling and/or instruction.

A.2. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2477 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:499 (March 2010), LR 38:3167 (December 2012), LR 47:

§6311. Mandatory Rest Period

A. ...

B. All pilots shall have a minimum of twelve hours rest between turns.

C. ...

D. Notwithstanding Subsection B, any pilot completing a turn lasting less than 4 bridge hours or receiving a discharge, shall not be required to comply with the mandatory 12 hours rest period. However, in no case shall any pilot acquire more

than 12 hours in a 24-hour period. Pilots requesting twelve hours rest period shall not be called or dispatched in less than 12 hours from the completion of their finishing time.

E. Notwithstanding Subsection B, during a state of declared emergency all pilots shall be exempt from the minimum 12 hours rest period in between turns. However, in no case shall any pilot exceed 12 bridge hours in any 24 hour period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 31:56 (January 2005), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:500 (March 2010), LR 38:3167 (December 2012), LR 47:

§6312. Recency Requirement

A. ...

B. All pilots shall complete at least 65 turns each calendar year. A calendar year commences on the first of January each year.

1. The president of the board and the president of the association shall be exempt from the recency requirement. After completing their term as president, prior to returning to the route, the former president must complete 20 observer turns unless he or she has completed 12 turns in the previous year, as defined in §6312(B)(3).

2. Members of the examiners and association officers shall be considered recent by completing 25 turns or 25 observer turns each calendar year.

3. A turn, for the purposes of recency, shall be any pilotage of any vessel for a minimum of 20 miles or the pilotage of any vessel involving docking, undocking, anchoring, heaving of the anchors, and consequently transiting the river, or a special services assignment.

4. An unrestricted pilot may receive credit for a turn for the purposes of recency for each day of work performed at the VTC. A pilot may receive no more than 14 turns in this manner unless specifically waived by the board for a temporary condition not affecting performance of duty.

5. It is the duty of any pilot who fails to maintain recency to remove themselves from rotation and immediately notify the board.

C. - D.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 44:45 (January 2018), amended LR 47:

§6313. Age Restriction

A. A pilot shall be required to resign his pilot commission in the calendar year in which the pilot attains the age of 70.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 47:

Family Impact Statement

The proposed Rule of the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability, and autonomy. The

implementation of these amended rules will have no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budgets;
5. the behavior and personal responsibility of children; and
6. the ability of the family or a local government to perform this function.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on poverty 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

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 business. The agency, consistent with health, safety, environmental, and economic welfare factors has been considered and, where possible, utilized regulatory methods in the drafting of the proposed rules 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 or the 2104 Regular Legislative Session. In particular, there should be no known or foreseeable effects on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of services;
2. the total direct and indirect effect on the cost to providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provider the same level of service.

Public Comments

All interested persons are invited to submit written comments on the proposed Rule. Such comments must be received no later than October 20, 2021 at 4:30p.m., and should be sent to Capt. Casey Clayton, President, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, via U.S. mail at 2805 Harvard Avenue, Suite 101, Metairie, LA 70006, via fax at (504) 887-5799, or e-mail at cc@nobraexaminers.com. Copies of these proposed rules can be obtained by contacting the Board of Examiners at (504) 887-5797 or online at www.doa.la.gov/doi/osr/louisiana-register/.

Public Hearing

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the board

within 20 days of the date of this notice. If a public hearing is requested to provide data, views, arguments, information, or comments orally in accordance with the Louisiana Administrative Procedures Act, the board will set a time and place for hearing within the appropriate timeframe. Any person wishing to attend should call to confirm that a hearing is being held.

Casey E. Clayton
President

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Standards of Conduct**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed rule changes will have no impact on state or local governmental unit expenditures. All expenses, if any, are paid by the New Orleans-Baton Rouge Steamship Pilots Association (NOBRA) by law.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule changes are not anticipated to have an impact on revenue collections of state and local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The proposed rule changes will not subject current or potential pilots to additional costs. Further, these rules expand continuing education options, make permanent a prior emergency rule requiring twelve hours of rest in between turns, and modify the recency requirement to allow for a greater number of turns to count towards recency. Violating any of these rules may subject a pilot to disciplinary action by the Board of Examiners, up to and including revocation of a Pilot's commission. The new rule also mandates a retirement age of 70 years in accordance with Louisiana law.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rule changes will have no anticipated effect on competition and will make modifications to the regulations governing commissioned pilots.

Casey E. Clayton
President
2109#039

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

**NOTICE OF INTENT
Office of the Governor
Crime Victims Reparations Board**

Compensation to Victims (LAC 22:XIII.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 hereby gives notice of its intent to promulgate 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.

**Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part XIII. Crime Victims Reparations Board

Chapter 5. Awards

§503. Limits on Awards

- A. - L.I. ...
- M. Crime Scene Evidence
 - 1. - 1.c. ...
 - 2. Medical Examination of Sexual Assault Victims
 - a. - d. ...
 - 3. Healthcare providers shall be reimbursed for expenses associated with providing a forensic medical exam in the same amount as provided for in the fee schedule in §503.M.4. The total amount reimbursable to all providers per forensic medical exam (FME) is limited to \$1000. All x-rays, ultrasounds, CT scans, extensive dental work, and lab/diagnostic test not listed in the schedule below related to the sexual assault must have supporting documentation to support testing.
 - 4. Non scheduled FME expenses will be reimbursed at a rate of 55 percent. (eff. 1/1/22).
 - 5. Forensic Medical Exam Fee Schedule for Sexual Assault Cases

Examination Fee	Maximum Reimbursement
Forensic Medical Exam Incl. Rate Kit, MD/SANE Nurse Exam, Anogenital Exam, Supplies, Toxicology Kit, Facility Fee	\$1000
Physician Fees	Maximum Reimbursement
Anogenital Exam	\$150
Anoscopy	\$120
Follow-Up Office Visit	\$150
Mental Health Office Visit-Initial Eval	\$150
Mental Health Office Visit-Follow-Up	\$90
Laboratory Testing	Maximum Reimbursement
CBC	\$65
Chlamydia	\$110
CMP	\$90
Gonorrhea	\$80
Hepatitis Panel	\$160
Herpes	\$30
HIV	\$80
Lab Pregnancy Test	\$30
Syphilis/RPR/Treponema Pallium	\$25
Trichomonas	\$40
Urinalysis	\$30
Urine Culture	\$50
Venipuncture	\$50
Wet Mount	\$50
Medications	Maximum Reimbursement
Antimicrobials	\$100
Antiretroviral/HIV/nPEP	\$500/5 Doses
Emergency Contraception	\$50.00
Hepatitis B Vaccine	\$70/Dose {up to 3 doses}
HPV Vaccine-Females age 9-26 and Males age 9-21	\$150/Dose {up to 3 doses}
Injection Fee	\$50
Tetanus Vaccine with injury	\$40

6. The fee schedule above is not a physician's order, nor does it replace one. Reimbursement may vary based on the information received from the treating facility, physician, and/or victim.

N. - O.3.b. ...

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:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule has been considered. This proposed rule will have no impact on family functioning, stability, or autonomy as described in R.S. 49:972 since it only clarifies the fee schedule used for reimbursement of ancillary expenses to a forensic examination for applying for reparations.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973.B. In particular, there should be no known or foreseeable effect on: (1) the effect on household income, assets, and financial security; (2) the effect on early childhood development and preschool through post-secondary education development; (3) the effect on employment and workforce development; (4) the effect on taxes and tax credits; (5) the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on: (1) the effect on the staffing level requirement or qualifications required to provide the same level of service; (2) the total direct and indirect effect on the cost to the providers to provide the same level of service; or (3) the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments on this proposed Rule no later than November 1, 2021, at 5 p.m. to Bob Wertz, Louisiana Commission on Law Enforcement, P.O. Box 3133, Baton Rouge, LA 70821.

Amanda Tonkavitch
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Compensation to Victims

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be an indeterminable impact on the expenditures for the Louisiana Commission on Law Enforcement (LCLE) as a result of the new Forensic Medical Exam Fee Schedule. The

Crime Victims Reparation Board may pay up to \$1,000 to medical providers for forensic medical examinations through the statutorily dedicated Crime Victims Reparation Fund and federal funds. Medical providers and facilities are currently paid the same amount as provided for in the Medicare fee schedule for the Louisiana region.

The proposed rules would establish a fee schedule for the maximum reimbursement of certain medical procedures and tests associated with a forensic medical examination. It is unknown to what extent the proposed fee schedule will affect the overall expenditures of the Crime Victims Reparation Fund when compared with the current reimbursement rate. To the extent LCLE experiences a decrease in expenditures from the Crime Victims Reparations Fund, there may be a corresponding reduction in federal grant funding available for expenditures.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be an indeterminable impact to federal grant awards beginning in FY 23 as a result of the proposed rule change. The dollar amount of federal grant funding allotted annually to the Louisiana Commission on Law Enforcement (LCLE) through the Office for Victims of Crime (OVC) via the Victims of Crime Act (VOCA) is contingent upon state fund expenditures in the preceding year. For every dollar spent in a particular fiscal year on reparations for crime victims, OVC will appropriate seventy five cents of VOCA funding in the next fiscal year. Therefore, decreased state expenditures may result in reduced federal funding for the agency in the next fiscal year. However, it is indeterminable at this time whether the proposed rules will result in higher or lower expenditures from the Crime Victims Reparation Fund.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be an indeterminable fiscal impact to the revenue of medical providers and facilities as a result of the proposed rule change. The proposed rule establishes a new fee schedule for allowable procedures associated with a forensic medical examination. Some medical providers may experience an increase in revenue due to the new fee schedule while others may experience a decrease as compared with the current reimbursement rate.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition or employment in the public or private sector as a result of the proposed rule change.

Jim Craft
Executive Director
2109#024

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of Broadband Development and Connectivity**

Granting Unserved Municipalities
Broadband Opportunities (GUMBO)
(LAC 4:XXI.Chapters 1-7)

The Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity proposes to adopt LAC 4:XXI.Chapters 1-7 as authorized by R.S. 51:2370-2370.16, relative to the administration of the Granting Unserved

Municipalities Broadband Opportunities (GUMBO) grant program by the Office of Broadband Development and Connectivity.

Like railways in the 19th century and electricity in the 20th century, broadband internet access has become a critical piece of infrastructure, relied upon to ignite economic growth and competitiveness, contribute to improved outcomes in healthcare, enhance agricultural output, and advance the educational experience of our children. In the 21st century, broadband internet access is a given for many Louisianians, who rely on broadband in every aspect of daily life.

The Coronavirus pandemic has forever changed the definition and location of “work.” Unemployed Louisianians rely on broadband to search and apply for the next opportunity. Our state’s families and children have been forced to rely upon broadband for virtual education. The older and sicker among us are increasingly reliant on broadband to schedule telehealth visits and see medical specialists. Across fields of rice in Acadia Parish, corn in Richland Parish, and sugarcane in Lafourche Parish, farmers around the state rely on broadband to take advantage of the latest innovations in agricultural technology to increase yields. Working remotely, searching for employment, attending virtual classes, scheduling a telehealth visit, and using the latest technologies in agriculture all depend, in part, on having access to broadband.

However, according to the Federal Communications Commission, over 10 percent of Louisianians do not have access to broadband through ADSL, cable, fiber, or fixed wireless. In our rural communities, the number of these unserved residents rises to nearly 33 percent. Tragically, a third of rural Louisianians are without access to high-speed broadband, threatening their health, limiting their educational opportunities, and constraining their economic competitiveness in the digital world.

Failure to connect the unconnected, and any further delay in constructing broadband infrastructure to serve those residents without it, would continue the substantial risk of hardship currently faced by hundreds of thousands of residents throughout the state.

Therefore, the Louisiana Office of Broadband Development and Connectivity shall provide grants to private providers of broadband services to facilitate the deployment of broadband service to unserved areas of the state, defined as areas without deployed internet access service providing transmission speeds of at least 25 Mbps download and 3 Mbps upload (25:3 Mbps) through wireline or fixed wireless. The GUMBO grant program shall fund eligible projects through a competitive grant application process.

This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 4

ADMINISTRATION

Part XXI. Granting Unserved Municipalities Broadband Opportunities (GUMBO)

Chapter 1. Program Summary

§101. Background and Authorization

A. This Part may be cited as the Louisiana GUMBO Broadband Grant Program Guide.

B. The Louisiana Office of Broadband Development and Connectivity, as authorized by R.S. 51:2370.1-2370.16, provides grants to private providers of broadband services to facilitate the deployment of broadband service to unserved areas of the state. The Granting Unserved Municipalities Broadband Opportunities (GUMBO) grant program funds eligible projects, through a competitive grant application process, in economically distressed parishes throughout the state.

C. The application materials, program guidelines, and criteria set forth in this Part govern the GUMBO grant program and have been developed based on the enacting legislation for the program, Act 477 of the 2021 Regular Legislative Session.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§103. Definitions

Broadband Service—deployed internet access service with a minimum of 25 Mbps download and 3 Mbps upload transmission speeds (25:3 Mbps).

Cooperative—a corporation organized under Part I of Chapter 2 of Title 12 of the Louisiana Revised Statutes of 1950 or a corporation who becomes subject to those provisions pursuant to R.S. 12:401 et seq.

Director—the Executive Director of the Office of Broadband Development and Connectivity within the Division of Administration.

Economically Distressed Parish—an unserved area that is in need of expansion of business and industry and the creation of jobs, giving consideration to unemployment, per capita income, and the number of residents receiving public assistance within that unserved area.

Eligible Grant Recipient—a provider of broadband service, including a provider operated by a local government if the local government is compliant with the Local Government Fair Competition Act prior to July 1, 2021, with respect to providing such services, a cooperative, or any partnership thereof.

Eligible Parishes—any parish with unserved structures.

Eligible Project—a discrete and specific project located in an unserved area of an eligible parish seeking to provide broadband service to homes, households, businesses, educational facilities, healthcare facilities, and community anchor points not currently served. A project that is primarily engaged in middle-mile, backhaul, or similar work is not an eligible project. The inclusion of middle-mile, backhaul, or similar capacity is permissible in an eligible project, if the capacity does not otherwise exist and is necessary for the project’s last-mile broadband connectivity to end-users. If a contiguous project area crosses from one eligible parish into one or more eligible adjacent parishes, the project shall be deemed to be located in the parish where the greatest number of unserved households are proposed to be served.

Household—any individual or group of individuals who are living together at the same address as one economic unit. A household may include related and unrelated persons. An “economic unit” consists of all adult individuals contributing to and sharing in the income and expenses of a household. An adult is any person eighteen years or older. If an adult has no or minimal income, and lives with someone who

provides financial support to him, both people shall be considered part of the same household. Children under the age of 18 living with their parents or guardians are considered to be part of the same household as their parents or guardians.

In-kind—existing facilities, equipment, materials, and structures that a local government makes available in partnership with an internet service provider as a contribution to the proposed project, consistent with market rates. Examples include but are not limited to copper wire, coaxial cable, optical cable, loose tube cable, communication huts, conduits, vaults, patch panels, mounting hardware, poles, generators, batteries and cabinets, network nodes, network routers, network switches, microwave relays, microwave receivers, site routers, outdoor cabinets, towers, easements, rights-of-way, and buildings or structures owned by the local government that are made available for location or collocation purposes. This term may also include fees.

Infrastructure—existing facilities, equipment, materials, and structures that an internet service provider has installed either for its core business or public enterprise purposes. Examples include but are not limited to copper wire, coaxial cable, optical cable, loose tube cable, communication huts, conduits, vaults, patch panels, mounting hardware, poles, generators, batteries and cabinets, network nodes, network routers, network switches, microwave relays, microwave receivers, site routers, outdoor cabinets, towers, easements, rights-of-way, and buildings or structures owned by the entity that are made available for location or collocation purposes.

Infrastructure Costs—costs directly related to the construction of broadband infrastructure for the extension of broadband service for an eligible project, including installation, acquiring or updating easements, backhaul infrastructure, and testing costs. The term does not include overhead or administrative costs.

Local Government—a parish, municipality, or school board, or any instrumentality thereof.

Office—the Office of Broadband Development and Connectivity within the Division of Administration.

Prospective Broadband Recipient—a household, home, business, educational facility, healthcare facility, community anchor point, agricultural operation, or agricultural processing facility that is currently unserved and is identified in an application submitted.

Shapefile—a file format for storing, depicting, and analyzing geospatial data depicting broadband coverage, comprised of several component files, such as a Main file (.shp), an Index file (.sbx), and a dBASE table (.dbf).

Unserved—notwithstanding any other provision of law, any federal funding awarded to or allocated by the state for broadband deployment shall not be used, directly or indirectly, to deploy broadband infrastructure to provide broadband internet service in any area of the state where broadband internet service of at least 25:3 Mbps is available from at least one internet service provider.

Unserved Area—a designated geographic area that is presently without access to broadband service offered by a wireline or fixed wireless provider. Areas included in an application where a provider has been designated to receive funds through other state or federally funded programs

designated specifically for broadband deployment shall be considered served if such funding is intended to result in the initiation of activity related to the construction of broadband infrastructure in such area within 24 months of the expiration of the 60-day period related to such application established pursuant to R.S. 51:2370.4(C).

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§105. Non-Applicability of other Procurement Law

A. In accordance with R.S. 51:2370.14(C), grants solicited and awarded pursuant to the GUMBO program shall not be subject to the provisions of the Louisiana Procurement Code, R.S. 39:1551 et seq., or the Public Bid Law, R.S. 38:2181 et seq.

B. The procurement method used by the office to solicit applications, identify and score product features, cost, and technical factors, and award on the basis of best values shall be as set forth in Chapters 3 and 4 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

Chapter 2. Project Area Eligibility Requirements

§201. Eligible and Ineligible Project Areas

A. Eligible areas for the GUMBO grant program are areas without deployed internet access service providing transmission speeds of at least 25:3 Mbps with wireline or fixed wireless, and which qualify as an unserved area as defined in this Part. These areas are the focus of broadband expansion under this grant program.

B.1. Ineligible areas for the program are areas that already have internet access service available to them at transmission speeds of at least 25:3 Mbps with wireline or fixed wireless. In addition, areas (census blocks) where a private provider has been designated to receive funding through Universal Service, Connect America Phase II, Rural Digital Opportunity Fund, or other federal or non-federal funds shall be considered served and therefore ineligible for the GUMBO grant program if such funding is intended to result in the initiation of activity related to construction of broadband infrastructure in the area within 24 months from the expiration of 60 days following the closure of the grant application period.

2. In the initial grant application period, providers receiving Universal Service, Connect America Phase II, Rural Digital Opportunity Fund, or other federal or non-federal funds to deploy service, within the established timeline of within 24 months from the expiration of 60 days following the closure of the grant application period, may designate such areas as ineligible and subject to exclusion and reservation from the GUMBO grant program, for a period of 24 months, by submitting to the office, within 60 days of the closure of the application period, a listing of the census blocks, shapefile areas, individual addresses, or portions thereof, comprising the provider's future project areas.

3. In subsequent grant application periods, in order to designate areas as ineligible and subject to exclusion, providers shall submit to the office census blocks, shapefile

areas, individual addresses, or portions thereof, not less than 60 days prior to the beginning date of the application period.

4. Failure on the part of a provider to submit a relevant project area for ineligibility and exclusion shall result in those areas being eligible for GUMBO grant funding for the applicable grant application period. However, in such circumstance, providers shall be able to utilize the protest process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§203. Resources for Identification of Project Areas

A. Applicants can apply for funding to serve census blocks, shapefile areas, individual addresses, or portions thereof, as set forth in Chapter 3: Applications of this Part.

B. Although the Office of Broadband Development and Connectivity cannot provide a listing of all prospective broadband recipients within the state that have broadband service of less than 25:3 Mbps available, the office advises applicants to consider mapping tools and other resources located within the office's website as a starting point for identifying project areas.

NOTE: Mapping tools and other resources can be found on the website of the office, at connect.la.gov.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

Chapter 3. Applications

§301. Process Overview

A. No funding shall be disbursed by the GUMBO grant program except pursuant to an application submitted in accordance with this Chapter.

B. Applications for the GUMBO grant program shall be submitted via the website of the office.

C. The online application process may provide for mandatory and optional materials to be submitted with each proposal.

D. Prior to the publication of an application by the Office pursuant to R.S. 51:2370.4(C), the Office shall undertake a preliminary evaluation of the application with due diligence to examine whether the application appears on its face to comply with applicable program requirements. Until such time as this preliminary evaluation is complete, the provisions of R.S. 51:2370.16(3), relative to public records, shall apply. Following the preliminary evaluation, applicant financials and proprietary or trade secret information, when designated as such by the applicant and approved by the office, at its sole discretion, shall be exempt from public disclosure.

E. Through the evaluation and scoring process, if an applicant or application or any associated project are deemed to be technically unviable for any reason, including, but not limited to, applicant ability, proposed technology solution, financial stability, or any combination thereof, the office shall, at its sole discretion, remove the application or project area from consideration for the grant program. Any applicant or application or any associated project deemed technically unviable in any GUMBO grant application period is eligible

to reapply in any succeeding GUMBO grant application period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§303. Applications with Multiple Providers or Project Areas

A. An applicant may submit one application with multiple service providers if the applicant can demonstrate how the providers are collaborating to achieve universal coverage for the unserved locality or region.

B. An applicant may submit an application with support from more than one unit of local government.

C. Units of local government may endorse multiple applications with different service providers and may include project areas that cross jurisdictional boundaries.

1. Units of local government that provide letters of support, matching funds, or in-kind contributions to any application should provide the same, on a percentage basis relative to matching funds and in-kind contributions, to all applications proposing the use of like technologies in identical unserved areas with access provided to the exact number of prospective broadband recipients within its jurisdiction. Should multiple applications propose to serve unserved areas within its jurisdiction and include the use of unlike technologies, differing unserved areas, or a non-analogous number of prospective broadband recipients to be served, as compared against other applications, a local government may use reasonable judgement and reserve the right to determine its level of support, to include letters of support, matching funds, or in-kind contributions, on an application by application basis. A unit of local government that provides differing levels of support, to include letters of support, matching funds, or in-kind contributions, to differing applicants proposing one or more projects within its jurisdiction shall provide an explanation to the office as to why the local government's differing levels of support do not present an unreasonable or undue preference or advantage to itself or to any provider of broadband service. If, in the opinion of the office, differing levels of support by a unit of local government for differing applications presents an undue or unreasonable preference or advantage to itself or to any provider of broadband service, the office may disqualify from grant funding consideration any application or project area within the jurisdiction of the unit of local government.

D. An applicant may include one contiguous project area or multiple non-contiguous project areas in a single application. If designating more than one project area in a single application, each project area must be clearly noted and delineated, and the required technical data and budgetary information must be provided for each project area to allow for independent scoring of each project area. Any application that contains more than one project area and does not provide technical data and budgetary information specific to each project area, to allow for independent scoring of each project area subject to the scoring criteria listed in §405 of this Part, may be removed from grant funding consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§305. Application Requirements

A. As set forth in greater detail in §§307-315 of this Chapter, each application shall include these components:

1. applicant information, statement of qualifications, and partnerships;
2. project area(s) and locations to be served;
3. technical report;
4. project budget(s), matching funds, costs, and proof of funding availability;
5. proposed services, marketing, adoption, and community support.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§307. Application Information, Statement of Qualifications, and Partnerships

A. Every application shall include:

1. the identity of the applicant and its qualifications and experience with the deployment of broadband; in addition, the applicant shall include the following:

a. the number of years the applicant has provided internet services;

b. a history of the number of households and consumers, by year of service, to which the applicant has provided broadband internet access, as well as the current number of households to which broadband internet access (at least 25:3 Mbps) is offered;

c. the number of completed internet service infrastructure projects funded, in part, through federal or state grant programs, prior to the date of application submittal;

d. whether the applicant has ever participated in an internet service infrastructure project funded, in part, through federal or state grant programs, and if so, for each project, the nature and impact of the project, the role of the applicant, the total cost of the project, and the dollar amount of federal or state grant funding;

e. the number of penalties paid by the applicant, a subsidiary or affiliate of the applicant, or the holding company of the applicant, relative to internet service infrastructure projects funded, in part, through federal or state grant programs, prior to the date of application submittal; and

f. the number of times the applicant, a subsidiary or affiliate of the applicant, or the holding company of the applicant has ever been a defendant in any federal or state criminal proceeding or civil litigation as a result of its participation in an internet service infrastructure project funded, in part, through federal or state grant programs, prior to the date of application submittal.

2. Five years of financial statements, pro forma statements, or financial audits of the applicant to ensure financial and organizational strength regarding the ability of the applicant to successfully meet the terms of the grant requirements and the ability to meet the potential repayment of grant funds. If an applicant has been in business for less

than five years, the applicant shall provide financial statements, pro forma statements, or financial audits for the number of years the applicant has been in business. Should an applicant declare that it does not have financial statements, pro forma statements, or financial audits, the office, at its sole discretion, shall decide what documents are necessary to fulfill the requirements of this section.

3. the identity of any partners or affiliates if the applicant is proposing a project for which the applicant affirms that a formalized agreement or letter of support exists between the provider and one or more unaffiliated partners where the partner is one of the following:

a. a separate private provider of broadband service, requiring a formalized agreement; or

b. a nonprofit or not-for-profit, or a for-profit subsidiary of either, and the applicant is:

i. being allowed access and use of the partner's infrastructure, on special terms and conditions designed to facilitate the provision of broadband services in unserved areas, requiring a formalized agreement;

ii. utilizing a matching financial and/or in-kind contribution provided by one or more partners, requiring a formalized agreement; or

iii. a parish, municipality, or school board, or any instrumentality thereof, may qualify as a nonprofit for the purposes of the GUMBO grant program. Letters of support by a parish, municipality, or school board, or any instrumentality thereof, supporting an application may be submitted as part of an application. A letter of support does not require a formalized agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§309. Project Area(s) and Locations to be Served

A. Every application shall include the following.

1. Mapping and Descriptions

a. Data relating to areas to be served is required in order to confirm that the project is serving eligible areas, to accurately score the application or project area, and track progress and completion of the project if awarded. Applicants shall submit data in any of the following ways, or in combination. If documentation is deemed insufficient, the office reserves the right to request additional supporting documentation. If the proposed project would result in the provision of broadband service to areas that are not eligible for funding, those ineligible areas shall be identified in the application along with the eligible areas.

b. Data included shall be relevant to the proposed project area and include the number of prospective broadband recipients that will be served and have access to broadband as a result of the project. For the proposed area to be served, the infrastructure cost per prospective broadband recipient must be provided, as well as the GUMBO cost per prospective broadband recipient. Data points should be tied to specific locations and be geo-coded for consideration as part of the application.

c. Areas projected to be served must be digitally submitted in a GIS shapefile, kml, CAD (.dwg), or MicroStation (.dgn) file format, and should be georeferenced to either the Louisiana North State Plane NAD83 (US Feet) coordinate system or the Louisiana South State Plane

NAD83 (US Feet) coordinate system. The files can contain points representing locations or polygons outlining the specific areas to be served. CAD drawings must not contain external references. Service to any prospective broadband recipient should be referenced. The office reserves the right to request data and technical information in any format the office deems necessary.

d. Additionally, applicants may also submit applications for areas where transmission speeds are less than 25:3 Mbps, if data is available to support differences between advertised and transmission speeds.

e. Data Submission Requirements

i. Census Blocks—data shall be submitted as corresponding census block numbers encompassing the area(s) to be served through the proposed project.

ii. Shapefiles—data shall be submitted analyzing geospatial data depicting broadband coverage of the proposed project area.

iii. Address-Level Data—data shall be submitted as individual address points of locations where service will be made available through the grant build. All addresses must be geocoded to include latitudinal and longitudinal coordinates.

iv. Polygons—data shall be submitted as polygon geometry which contain the areas to be served, or with the expectation that the polygon submitted corresponds to service being available to all locations within the polygon. The applicant must use the most recent data available from the state, parish, or local government to identify all locations within the project area.

f. Additional Data Sets

i. To assist in clarifying or providing for a greater level of detail regarding the areas and locations to be served by a proposed project, additional data sets may be provided within the application. These data sets should serve as supporting information and material to the required data listed above and should not be submitted as an alternative.

Examples of additional data include, but are not limited to:

- Scrubbed data (no raw data) from citizen survey results or demand aggregation results with speed tests, if applicable. This data must identify the areas that have less than 25:3 service.
- Affidavits from citizens or other individuals certifying one or more of the following:
 - o they are not able to receive broadband service; or
 - o the only available service is cellular or satellite; or
 - o the only broadband service available by the existing providers is less than 25:3 service.

2. Assessment of the Current Level of Broadband Access in the Proposed Deployment Area

a. The application requires an assessment of the current level of broadband access in the proposed deployment area. Within this section of the application, the applicant should describe what they believe to be the current level of service within the area and provide the data source or methodology used to capture this information. Raw data may be submitted as part of the assessment.

3. Attestation of Project Area Eligibility

a. Applicants are required to sign the statement of attestation to attest to the office that the project area(s) identified within the application are eligible, as defined by Louisiana Revised Statutes 51:2370.1 through 2370.16 and this Part, to the best of their knowledge. The attestation

statement and signature shall be included as part of the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§311. Technical Report

A. Applicants must provide a narrative, technical report detailing the technology/technologies to be used in the proposed project to serve prospective broadband recipients at their premises. Applicants must indicate the technology that will serve a prospective broadband recipient as wired infrastructure or fixed wireless and provide aggregated totals for each solution for each project.

B. Reporting requirements for all deployments:

1. an explanation of the scalability of the broadband infrastructure to be deployed to meet future bandwidth needs;

2. if the applicant is claiming points for partnerships, the applicant must provide a brief narrative explaining how the partnership or affiliation will facilitate deployment and reduce cost per prospective broadband recipient. For applications or project areas where the nonprofit or not-for-profit partner provides only matching financial support, that information can be documented in the budget section within the relevant application or project area. The applicant must also provide evidence of a formalized agreement, when applicable, as required in §307 of this Part;

3. a general explanation of whether work will be performed in-house or through contractors, and whether the applicant or any subcontractors are certified by the either the Hudson Initiative or Veterans Initiative (if any subcontractors are certified through the Hudson Initiative or the Veterans Initiative, a formalized agreement shall be provided);

4. a proposed construction timeline and duration of the deployment project period. The deployment project period is the time from award of the grant agreement to the time that service is available to the targeted prospective broadband recipients under the grant. The applicant shall describe deployment roll-out and include the number of end-users to be served in each phase, as well as an estimated timeline for each phase (10 percent, 35 percent, 60 percent, 85 percent, 100 percent). As it relates to the disbursement of grant funding, project completion shall be defined as a percentage of the total number of prospective broadband recipients proposed to be served by the project;

5. the average distance, in miles, between prospective broadband recipients to be served by the project; and

6. a business continuity and disaster recovery plan.

C. Reporting requirements for wired infrastructure deployment:

1. description of the general design of the project and deployment plan;

2. explanation of the existing networks and equipment to be used for the project;

a. if the applicant requires assets owned by another entity, the applicant should explain how the assets will be used for this project and, if applicable, provide a copy of the agreement between the applicant and the owner;

b. the total number of miles of project infrastructure deployment, and the number of miles of project

infrastructure deployment accounted for by preexisting infrastructure;

3. detailed explanation of how the new or upgraded infrastructure will serve the prospective broadband recipients. In the case of the installation or upgrade of a specific site infrastructure, such as a point of presence or fiber hut (fiber), pedestal (cable), or a remote exchange/DSLAM (DSL), the applicant must include:

a. number of prospective broadband recipients that will be served by that site infrastructure, including businesses; and

b. the distance from the specific site infrastructure such as a POP, pedestal, or DSLAM to the end user(s) and the expected broadband speed that will be effectively delivered;

4. detailed description of the design work needed for deployment, such as, but not limited to, pole work, acquiring or updating easements, and/or property acquisition.

D. Reporting requirements for fixed wireless deployment:

1. description of the general design of this project and deployment plan;

2. explanation of the existing networks and equipment to be used for this project;

a. If the applicant requires assets owned by another entity, the applicant should explain how the assets will be used for this project and, if applicable, provide a copy of the agreement between the applicant and the owner; and

b. the total number of miles of project infrastructure deployment, and the number of miles of project infrastructure deployment accounted for by preexisting infrastructure;

3. detailed explanation of how the new or upgraded infrastructure will serve the prospective broadband recipients. In the case of the installation or upgrade of a specific site infrastructure, such as a vertical asset, the applicant must include:

a. description and specific location of the vertical asset;

b. owner of the vertical asset;

c. number of prospective broadband recipients that will be served by that site infrastructure, including businesses;

d. the distance from the vertical asset to the end user(s) and the expected broadband speed that will be effectively delivered;

4. detailed description of the design work needed for deployment, such as, but not limited to, acquiring access to existing vertical assets, acquiring or updating easements, and/or property acquisition;

5. description and specific type of the equipment used for deployment and the capable speed of the equipment;

6. explanation of the frequency/frequencies to be utilized for the deployment, whether the deployment will use licensed or unlicensed technologies, as well as mitigation of line-of-sight challenges (which should correspond to the number of recipients to be served).

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§313. Project Budget, Matching Funds, Costs, and Proof of Funding Availability

A. Budget and Narrative

1. The project budget should reflect all eligible project costs. The project budget should include the minimum provider funding match of at least 20 percent, any local government funding match from a parish, municipality, and/or school board, or any instrumentality thereof, as well as in-kind contributions, and the requested GUMBO grant program funding.

2. Matching funds, and their associated sources, shall be detailed within the project budget and budget narrative. Eligible grant recipients are required to provide at least 20 percent matching funds of the total proposed project cost to participate in the GUMBO grant program. A local government, including a parish, municipality, or school board, or any instrumentality thereof, may provide matching funds for a project, in addition to the applicant. Local government matching funds are optional and not required. There is no limitation on the minimum or maximum percentage of a project's total cost that a local government may provide through a funding match. In-kind contributions to the project by a local government should also be listed in the project budget and budget narrative, if applicable.

3. Project funds (GUMBO grant funds and matching funds) shall be utilized for the deployment phase of the project, not the subsequent years of service. In addition, eligible project costs do not include recurring operating or maintenance costs, or sales and marketing of services.

B. Total Project Cost

1. Costs directly related to the construction of broadband infrastructure for the extension of broadband service, including installation, acquiring or updating easements, backhaul infrastructure, and testing costs are infrastructure costs and therefore considered eligible project costs. The term does not include overhead or administrative costs.

NOTES:

A project that is primarily engaged in middle-mile, backhaul infrastructure, or similar work is not an eligible project. The inclusion of middle-mile, backhaul, or similar capacity is permissible in an eligible project, if the capacity does not otherwise exist and is necessary for the project's last-mile broadband connectivity to end-users.

Applicants are encouraged to utilize vertical assets already in place or easily installed (poles, small monopoles, repeaters, etc.) as much as possible. Including new macro towers in a project may create lengthy construction timelines, especially around land purchase and environmental regulations.

C. Total Project Cost—per prospective broadband recipient

D. Infrastructure Cost—per prospective broadband recipient

E. GUMBO Cost—per prospective broadband recipient

F. Proof of Funding Availability

1. Applicants must submit a signed letter of funding availability from each source of funds committed for the project. If loan or other grant funds are pledged, a loan/grant commitment letter from each source of funds must be included.

2. Should an applicant be an awardee of Universal Service, Connect American Phase II, Rural Digital Opportunity Fund, or other federal or non-federal funds for the deployment of broadband service, the applicant shall attest as to whether or not the applicant's GUMBO

application and associated project's buildout is dependent upon such awarded funds.

3. The applicant shall indicate whether the applicant, a subsidiary or affiliate of the applicant, or the holding company of the applicant has ever filed for bankruptcy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§315. Proposed Services, Marketing, Adoption, and Community Support

A. Every application shall include:

1. a description of services to be provided, including the proposed upstream and downstream broadband speeds to be delivered and any applicable data caps. Any applicant proposing a data cap shall provide justification to the satisfaction of the office that the proposed cap is in the public interest and consistent with industry standards;

2. the proposed advertised speed to be marketed to end-users (broken out by prospective broadband recipient);

3. the prices of all broadband service packages and the associated broadband transmission speeds that will be offered to consumers as a result of the project;

4. a plan to encourage users to connect that incorporates, at a minimum, community education forums, multimedia advertising, and marketing programs;

5. evidence of support for the project from citizens, local government, businesses, and institutions in the community. The applicant may provide letters or other correspondence from citizens, local government, businesses, and institutions in the community that supports the project. Letters of support from a parish, municipality, or school board, or any instrumentality thereof, will be deemed material for scoring purposes;

6. any low-income household service offerings, digital equity or literacy support, or programs or partnerships to provide these services. The applicant should also indicate current participation in, or plans to, accept the federal Lifeline subsidy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

Chapter 4. Scoring

§401. Overview

A. The GUMBO grant program is a competitive grant program. Applications, or project areas within applications, if applicable, shall be scored independently as provided in this Chapter, based upon a system that awards a single point for criteria considered to be the minimum level for the provision of broadband service, with additional points awarded to criteria that exceed minimum levels.

B. Applications, or project areas within applications, if applicable, shall be scored independently, and applications or project areas receiving the highest score shall receive priority status for the awarding of grants. Should the final application or project area with priority status for the awarding of a grant have a request for GUMBO funding that exceeds the remaining GUMBO funds available, the final applicant with priority status shall have the option to agree to complete its proposed project in full with the remaining

GUMBO funds available in that round. Should the final priority applicant decline, the office shall propose the same to the next highest scored application or project area. This process shall continue until such time as an applicant has agreed, or all remaining applications or project areas within the current grant round have declined. Should all applicants decline the office's offer, the remaining balance of GUMBO funding shall be added to the next succeeding round of GUMBO.

C. As a means of breaking a tie for applications or project areas receiving the same score, the office shall give priority to the application or project area proposing the lowest GUMBO cost per prospective broadband recipient.

D. Upon the close of the application period, and throughout the evaluation and scoring phase of the program process, a blackout period shall be instituted. This blackout period shall remain in effect until the announcement of awards. During this blackout period, applicants shall not initiate contact with the office, except as otherwise provided within this part. The office reserves the right to initiate contact with an applicant to seek clarification of an application or the data contained therein, request additional information, or as necessary in response to an overlapping project area or protest. An applicant may initiate contact with the office for the purposes of amending an application or project area due to overlapping or a protest, or to withdraw an application or project area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§403. Overlapping Applications or Project Areas

A. At the close of the application period, should one or more applications or project areas overlap one or more other applications or project areas, relative to one or more unserved census blocks, shapefile areas, individual addresses, or portions thereof, the impacted applicants, relative to overlapping applications or project areas, shall have the option and ability to resolve the overlapping unserved census blocks, shapefile areas, individual addresses, or portions thereof, through the applicants' own volition, discussion, and efforts. Applicants working to resolve an instance of overlapping applications or project areas, following the close of the application period, shall jointly notify the office of such efforts. An acceptable resolution and amended applications or project areas will be accepted by the office until 5 PM on the 30th day of the 60-day evaluation and protest period. Such an acceptable resolution between impacted applicants shall not result in the addition of partners to a previously submitted application or project area nor the expansion of an application's project area.

B. Following 5 PM on the 30th day of the 60-day evaluation and protest period, should one or more applications or project areas overlap one or more other applications or project areas, relative to one or more unserved census blocks, shapefile areas, individual addresses, or portions thereof, each application or project area shall be scored independently. The application or project area receiving the highest score shall proceed to grant funding consideration with its project area boundary intact. Any application or project area, regardless of the

geographical size of the application or project area, overlapping a higher scored application or project area, shall be removed from grant funding consideration. A project area being removed from grant funding consideration shall not impact scoring of other project areas within the same application, if applicable. All project areas shall be scored independently.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§405. Factors Subject to Scoring

A. Applicant Experience. The office shall award points based upon the applicant's experience, technical ability, financial wherewithal in successfully deploying and providing broadband service, and the matching funds percentage of the total cost of the project. For experience, the office shall reference, by date of application submittal and without regard to the potential project, the number of years the applicant has provided internet services; the number of households to which the applicant currently provides broadband internet service access (at least 25:3 Mbps); the number of internet service infrastructure projects completed by the applicant, funded in part through federal or state grant programs, prior to the date of application submittal; penalties paid by the applicant, relative to internet service infrastructure projects funded in part through federal or state grant programs, prior to the date of application submittal; and whether the applicant, a subsidiary or affiliate of the applicant, or the holding company of the applicant has ever been a defendant in any federal or state criminal proceeding or civil litigation as a result of its participation in an internet service infrastructure project funded in part through federal or state grant programs, prior to the date of application submittal. Points shall be awarded as follows.

Years Providing Internet Service	Points
No prior service.	0
4 years or less	1
5 years to 9 years	2
10 years to 14 years	3
15 years to 19 years	4
20 years or longer	5

Households Provided Access	Points
None	0
4,999 or less	1
5,000 to 14,999	2
15,000 to 24,999	3
25,000 to 49,999	4
50,000 or more	5

Completed Internet Projects	Points
None	0
1 to 3 projects	1
4 to 6 projects	2
7 to 9 projects	3
10 to 14 projects	4
15 or more projects	5

Penalties Paid	Points
One or more	0
None	5

Defendant in Criminal or Civil Proceeding	Points
One or more	0
None	5

NOTE: If an applicant has not participated in an internet service infrastructure project funded, in part, through federal or state grant programs, the applicant shall not receive points in the "penalties paid" or "defendant in criminal or civil proceeding" scoring criteria.

B. Technical Ability. The office shall award points based upon the broadband transmission speeds (Mbps download and upload) that will be deployed as a result of the project. If more than one set of transmission speeds are offered to consumers, scoring shall be based on the slowest transmission speeds offered. The office shall award points based upon the scalability of the project's technology and infrastructure beyond the project's current maximum speed offering for future increases in bandwidth. Should a project include a mix of wireline and fixed wireless technology solutions, broadband speed and scalability criteria shall be scored based upon the technology that serves a majority of a project's prospective broadband recipients. The office shall reference the average distance, in miles, between prospective broadband recipients to be served by the project and shall award points to the five applications or project areas with the longest average distance between prospective broadband recipients. Points shall be awarded as follows.

Broadband Speeds (Mbps Down: Mbps Up)	Points
At least 25:3	1
At least 50:5	4
At least 100:10	6
At least 100:20	8
At least 100:100	10

Scalability (Mbps Down: Mbps Up)	Points
None	0
Up to 50:5	1
Up to 100:10	4
Up to 100:20	6
Up to 100:100	8
Beyond 100:100	10

Average Distance (in miles) Between Prospective Broadband Recipients	Points
Longest average distance	5
2 nd longest average distance	4
3 rd longest average distance	3
4 th longest average distance	2
5 th longest average distance	1
6 th longest average distance or shorter	0

C. Financial Wherewithal. The office shall reference both a project's total cost per prospective broadband recipient and GUMBO cost per prospective broadband recipient. A project's total cost per prospective broadband recipient shall be calculated by dividing a project's total cost by the total number of prospective broadband recipients to be served by the project. A project's GUMBO cost per prospective broadband recipient shall be calculated by dividing a project's total GUMBO requested funding by the

total number of prospective broadband recipients to be served by the project. In each criterion, the office shall award points to the 10 applications or project areas with the lowest costs per prospective broadband recipient. The office shall also reference the number of bankruptcies filed (prior to the date of application submission). Points shall be awarded as follows.

Cost Per Prospective Broadband Recipient	Points
Lowest cost	10
2 nd lowest cost	9
3 rd lowest cost	8
4 th lowest cost	7
5 th lowest cost	6
6 th lowest cost	5
7 th lowest cost	4
8 th lowest cost	3
9 th lowest cost	2
10 th lowest cost	1
11 th lowest cost or higher	0

GUMBO Cost Per Prospective Broadband Recipient	Points
Lowest cost	20
2 nd lowest cost	18
3 rd lowest cost	16
4 th lowest cost	14
5 th lowest cost	12
6 th lowest cost	10
7 th lowest cost	8
8 th lowest cost	6
9 th lowest cost	4
10 th lowest cost	2
11 th lowest cost or higher	0

Bankruptcies	Points
1 or more.	0
No prior bankruptcies.	2

D. Matching Funds. The office shall calculate the provider's matching funds percentage of the total cost of the project and award points based on matching funds. Points shall be awarded as follows.

Provider Matching Funds (Percentage of Total Cost)	Points
20 percent	0
Each additional percentage point – beyond required 20 percent.	1
Each increment of 5 percentage points – beyond required 20 percent.	5 Bonus Points

NOTE: An applicant will receive 1 point for each percentage point of matching funds provided, beyond the required 20 percent. Additionally, an applicant will receive 5 bonus points for each increment of 5 percentage points of matching funds provided, beyond the required 20 percent. Points are awarded based upon the total percentage of matching funds provided, beyond the required 20 percent, irrespective of the number of providers contributing to a single project.

E. Local Government Support. The office shall award points based upon letters of support from local governments. The office shall reference letters submitted by a parish,

municipality, or school board, or any instrumentality thereof. Points shall be awarded as follows.

Local Government Letters of Support, Numbers	Points (max. 3 points)
1 local government	1
2 local government	2
3+ local governments	3

F. Estimated Number of Unserved Households. The office shall award points to projects based upon the estimated number of unserved households within the eligible economically distressed parish, as determined by the most recent data published by the Federal Communications Commission or the most reliable source of information available as of the close of the application period, as determined by the office. Points shall be awarded as follows.

Number of Unserved Households	Points
499 or fewer	1
500 to 1,999	2
2,000 to 4,999	3
5,000 to 9,999	4
10,000 or more	5

NOTE: If a contiguous project area crosses from an eligible parish into one or more eligible adjacent parishes, the project shall be deemed to be located in the parish where the greatest number of unserved households are proposed to be served.

G. Percentage of Total Unserved Households Served. The office shall award points to projects that will provide broadband service based upon the percentage of the total unserved households within the eligible economically distressed parish that the project will newly and directly serve. Unserved households served as a result of other, non-GUMBO federal or state grant programs shall not be used in the calculation of this criterion. The number of unserved households shall be determined using the most recent data published by the Federal Communications Commission or the most reliable source of information available as of the close of the application period, as determined by the office. Points shall be awarded as follows.

Percent of Unserved Households Newly & Directly Served	Points
5 percent or less	1
6 percent to 10 percent	2
11 percent to 24 percent	3
25 percent to 49 percent	4
50 percent or more	5

NOTE: If a contiguous project area crosses from an eligible parish into one or more eligible adjacent parishes, the project shall be deemed to be located in the parish where the greatest number of unserved households are proposed to be served.

H. Unserved Businesses Served. The office shall award points to projects that will provide broadband service to unserved businesses newly and directly served by the project located within the eligible economically distressed parish, as determined by the most recent data published by the Federal Communications Commission or the most reliable source of information available as of the close of the application period, as determined by the office. Unserved businesses

served as a result of other, non-GUMBO federal or state grant programs shall not be used in the calculation of this criterion. A residential-based business shall be classified by the applicant as either a residence or a business and shall not be counted as both. Points shall be awarded as follows.

Number of Unserved Businesses	Points
5 or fewer	1
6 to 10	2
11 to 15	3
15 to 19	4
20 or more	5

I. Leverage of Existing Infrastructure. The office shall award points based upon the applicant’s ability to leverage its own or nearby or adjacent broadband service infrastructure in the proposed project area. For reference, the office will refer to the percentage of total mileage of project infrastructure composed of preexisting infrastructure. The office will also refer to the project’s proposed estimated construction timeline, as measured from the award of the grant agreement, and award points in the following categories: construction start date and construction completion date. Construction completion date scoring will utilize two separate scoring criteria, one for wireline and one for fixed wireless. Should a project include a mix of wireline and fixed wireless technology solutions, the project completion date criterion shall be scored based upon the technology that serves a majority of a project’s prospective broadband recipients. Points shall be awarded as follows.

Percentage of Mileage of Preexisting Infrastructure	Points
None	0
9 percent or less	1
10 percent to 19 percent	2
20 percent to 29 percent	3
30 percent to 39 percent	4
40 percent or more	5

Construction Start Date	Points
12 months or longer	1
Within 8 to 11 months	2
Within 5 to 7 months	3
Within 2 to 4 months	4
Within 1 month	5

Wireline Construction Completion Date	Points
24 months or longer	1
Within 18 to 23 months	4
Within 13 to 17 months	6
Within 7 to 12 months	8
Within 6 months or less	10

Fixed Wireless Construction Completion Date	Points
24 months or longer	1
Within 18 to 23 months	2
Within 13 to 17 months	3
Within 7 to 12 months	4
Within 6 months or less	5

J. Consumer Price. The office shall award points based upon the ultimate price of broadband service to the

consumer as a result of the proposed project and shall reference the average price of all broadband service packages offered to consumers by an applicant as the result of the proposed project. The office shall award points to the 10 applications or project areas with the lowest average price of all broadband service packages offered to consumers by an applicant as a result of the proposed project. Points shall be awarded as follows.

Consumer Price (Lowest Average Package Price)	Points
Lowest average price	10
2 nd lowest average price	9
3 rd lowest average price	8
4 th lowest average price	7
5 th lowest average price	6
6 th lowest average price	5
7 th lowest average price	4
8 th lowest average price	3
9 th lowest average price	2
10 th lowest average price	1
11 th lowest average price or higher	0

NOTE: An applicant that has offered broadband service to at least 1,000 consumers for a period of at least 5 consecutive years is required to offer broadband service at prices that are, at least, consistent with offers to consumers in other areas of the state.

K. Local Government In-Kind Contributions and Matching Funds. The office shall award points to projects receiving in-kind contributions or matching funds from a local government for eligible projects within the jurisdictional area of the local government. A local government is defined as a parish, municipality, or school board, or any instrumentality thereof. Each local government has the option to provide in-kind contributions or matching funds to a project, and more than one local government can provide in-kind contributions or matching funds to any one project. Points shall be awarded as follows.

Local Gov’t In-Kind & Matching	Points
No in-kind contribution or funding match	0
Each percentage point of total project cost provided by in-kind contributions or funding matches.	1
Each increment of 5 percentage points of total project cost provided by in-kind contributions or funding matches	5 Bonus Points

NOTE: An applicant will receive 1 point for each percentage point of the total cost of a project provided by local government through in-kind contributions or matching funds. Additionally, an applicant will receive 5 bonus points for each increment of 5 percentage points of the total cost of a project provided by local government through in-kind contributions or matching funds. Points are awarded based upon the total percentage of in-kind contributions and matching funds provided by local governments, irrespective of the number of local governments contributing to the project.

L. Small Business Entrepreneurship. The office shall award points to projects in which the eligible grant recipient is a small business entrepreneurship certified by the Hudson

Initiative (R.S. 39:2001 et seq.) or the Veteran Initiative (R.S. 39:2171 et seq.). Points shall be awarded as follows.

Certified Hudson / Vet Initiative Grant Recipient	Points
Grant recipient certified by the Hudson and/or the Veterans Initiative	5

M. Small Business Entrepreneurship Subcontracting. The office shall award points to projects in which the eligible grant recipient commits to a good faith subcontracting plan to contract with or employ a small business entrepreneurship certified by the Hudson Initiative (R.S. 39:2001 et seq.) or the Veteran Initiative (R.S. 39:2171 et seq.) to substantially participate in the performance of the project. Points shall be awarded as follows.

Certified Hudson / Vet Initiative Subcontractor(s)	Points (max. 10 points)
Each subcontractor certified by the Hudson and/or the Veterans Initiative	2

N. Summary of Scored Sections. As set forth in this Section, the scored categories of GUMBO program applications or project areas shall be as follows, repeated for comprehensive clarity.

Summary	
Scored Section	Points
A-1. Experience (Years Providing Internet Service)	0 – 5
A-2. Experience (Households Provided Access)	0 – 5
A-3. Experience (Completed Internet Projects)	0 – 5
A-4. Experience (Penalties Paid)	0 – 5
A-5. Experience (Defendant in Criminal or Civil)	0 – 5
B-1. Technical Ability (Broadband Speeds)	1 – 10
B-2. Technical Ability (Scalability)	0 – 10
B-3. Technical Ability (Distance Between Broadband Recipients)	0 – 5
C-1. Financial Wherewithal (Cost Per Prospective Broadband Recipient)	0 – 10
C-2. Financial Wherewithal (GUMBO Cost Per Prospective Broadband Recipient)	0 – 20
C-3. Financial Wherewithal (Bankruptcy)	0 – 2
D. Provider Matching Funds	0 – 1 – 5+
E. Local Government Letters of Support	1 – 3
F. Number of Unserved Households in Parish	1 – 5
G. Percent of Total Unserved Households Now Served	1 – 5
H. Unserved Businesses Now Served	1 – 5
I-1. Leverage of Existing Infrastructure (Percentage of Mileage of Preexisting Infrastructure)	0 – 5
I-2. Leverage of Existing Infrastructure (Timing of Construction Start Date)	1 – 5
I-3. Leverage of Existing Infrastructure (Timing of Wireline Construction Completion)	1 – 10
Or	
I-4. Leverage of Existing Infrastructure (Timing of Wireless Construction Completion)	1 – 5
J. Consumer Price	0 – 10
K. Local Government Matching	0 – 1 – 5+
L. Certified Hudson/Vet Initiative Grant Recipient	0 – 5
M. Certified Hudson/Vet Initiative Subcontractor	0 – 10
Total Possible Points:	8 – 150+

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

Chapter 5. Protests
§501. Protests

A. All GUMBO applications shall be publicly available on the office’s website for a period of at least 60 days prior to award. During the 60-day period, any interested party may submit comments to the director concerning any pending application.

B. The protest process, official decisions, and provider appeals shall be conducted in accordance with R.S. 51:2370.4(C) and 2370.5, as well as this Chapter.

C. A provider of broadband service may submit a protest of any application or project area on the grounds the proposed project covers an area where either broadband service exists, or construction of broadband infrastructure will begin within 24 months as described in §201 of this part and defined within the GUMBO grant program. Comments and protests shall be submitted in writing through the office’s website, and all protests shall be accompanied by all relevant supporting documentation and shall be considered by the office in connection with the review of the application or project area. The protesting party bears the burden of proof.

D. Protests shall contain all relevant supporting documentation, including, but not limited to, the following:

1. a signed and notarized affidavit affirming the protest and attached information are true;
2. current Federal Communications Commission (FCC) Form 477 or equivalent;
3. minimum/maximum speeds available in the proposed project area;
4. number of serviceable locations within the proposed project area, including the speeds those serviceable locations are able to receive;
5. street level data of customers receiving service within the proposed project area;
6. point shapefiles that show each proposed passing in the challenged area, designated by a singular mapped point, in the protested area containing attribute data showing the addresses of each point;
7. polygon shapefiles delineating the general challenged area(s);
8. through the use of the project area map submitted by the applicant, a map indicating where the protested serviceable locations are within the proposed project area;
9. heat maps indicating received signal strength indicator (RSSI) in the challenged area.

E. Upon the close of the application period, and throughout the succeeding 60-day protesting period, a blackout period shall be instituted. This blackout period shall remain in effect until the announcement of awards. During this blackout period, protesting parties shall not initiate contact with the office, except as provided by this section. The office reserves the right to initiate contact with a protesting party to seek clarification of a protest, the data contained therein, or to request additional information.

F. Should a protest be validated, the office shall work with an applicant to amend an application or project area to reduce the number of unserved prospective broadband

recipients and re-scope the application or project area. The office shall revise application or project area scores in accordance with amended applications. As a result of a validated protest and a reduction in the number of unserved prospective broadband recipients, an applicant shall also have the option to withdraw its application or project area.

G. The protest period for protesting an award shall not exceed 7 days from the announcement of awards.

H. Protest and appeal decisions provided by the director and the Commissioner of Administration shall be provided in writing to the protesting party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

Chapter 6. Awards

§601. Protests

A. The protest period for protesting an award shall not exceed 7 days from the announcement of awards.

B. The protest procedure for protesting an award shall follow the rules presented in Chapter 5 of this part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§603. Grant Agreement

A. A grant recipient shall have 30 days, from award of the grant agreement, to negotiate and sign the agreement. If the grant agreement is not signed by the grant recipient within 30 days from award of the agreement, the office shall reserve the right to rescind the award and proceed to award a grant agreement to the next highest scored applicant with priority status for the awarding of a grant.

B. Construction start and completion dates shall be calculated for scoring, compliance, and failure to perform purposes and evaluations, beginning with the date of the award of the grant agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

Chapter 7. Compliance

§701. Speed and Cost Compliance

A. The office shall require that grant recipients offer the proposed advertised minimum download and minimum upload speeds of at least 25:3 Mbps.

B. Grant recipients that have offered broadband service to at least one thousand consumers for a period of at least five consecutive years shall offer broadband service at prices consistent with offers to consumers in other areas of the state. Any other broadband provider shall ensure that the broadband service is priced to consumers at no more than the cost rate identified in the project application, for the duration of the five-year service agreement.

C. In calculating cost, the recipient may adjust annually, consistent with the annual percentage increase in the Consumer Price Index in the preceding year.

D. At least annually, a grant recipient shall provide to the office evidence consistent with Federal Communications Commission attestation that the grant recipient is making

available the proposed advertised speed, or a faster speed, as contained in the grant agreement.

E. For the duration of the agreement, grant recipients shall disclose any changes to data caps.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§703. Reporting

A. Grant recipients shall submit to the office a monthly report for each funded project for the duration of the agreement. The report shall include reporting requirements selected at the discretion of the office. Such reporting requirements, once selected, shall be consistently applied to all grant recipients of any grant program round and be effective for at least one program year. Monthly reporting may be revised from program year to program year, at the discretion of the office.

B. Grant recipients shall submit to the office an annual report for each funded project for the duration of the agreement. The report shall include, but not be limited to, the following summary of the items contained in the grant agreement and the following details:

1. the number of residential and commercial locations that have broadband access as a result of the project;
2. percentage of households in the project area who have access to broadband service;
3. percentage of subscribers in the project area to the broadband service;
4. average monthly subscription rate for residential and commercial broadband service in the project area;
5. any right-of-way fees or permit fees paid to local government, state government, railroad, private entity or person during the fulfillment of the grant awarded;
6. any delays encountered when obtaining a right-of-way permission.

C. The office, at its sole discretion and at any time, shall reserve the right to request any additional data and reporting information that the office deems necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§705. Disbursement and Reimbursement

A. The Division of Administration shall be the designated agency for receipt and disbursement of state and federal funds intended for the state for broadband expansion or allocated by the state for broadband expansion.

B. All federal grant funds received by the state through the American Rescue Plan Act for the purpose of broadband expansion shall be disbursed in accordance with the GUMBO program.

C. Funding in accordance with completion shall be distributed to a grantee once the grantee has demonstrated that a project has reached the following percentile completion thresholds, which shall be defined as a percentage of the total number of prospective broadband recipients proposed to be served by the project:

1. 10 percent;
2. 35 percent;
3. 60 percent;

4. 85 percent;
5. 100 percent.

D. The final 15 percent payment shall not be paid without an approved completion report. Invoice for final payment shall be submitted within 90 days of completion date. All invoices are subject to audit for three years from the completion date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§707. Failure to Perform

A. A grant recipient shall forfeit the amount of the grant received if it fails to perform, in material respect, the obligations established in the agreement.

B. Grant recipients that fail to provide the minimum advertised connection speed and cost at the advertised rate shall forfeit any matching funds, up to the entire amount received through the GUMBO program.

C. The office shall use its discretion to determine the amount forfeited.

D. A grant recipient that forfeits amounts disbursed under this part is liable for up to the amount disbursed plus interest.

E. The number of subscribers that subscribe to broadband services offered by the provider in the project area shall not be a measure of performance under the agreement for the purposes of this Section.

F. A grant recipient shall not be required to forfeit the amount of the grant received if it fails to perform due to a natural disaster, an act of God, force majeure, a catastrophe, pandemic, or such other occurrence over which the grant recipient has no control.

G. If a grant recipient fails to perform and fails to return the full forfeited amount required, the ownership and use of the broadband infrastructure funded by the GUMBO program shall revert to the Division of Administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

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 the potential to produce a positive impact on family stability, functioning, and earnings and a family’s budget as described in R.S. 49:972 through broadband access offering enhanced employment opportunities, higher wages, business development, improved access to healthcare, and educational opportunities.

Poverty Impact Statement

The proposed Rule should produce a foreseeable, positive impact on the state’s children, individuals, and families as defined by R.S. 49:973.B. In particular, the positive impact on factors influencing poverty will be evident through enhanced employment opportunities, higher wages, business development, improved access to healthcare, and educational opportunities.

Small Business Analysis

Pursuant to R.S. 49:978.5, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered and cared for when creating this proposed Rule.

Should a small business not have the financial reporting capabilities and documents required within the Rule for the purposes of applying for the grant program, the office is granted the ability to accept other equivalent documents, at its discretion. Otherwise, this proposed Rule is not anticipated to have an adverse impact on small businesses within the state that apply for or are ultimately grant recipients of the program; therefore, a Small Business Economic Impact Statement has not been prepared.

Provider Impact Statement

It is likely that a private provider of broadband service provides such service to individuals with developmental disabilities. The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session, as the proposed Rule implements a grant program that will fund, through federal appropriations at a minimum of 80 percent of total costs, broadband infrastructure projects in previously unserved areas of the state. 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 Veneeth Iyengar, Executive Director, Office of Broadband Development and Connectivity, P.O. Box 94095, Baton Rouge, LA 70804-9095. Interested persons may also submit written comments by email to connect@la.gov. Mr. Iyengar is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

Should a public hearing be requested on this proposed Rule, such hearing shall be scheduled for Wednesday, October 27, 2021, at 9:30 a.m. in the Thomas Jefferson Room, 1201 North Third Street, Baton Rouge, LA 70802. At that time all interested persons will be afforded an opportunity to submit data, views, or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Jay Dardenne
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Granting Unserved Municipalities
Broadband Opportunities (GUMBO)**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule is anticipated to result in implementation costs to state government, specifically the operational and administrative expenditures of the Office of Broadband Development and Connectivity. The proposed rule establishes the administrative framework for expenditure of \$89,100,000 in grant awards and \$900,000 in professional services during state FY 22 and another \$89,100,000 in grant awards and \$900,000 in professional services in state FY 23. To implement the Granting Unserved Municipalities Broadband Opportunities (GUMBO) program, the Office of Broadband Development and Connectivity has been appropriated through legislative action one (1) percent of federal American Rescue Plan Act dollars appropriated to the state for the purposes of expanding broadband infrastructure throughout the state. The federal appropriation to the state is \$180 million, allowing the office to award \$178,200,000 in grants and expend up to \$1.8 million to administer the rule. The Office of Broadband Development and Connectivity intends to solicit third-party professional services to perform independent application evaluation and scoring, as well as to engage in grant recipient compliance processes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule has the potential to impact, positively, revenue collections of state and local governmental units, however, said positive impact is indeterminable at this time. It is unknown how many applications for grant funding will be received, the specific locations impacted, or the dollar amounts expended. What is known is that for state FYs 22 and 23, up to \$180 million in federal grant funding is available through the state for the purposes of broadband infrastructure construction to expand broadband access. In the short and medium term, potential economic activity as it relates to broadband technology infrastructure construction has the potential to positively impact revenue collections of state and local governmental units through increased sales tax collections and income taxes. Over the long term, potential economic activity as it relates to increased broadband access has the potential to positively impact revenue collections of state and local governmental units through increased sales tax collections, income tax revenue, and property tax revenue as a result of lower unemployment, higher wages, and business development.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

For cost considerations, the proposed rule is anticipated to create optional, minor costs for directly affected persons, small businesses, or non-governmental groups. This would take the form of broadband service packages offered by private providers to prospective broadband recipients provided the opportunity to subscribe to broadband service. Recent national averages for broadband subscriptions range from \$50 to \$75 per month. The possible economic benefits to directly affected persons, small businesses, or non-governmental groups is substantial, yet indeterminable. Increased broadband access has the potential to transform smaller, rural communities consisting of persons, small businesses, or non-governmental groups, through increased economic output, namely in the form of enhanced employment opportunities, higher wages, business development, improved access to healthcare, and educational opportunities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is a positive estimated effect on competition and employment as a result of the proposed rule, although indeterminable. The proposed rule is intended to implement the Granting Unserved Municipalities Broadband Opportunities (GUMBO) grant program. The grant program will fund broadband infrastructure projects throughout the state in areas that are classified as "unserved," defined as areas not having

access to broadband services (at least 25:3 Mbps) through wireline or fixed wireless technology. The effect on competition and employment as a result of these projects should be a positive one, driving enhanced economic output, over the short-, medium-, and long-term. Factors enhancing economic output would include enhanced employment opportunities, higher wages, business development, improved access to healthcare, and educational opportunities.

Jay Dardenne
Commissioner
2109#046

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Board of Optometry Examiners**

Optometric Telemedicine (LAC 46:LI.509)

Notice is hereby given, in accordance with the Administrative Procedures Act, R.S. 49:950 et seq., that the Louisiana State Board of Optometry Examiners, pursuant to authority vested in the Louisiana State Board of Optometry Examiners by the Optometry Practice Act, R.S. 37:1041-1068, intends to amend Title 46, Part LI by adopting the following proposed amendments to the Section set forth below.

A description of the subjects and issues involved is as follows. Section 509 is adopted, which establishes specific criteria for licensed optometrists to practice telemedicine within the bounds of the scope of the practice of optometry in accordance with the Louisiana Optometry Act.

The proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LI. Optometrists

Chapter 5. Practicing Optometry

§509. Optometric Telemedicine

A. General Provisions

1. Telemedicine is a tool and not separate field of optometry, nor does telemedicine alter the scope of practice of Louisiana-licensed optometrists. There is no separate or different scope of practice or standard of care applicable to those who practice optometry via telemedicine within this state or to those optometrists located outside Louisiana who diagnose and treat via telemedicine patients located within this state. Accordingly, telemedicine in the field of optometry, if employed in the appropriate manner and circumstances, can provide significant benefits, among them increased patient access to health care.

2. The practice of optometry is deemed to occur both where the patient is located and where the optometrist providing professional services is located and is hereby declared to affect the public health, safety and welfare, and is subject to regulation and control in the public interest. It is further declared to be a matter of public interest and concern that the practice of optometry, as defined in this chapter, rendered to a person located in Louisiana or by an optometrist located in Louisiana be limited to qualified persons licensed to practice optometry in the state of

Louisiana and registered as a telemedicine provider with the board.

B. Definitions. For the purpose of this Chapter, the following terms shall have the respective meaning ascribed by this Section:

Distant Site Provider—the provider providing the optometric telemedicine service from a site other than the patient's current location. A distant site provider shall hold an active Louisiana license and must hold an active optometric license in good standing in Louisiana and be a registered Telemedicine provider with the board.

Established Treatment Site—a location where a patient shall present to seek optometric care where there is an optometrist present and sufficient technology and equipment to allow for an adequate physical evaluation as appropriate for the patient's presenting complaint. The term requires an optometrist-patient relationship. A patient's private home is not considered an established treatment site.

Face to Face Visit—an evaluation and/or treatment performed on a patient where both the provider and patient are at the same physical location or where the patient is at an established treatment site.

Human Eye and Its Adjacent Structures—the eye and all structures situated within the orbit, including the conjunctiva, lids, lashes, and lachrymal system.

In-Person Evaluation—a patient evaluation and/or treatment conducted by a provider who is at the same physical location as the location of the patient.

Optometric Telemedicine—a health service interaction that is delivered by a licensed optometrist acting within the scope of his or her license between an optometrist in one physical location and a patient located in any different physical location, accomplished via audio-visual link, imaging, telephone, or other appropriate forms of electronic communication and/or technology used to allow or assist the optometrist in providing care to the patient and may require the use of advanced telecommunications technology, other than facsimile technology, including all of the following:

- a. compressed digital interactive video, audio, or data transmission;
- b. clinical data transmission using computer imaging by way of still image capture and store and forward;
- c. other technology that facilitates access to health care services or optometric specialty expertise.

Pharmaceutical Agents—any diagnostic and therapeutic drug or combination of drugs that has the property of assisting in the diagnosis, prevention, treatment, or mitigation of abnormal conditions or symptoms of the human eye and its adjacent structures.

Provider—optometrist holding an active Louisiana license in good standing and is a registered telemedicine provider with the board.

C. License, Registration. An optometric telemedicine provider must hold an active Louisiana optometric license in good standing. Any optometric telemedicine license shall be renewed on an annual basis provided the licensee is in good standing and shall have the same renewal due dates as the basic optometric license.

D. Prerequisite Conditions

1. A provider must hold an active Louisiana optometric license in good standing and be telemedicine registered.

2. Prior to utilizing optometric telemedicine at an established treatment site the provider shall ensure that:

- a. he or she has access to those portions of the patient's medical record pertinent to the visit;
- b. there exists appropriate support staff who:
 - i. are trained to conduct the visit by optometric telemedicine;
 - ii. are available to implement optometrist orders, identify where medical records generated by the visit are to be transmitted for future access, and provide or arrange back up, follow up, and emergency care to the patient; and
 - iii. provide or arrange periodic testing and maintenance of all optometric telemedicine equipment.

3. A trained and supervised health care professional who can adequately and accurately assist with the requirements of LAC 46:XLV.7509-7511 shall be in the examination room with the patient at all times that the patient is receiving optometric telemedicine services.

E. Services; Provider-Patient Relationship; Standards of Practice; Confidentiality

1. Optometric telemedicine services provided at an established treatment site may be used for all patient visits, including initial evaluations to establish a proper doctor-patient relationship between a provider and a patient.

a. a provider shall be reasonably available onsite at the established medical site to assist with the provision of care.

b. a provider may delegate tasks and activities at an established treatment site to an assistant who is properly trained and supervised or directed.

2. A distant site provider who provides optometric telemedicine services to a patient that is not present at an established treatment site shall ensure that a proper provider-patient relationship is established, which at a minimum includes all of the following:

a. having had at least one face-to-face meeting at an established treatment site before engaging in optometric telemedicine services. A face-to-face meeting is not required for new conditions relating to an existing patient, unless the provider deems that such a meeting is necessary to provide adequate care;

b. if an in-person initial encounter is not possible, the optometrist must take the time and effort, and to use means and methods appropriate under the circumstances, to gain the necessary understanding of the patient and the patient's history, condition, and needs in order to render a diagnosis and treatment plan that is consistent with the standard of care.

c. establishing that the person requesting the treatment is in fact whom he or she claims to be.

3. Evaluation, treatment, and consultation recommendations made in an optometric telemedicine setting, including issuing a prescription via electronic means, shall be held to the same standards of appropriate practice as those in traditional in-person clinical settings.

4. Adequate security measures shall be implemented to ensure that all patient communications, recordings, and records remain confidential.

a. Written policies and procedures shall be maintained when using electronic mail for provider-patient communications. Policies shall be evaluated periodically to

make sure they are up to date. Policies and procedures shall address all of the following:

- i. privacy to assure confidentiality and integrity of patient-identifiable information;
 - ii. health care personnel, in addition to the provider, who will process messages;
 - iii. hours of operation and availability;
 - iv. types of transactions that shall be permitted electronically;
 - v. required patient information to be included in the communication, such as the patient name, identification number, and type of transaction;
 - vi. archival and retrieval;
 - vii. quality oversight mechanisms.
- b. All relevant provider-patient email, and other patient-related electronic communications, shall be stored and filed in the patient record.
- c. Patients shall be informed of alternative forms of communication for urgent matters.

F. Protocols; Privacy Practices

1. A provider who uses optometric telemedicine in his or her practice shall adopt protocols to prevent fraud and abuse through the use of optometric telemedicine.

2. Privacy Practices

a. A provider that communicates with patients by electronic communications other than facsimile shall provide patients with written notification of the provider's privacy practices before evaluation or treatment.

b. The notice of privacy practices shall include language that is consistent with federal standards under 45 CFR Parts 160 and 164 relating to privacy of individually identifiable health information.

c. A provider shall make a good faith effort to obtain the patient's written acknowledgment of the notice.

3. **Limitations of Optometric Telemedicine.** A provider who uses optometric telemedicine services, before providing services, shall give each patient notice regarding optometric telemedicine services, including the risks and benefits of being treated via optometric telemedicine, and how to receive follow-up care or assistance in the event of an adverse reaction to the treatment or in the event of an inability to communicate as a result of a technological or equipment failure. A signed and dated notice, including an electronic acknowledgement by the patient, establishes a presumption of notice.

4. **Necessity of In-Person Evaluation.** When, for whatever reason, the optometric telemedicine modality in use for a particular patient encounter is unable to provide all pertinent clinical information that a healthcare provider exercising ordinary skill and care would deem reasonably necessary for the practice of optometry at an acceptable level of safety and quality in the context of that particular encounter, then the distant site provider shall make this known to the patient and advise and counsel the patient regarding the need for the patient to obtain an additional in-person evaluation reasonably able to meet the patient's needs.

G. Maintenance of Records

1. Patient records shall be maintained for all optometric telemedicine services. The provider or distance site provider shall maintain the records created at any site where treatment or evaluation is provided.

2. Distance site providers shall obtain an adequate and complete medical history for the patient before providing treatment and shall document the medical history in the patient record.

3. Patient records shall include copies of all relevant patient-related electronic communications, including relevant provider-patient emails, prescriptions, laboratory and test results, evaluations and consultations, records of past care, and instructions. If possible, optometric telemedicine encounters that are recorded electronically shall also be included in the patient record.

H. Exceptions

1. A licensed optometrist, who is not licensed in Louisiana, who utilizes optometric telemedicine across state lines in an emergency, as defined by the board, is not subject to the requirements of this article.

2. A provider that is contacted in an emergency is not subject to the notice and security provisions of this rule, but is subject to those provisions should any nonemergency care continue with the patient.

I. **Limitation on Application of Chapter.** This Section shall not be construed as authorizing any optician or other person selling eyeglasses or contact lenses on prescription as authorized above to use any instrumentation or determine any data by performing any type of examination or corneal evaluation necessary for the fitting of contact lenses or to use any drugs in relation thereto.

J. **Penalties.** Any person who violates this chapter is subject to criminal prosecution for the unlicensed practice of optometry, or other action authorized in this state to prohibit or penalize continued practice without a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1041-1068.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Optometry, LR 47:

Family Impact Statement

It is anticipated that the proposed Rule amendments will have no significant effect on the: stability of the family, authority and rights of parents regarding the education and supervision of their children, functioning of the family, family earnings and family budget, behavior and personal responsibility of children, ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

It is anticipated that the proposed Rule amendments will have no significant impact on poverty as described in R.S. 49:973.

Small Business Analysis

It is anticipated that the proposed Rule amendments have no significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent

with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

Provider Impact Statement

The proposed 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.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed Rule until 5 p.m., October 20, 2021, to Dr. James D. Sandefur, O.D., Louisiana State Board of Optometry Examiners, P.O. Box 555, 419 Hwy. 165 N., Oakdale, LA 71463. He is responsible for responding to inquiries regarding the proposed Rule.

Dr. James D. Sandefur, O.D.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Optometric Telemedicine

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will not result in any material costs or savings for state or local governments other than a marginal, one-time publication expense \$600 for the LA State Board of Optometry Examiners.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not materially increase or decrease the annual revenue of the LA State Board of Optometry Examiners. The proposed rule will have no effect on revenue collections of state or local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is estimated that there will be no significant or quantifiable market disruption, nor significant cost or economic benefit to small businesses, or non-governmental groups. The proposed rule changes may increase fees in the aggregate for individual optometry examiners due to certain required continuing education courses though this experience will be variable.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

J. Graves Theus, Jr.
Attorney
2108#019

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Act 421 Children's Medicaid Option
(LAC 50:I.3103, III.2331, and XXII.Chapters 81-85)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:I.3103, adopt III.2331, and repeal XXII.Chapters 81-85 in the Medical Assistance Program as authorized by R.S. 36:254, 46:977.21-977.25 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 421 of the 2019 Regular Session of the Louisiana Legislature directed the Department of Health to establish the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) option within the Medical Assistance Program through which children with disabilities can access Medicaid-funded services regardless of their parents' income. In compliance with Act 421, the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities adopted provisions to establish the Act 421 Children's Medicaid Option (421-CMO) program as a Section 1115 demonstration waiver (*Louisiana Register*, Volume 46, Number 12, repromulgated *Louisiana Register*, Volume 47, Number 1) subject to the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services. The department has now decided to include 421-CMO as an optional eligibility group under the Medicaid State Plan instead of implementing the program as a Section 1115 demonstration waiver. The department proposes to repeal the provisions of the Act 421 Children's Medicaid Option waiver program in order to adopt provisions establishing Act 421 Children's Medicaid Option as an optional Medicaid eligibility group.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Managed Care for Physical and Behavioral Health

Chapter 31. General Provisions

§3103. Recipient Participation

A. The following Medicaid recipients shall be mandatory participants in managed care:

1. mandatory enrollees:

a. - i. ...

j. individuals and families who have more income than is allowed for Medicaid eligibility, but who meet the standards for the Regular Medically Needy Program;

k. individuals from age 19 to 65 years old at or below 133 percent of the federal poverty level with a 5 percent income disregard as provided in 42 CFR 435.119, hereafter referred to as the new adult group; or

l. individuals eligible through the Act 421 Children's Medicaid Option (421-CMO) program.

B. ...

1. Participation in a managed care organization (MCO) for the following participants is mandatory for specialized behavioral health, applied behavior analysis (ABA)-based therapy and non-emergency medical transportation (NEMT) services (ambulance and non-ambulance) only, and is voluntary for physical health services:

a. - a.vi. ...

b. individuals under the age of 21 who are otherwise eligible for Medicaid, and who are listed on the DHH Office for Citizens with Developmental Disabilities' request for services registry and not enrolled in the 421-CMO. These children are identified as Chisholm class members:

B.1.b.i. - 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 and Hospitals, Bureau of Health Services Financing, LR 37:1573 (June 2011), amended LR 40:310 (February 2014), LR 40:1096 (June 2014), LR 40:2258 (November 2014), LR 41:929 (May 2015), LR 41:2363 (November 2015), LR 42:754 (May 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1522 (September 2016), LR 43:663 (April 2017), LR 43:1553 (August 2017), LR 44:1253 (July 2018), LR 47:

Part III. Eligibility

Subpart 3. Eligibility Groups and Factors

Chapter 23. Eligibility Groups and Medicaid

Programs

§2331. Act 421 Children's Medicaid Option

(TEFRA/Katie Beckett)

A. General Provisions

1. Pursuant to section 1902(e)(3) of the Social Security Act the state may extend Medicaid eligibility to certain children living in the community, who require the level of care provided in an institution, and who would be eligible for Medicaid if living in an institution.

2. Effective January 1, 2022, the department implements the Act 421 Children's Medicaid Option (421-CMO) program to provide Medicaid State Plan services to children with disabilities who meet the eligibility criteria set forth in this Section, despite parental or household income and resources that would otherwise exclude them from Medicaid eligibility.

B. Eligibility Requirements. In order to qualify for the 421-CMO program, an individual must meet both programmatic and clinical eligibility requirements set forth herein.

1. Programmatic Eligibility Requirements. In order to be eligible for the 421-CMO program, an individual must meet all of the following criteria:

- a. is 18 years of age or younger (under 19 years of age);
- b. is a U.S. citizen or qualified non-citizen;
- c. is a Louisiana resident;
- d. has or has applied for a Social Security Number;
- e. has countable resources that are equal to or less than the resource limits for the Supplemental Security Income (SSI) program;

i. only the applicant/421-CMO enrollee's resources shall be considered in determining eligibility for the 421-CMO program;

f. has countable income equal to or less than the special income level for long-term care services (nursing facility, ICF/IID, and home and community-based services);

i. only the applicant/421-CMO enrollee's income shall be considered in determining eligibility for the 421-CMO program;

g. has care needs that can be safely met at home at a lower cost than the cost of services provided in an institutional setting; and

h. is not otherwise eligible for Medicaid or CHIP.

2. Clinical Eligibility Requirements. In order to be eligible for the 421-CMO program, an individual must meet all of the following criteria:

a. qualifies as a disabled individual under section 1614(a) of the Social Security Act;

b. requires a level of care, assessed on an annual basis, provided in an intermediate care facility for individuals with intellectual disabilities (ICF/IID), a nursing facility, or a hospital;

i. an individual meets ICF/IID level of care when he/she:

(a). has obtained a statement of approval from the Office for Citizens with Developmental Disabilities or its designee, confirming that he/she has a developmental disability as defined in R.S. 28:451.2; and

(b). meets the requirements for active treatment of a developmental disability under the supervision of a qualified developmental disability professional, as prescribed on Form 90-L;

ii. an individual meets nursing facility level of care when he/she demonstrates one of the following two standards, assessed in accordance with the Act 421 children's Medicaid option assessment tool:

(a). Standard I

(i). the need for skilled nursing and/or therapeutic interventions on a regular and sustained basis; and

(ii). substantial functional limitations as compared to same age peer group in two of the following areas: learning, communication, self-care, mobility, social competency, money management (for children 18 and older), work, and meal preparation;

(b). Standard II

(i). substantial functional limitations as compared to same age peer group in four of the following areas: learning, communication, self-care, mobility, social competency, money management (for children 18 and older), work, and meal preparation;

iii. an individual meets hospital level of care when he/she demonstrates the following, assessed in accordance with the Act 421 children's Medicaid Option assessment tool:

(a). the need for frequent and complex medical care that requires the use of equipment to prevent life-threatening situations, with skilled medical care required multiple times during each 24-hour period;

(b). the need for complex skilled medical interventions that are expected to persist for at least six months; and

(c). an overall health condition that is highly unstable and presents constant potential for complications or rapid deterioration, with the result that he/she requires continuous assessment by professional nurses, parents, or other properly instructed individuals, in order to detect unstable and life-threatening conditions and respond promptly with appropriate care.

C. Ineligibility for Services

1. 421-CMO enrollees shall be terminated from the 421-CMO program if admitted to an ICF/IID, nursing facility, or hospital without the intent to return to 421-CMO services.

a. A 421-CMO enrollee is deemed to intend to return to 421-CMO services when documentation is received from the treating physician that the admission is temporary and shall not exceed 90 days

b. The 421-CMO enrollee will be discharged from the 421-CMO program on the ninety-first day after admission if the 421-CMO enrollee is still in the ICF/IID, nursing facility, or hospital.

D. Cost Effectiveness

1. On an annual basis, each 421-CMO enrollee's expenditures will be measured against the average cost of care in an institution that corresponds to his/her level of care (i.e. hospital, ICF/IID, nursing facility) to ensure that home and community-based care is more cost effective than institutional care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:977.21-977.25, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:

Part XXII. 1115 Demonstration Waivers

Subpart 9. Act 421 Children's Medicaid Option

Chapter 81. General Provisions

§8101. Purpose

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:977.21-977.25, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 46:1676 (December 2020), repromulgated LR 47:43 (January 2021), repealed LR 47:

§8103. Effective Date and Administration

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:977.21-977.25, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 46:1677 (December 2020), repromulgated LR 47:43 (January 2021), repealed LR 47:

§8105. Enrollee Qualifications and Admissions Criteria

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:977.21-977.25, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 46:1677 (December 2020), repromulgated LR 47:43 (January 2021), repealed LR 47:

§8107. Admission Denial or Discharge Criteria

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:977.21-977.25, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 46:1678 (December 2020), repromulgated LR 47:44 (January 2021), repealed LR 47:

§8109. Allocation of Act 421 Children's Medicaid

Option Opportunities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:977.21-977.25, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 46:1678 (December 2020), repromulgated LR 47:44 (January 2021), repealed LR 47:

§8111. Eligibility and Enrollment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:977.21-977.25, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 46:1679 (December 2020), repromulgated LR 47:45 (January 2021), repealed LR 47:

Chapter 83. Services

§8301. Covered Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:977.21-977.25, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 46:1679 (December 2020), repromulgated LR 47:46 (January 2021), repealed LR 47:

§8303. Service Delivery

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:977.21-977.25, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 46:1679 (December 2020), repromulgated LR 47:46 (January 2021), repealed LR 47:

Chapter 85. Reimbursement

§8501. Reimbursement Methodology

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:977.21-977.25, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 46:1680 (December 2020), repromulgated LR 47:46 (January 2021), repealed LR 47:

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 will provide access to Medicaid services for qualified children with disabilities.

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 positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 as it provides access to Medicaid services for qualified children with disabilities.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule may have a positive impact on small businesses, as described in R.S. 49:965.2 et seq., since it permits Medicaid reimbursement for the provision of services to qualified children with disabilities.

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 permits Medicaid reimbursement for the provision of services to qualified children with disabilities.

Public Comments

Interested persons may submit written comments to Patrick Gillies, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Mr. Gillies is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on October 30, 2021.

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 October 12, 2021. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on October 28, 2021 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 October 12, 2021. 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 LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Act 421 Children's Medicaid Option**

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 general fund costs of approximately \$10,104,369 for FY 21-22, \$19,642,305 for FY 22-23 and \$19,642,305 for FY 23-24, of which \$8,819,600 is currently appropriated annually. It is anticipated that \$1,620 (\$810 SGF and \$810 FED) will be expended in FY 21-22 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$23,241,981 for FY 21-22, \$46,482,343 for FY 22-23, and \$46,482,343 for FY 23-24. It is anticipated that the implementation of this proposed rule will increase statutory dedications revenue within the Medical Assistance Trust Fund from managed care premium taxes by approximately \$847,221 for FY 21-22, \$2,259,255 for FY 22-23, and \$2,259,255 for FY 23-24. It is anticipated that \$810 will be collected in FY 21-22 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 repeals the provisions of the Act 421 Children's Medicaid Option (421-CMO) Section 1115 demonstration waiver program in order to establish 421-CMO as an optional eligibility group under the Medicaid State Plan in compliance with Act 421 of the 2019 Regular Session of the Louisiana Legislature. This proposed rule will be beneficial to qualified children with disabilities by allowing them to access Medicaid services regardless of their parents' income. Providers will benefit from implementation of this proposed rule since they will receive reimbursement for the provision of services that were previously not covered for this population. It is anticipated that implementation of this proposed rule will increase expenditures for Medicaid services by approximately \$34,244,209 for FY 21-22, \$68,485,178 for FY 22-23, and \$68,485,178 for FY 23-24, of which \$27,200,000 is currently appropriated annually.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Patrick Gillies
Medicaid Executive Director
2109#049

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Behavioral Health Services
Services for Targeted Populations
(LAC 50:XXXIII.Subpart 8)

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health propose to adopt LAC 50:XXXIII.Subpart 8 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and the U.S. Department of Justice signed an agreement on June 6, 2018 requiring the department to ensure that personal care services (PCS) and individual placement and support (IPS) supported employment services are incorporated into behavioral health services for individuals at least 21 years of age with mental health disorders who have transitioned from a nursing facility or have been diverted from nursing facility level of care. In compliance with this agreement, the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health now propose to adopt provisions to provide coverage for PCS and IPS supported employment services rendered to the target population.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXXIII. Behavioral Health Services

Subpart 8. Services for Targeted Populations

Chapter 71. General Provisions

§7101. Introduction

A. The Medicaid program hereby adopts provisions to provide coverage under the 1915(b)(3) waiver for services rendered to the targeted population of adults with mental health disorders who have transitioned from a nursing facility or been diverted from nursing facility level of care. These services shall be administered under the authority of the Department of Health, in collaboration with the managed care organizations (MCOs), which shall be responsible for the necessary operational and administrative functions to ensure adequate service coordination and delivery.

B. Personal care services (PCS) rendered to adults shall be necessary to assist and provide supervision with activities of daily living or to restore the individual to his/her best possible functioning level in the community.

C. Individual placement and support (IPS) services rendered to adults shall be necessary to reduce the disability resulting from mental illness and to restore the individual to his/her best possible functioning level in the community.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 47:

§7103. Recipient Qualifications

A. The targeted population for the 1915(b)(3) services shall be Medicaid recipients who:

1. are at least 21 years of age;
2. have a qualifying mental health diagnosis;
3. meet medical necessity in accordance with LAC 50:I.1101; and
4. have transitioned from a nursing facility or been diverted from nursing facility level of care.

B. Recipients of personal care services (PCS) must meet the following additional recipient eligibility criteria:

1. recipients must be medically stable;
2. recipients shall not be enrolled in a Medicaid-funded program which offers a personal care service or related benefit; and
3. recipients' care needs do not exceed that which can be provided under the scope and/or service limitations of PCS.

C. An adult with a diagnosis of a substance use disorder or intellectual and developmental disability without an additional co-occurring qualifying mental health diagnosis shall not meet the criteria for mental health services.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 47:

Chapter 73. Services

§7301. General Provisions

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

B. All services must be prior authorized. Services which exceed the initial authorization must be approved for re-authorization prior to service delivery.

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

1. Services shall be:
 - a. delivered in a culturally and linguistically competent manner; and
 - b. respectful of the individual receiving services.
2. Services shall be appropriate to individuals of diverse racial, ethnic, religious, sexual, and gender identities and other cultural and linguistic groups.
3. Services shall be appropriate for:
 - a. age;
 - b. development; and
 - c. education.

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

E. Evidence-based practices require prior approval and fidelity reviews on an ongoing basis as determined necessary by department.

F. Services must be delivered in home and community-based settings.

AUTHORITY NOTE: 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 and the Office of Behavioral Health, LR 47:

§7303. Covered Services

A. The following services for the targeted populations shall be reimbursed under the Medicaid Program:

1. personal care services (PCS); and
2. individual placement and support (IPS) services.

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

1. components that are not provided to, or directed exclusively toward the treatment of, the Medicaid eligible individual; and
2. services provided at a work site which are not directly related to the treatment of the recipient's 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 and the Office of Behavioral Health, LR 47:

Chapter 75. Provider Participation

§7501. Provider Responsibilities

A. Each provider of services for the target populations shall enter into a contract with one or more of the managed care organizations (MCOs) in order to receive reimbursement for Medicaid covered services.

B. Providers shall deliver all services in accordance with their license and scope of practice, federal and state laws and regulations, the provisions of this Rule, and other directives issued by the department. 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 and the Office of Behavioral Health, LR 47:

Chapter 77. Reimbursement

§7701. Reimbursement Methodology

A. The department, or its fiscal intermediary, shall make monthly capitation payments to the MCOs. The capitation rates paid to the MCOs shall be actuarially sound rates and the MCOs will determine the rates paid to its contracted providers. No payment shall be less than the minimum Medicaid rate.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 47:

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 provides additional behavioral health services to the targeted population of recipients.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 as it provides Medicaid reimbursement for services that were previously not covered for this population and may facilitate their ability to obtain and maintain competitive employment.

Small Business Statement

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, 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, as described in R.S. 49:965.2 et seq. since it provides Medicaid reimbursement for behavioral health services that were previously not covered for this population.

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 increase 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.

Public Comments

Interested persons may submit written comments to Patrick Gillies, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030. Mr. Gillies is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on October 30, 2021.

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 October 12, 2021. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on October 28, 2021 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 October 12, 2021. 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 LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Behavioral Health Services
Services for Targeted Populations**

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 \$641,909 for FY 21-22, \$1,264,119 for FY 22-23 and \$1,264,119 for FY 23-24. It is anticipated that \$1,080 (\$540 SGF and \$540 FED) will be expended in FY 21-22 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$1,340,548 for FY 21-22, \$2,698,637 for FY 22-23, and \$2,698,637 for FY 23-24. It is anticipated that \$540 will be collected in FY 21-22 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)

In compliance with the June 6, 2018 agreement between the Department of Health and the U.S. Department of Justice, this proposed rule adopts provisions to include personal care services (PCS) and individual placement and support (IPS) supported employment services in the behavioral health services covered for individuals at least 21 years of age with mental health disorders who have transitioned from a nursing facility or have been diverted from nursing facility level of care. This proposed rule will be beneficial to qualified recipients by providing access to PCS and IPS services. Providers will benefit from implementation of this proposed rule since they will receive reimbursement for the provision of services that were previously not covered for this population. It is estimated that implementation of this proposed rule will increase expenditures for Medicaid services by \$1,981,377 for FY 21-22, \$3,962,755 for FY 22-23, and \$3,962,755 for FY 23-24.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Patrick Gillies
Medicaid Executive Director
2109#050

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing**

Federally Qualified Health Centers and Rural Health Clinics
Community Health Worker Services
Alternative Payment Methodology
(LAC 50:XI.10703 and 16703)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XI.10703 and §16703 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 reimbursement for federally qualified health centers (FQHCs) and rural health clinics (RHCs) in order to establish an alternative payment methodology which will allow reimbursement outside of the current prospective payment system rate for community health worker services provided in FQHCs and RHCs.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part XI. Clinic Services

Subpart 13. Federally Qualified Health Centers

**Chapter 107. Reimbursement Methodology
§10703. Alternate Payment Methodology**

A. - G. ...

H. Reserved.

I. Effective for dates of service on or after January 1, 2022, the Medicaid Program shall reimburse for community health worker services through a separate payment outside the PPS rate.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1033 (June 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 44:1894 (October 2018), LR 44:2162 (December 2018), LR 45:434 (March 2019), amended LR 46:182 (February 2020), LR 47:

Subpart 15. Rural Health Clinics

**Chapter 167. Reimbursement Methodology
§16703. Alternate Payment Methodology**

A. - G. ...

H. Reserved.

I. Effective for dates of service or after January 1, 2022, the Medicaid Program shall reimburse for community health worker services through a separate payment outside the PPS rate.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1036 (June 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 44:1903 (October 2018), LR 44:2168 (December 2018), LR 45:435 (March 2019), amended LR 46:185 (February 2020), LR 47:

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 Act 820 of the 2008 Regular Session of the Louisiana Legislature, 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, as described in R.S. 49:965.2 et seq.

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 and no direct or indirect cost to the provider to provide the same level of service as described in HCR 170, but may enhance the ability of some providers to provide the same level of service since this proposed Rule establish an alternative payment methodology for services they already render when provided outside the prospective payment system fee currently paid.

Public Comments

Interested persons may submit written comments to Patrick Gillies, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030. Mr. Gillies is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on October 30, 2021.

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 October 12, 2021. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on

October 28, 2021 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 October 12, 2021. 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 LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Federally Qualified Health Centers and Rural Health Clinics

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 \$60,941 for FY 21-22, \$184,496 for FY 22-23 and \$255,834 for FY 23-24. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 21-22 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$196,110 for FY 21-22, \$601,091 for FY 22-23, and \$833,512 for FY 23-24. It is anticipated that \$270 will be collected in FY 21-22 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 reimbursement for federally qualified health centers (FQHCs) and rural health clinics (RHCs) in order to establish an alternative payment methodology which will allow reimbursement outside of the current prospective payment system rate for community health worker services provided in FQHCs and RHCs. This proposed rule will be beneficial to recipients since it allows them to receive enhanced services from FQHCs and RHCs. It is anticipated that implementation of this proposed rule will result in increased payments to FQHCs and RHCs of approximately \$256,511 for FY 21-22, \$785,587 for FY 22-23, and \$1,089,346 for FY 23-24 for the provision of community health worker services.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Patrick Gillies
Medicaid Executive Director
2109#051

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Managed Care for Physical and Behavioral Health
Independent Review Process for Provider Claims
(LAC 50:I.3111)

The Department of Health, Bureau of Health Services Financing, proposes to amend LAC 50:I.3111 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 204 of the 2021 Regular Legislative Session directed the Department of Health to promulgate Rules granting mental health rehabilitation service providers the right to an independent review of an adverse determination taken by a managed care organization that results in a recoupment of the payment of a claim based on a finding of waste or fraud. In compliance with Act 204, the Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the independent review process for claims filed by managed care providers in order to add provisions that allow mental health rehabilitation providers to seek an independent review of waste and abuse recoupments by managed care organizations.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Managed Care for Physical and Behavioral Health

Chapter 31. General Provisions

§3111. Independent Review Process for Provider Claims

A. Definitions

Abuse—provider practices that are inconsistent with sound fiscal, business, or medical practices, and result in unnecessary costs to the Medicaid program, or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care.

Fraud—an intentional deception or misrepresentation made by a person or a provider with the knowledge that the deception could result in some unauthorized benefit to him/her or some other person or entity. It includes any act that constitutes fraud under applicable federal or state law.

Mental Health Rehabilitation Provider—an outpatient healthcare program provider of any psychosocial rehabilitation (PRS), crisis intervention (CI) and/or community psychiatric support and treatment (CPST) services that promotes the restoration of community function and well-being of an individual diagnosed with a mental health or mental or emotional disorder.

Waste—over-utilization of services, or practices that result in unnecessary cost to the Medicaid program. Waste is generally not considered to be caused by criminally negligent actions but rather by misuse of resources. Any overpayment which is not considered either fraud or abuse, is considered waste.

B. Right of Providers to Independent Review

1. Pursuant to Act 349 of the 2017 Regular Session of the Louisiana Legislature, for adverse determination related to claims filed on or after January 1, 2018, a healthcare provider shall have a right to an independent review of the adverse action of the managed care organization (MCO).

a. - c. Repealed.

2. Pursuant to Act 204 of the 2021 Regular Session of the Louisiana Legislature, mental health rehabilitation service providers shall have a right to an independent review of an adverse determination taken by an MCO that results in a recoupment of the payment of a claim based upon a finding of waste or abuse.

3. For purposes of these provisions, adverse determinations shall refer to claims submitted by healthcare providers for payment for services rendered to Medicaid enrollees and denied by an MCO, in whole or in part, or a claim that results in recoupment of a payment from the healthcare provider.

C. Request for Reconsideration

1. A provider shall submit a written request for reconsideration to the MCO. The request shall identify the claim(s) in dispute, the reasons for the dispute, and any documentation supporting the provider's position or request by the MCO within 180 days from one of the following dates:

a. the date on which the MCO transmits remittance advice or other notice electronically;

b. 60 days from the date the claim was submitted to the MCO if the provider receives no notice from an MCO, either partially or totally, denying the claim; or

c. the date on which the MCO recoups monies remitted for a previous claim payment.

2. The MCO shall acknowledge in writing its receipt of a reconsideration request submitted in accordance with §3111.C.1, within five calendar days after receipt of the request and, render a final decision by providing a response to the provider within 45 calendar days from the date of receipt of the request for reconsideration, unless another time frame is agreed upon in writing by the provider and the MCO.

3. - 9. Repealed.

D. Independent Review Requirements

1. If the MCO upholds the adverse determination, or does not respond to the reconsideration request within the time frames allowed, the provider may file a written notice with the department requesting the adverse determination be submitted to an independent reviewer. The department must receive the written request from the provider for an independent review within 60 days from the date the provider receives the MCO's notice of the decision of the reconsideration request, or if the MCO does not respond to the reconsideration request within the time frames allowed, the last date of the time period allowed for the MCO to respond.

2. The provider shall include a copy of the written request for reconsideration with the request for an independent review. The address to be used by the provider for submission of the request shall be LDH/Health Plan Management, P.O. Box, 91030, Bin 24, Baton Rouge, LA 70821-9283, Attn: Independent Review.

3. If the MCO reverses the adverse determination pursuant to a request for reconsideration, payment of the claim(s) in dispute shall be made no later than 20 days from the date of the MCO's decision.

4. Subject to approval by the department, a provider may aggregate multiple adverse determinations involving the same MCO when the specific reason for nonpayment of the claims aggregated involve a dispute regarding a common substantive question of fact or law.

5. Within 14 calendar days of receipt of the request for independent review, the independent reviewer shall request to be provided all information and documentation submitted for reconsideration regarding the disputed claim or claims within 30 calendar days.

6. If the independent reviewer determines that guidance on a medical issue from the department is required to make a decision, the reviewer shall refer this specific issue to the department for review and concise response to the request within 90 calendar days after receipt.

7. The independent reviewer shall examine all materials submitted and render a decision on the dispute within 60 calendar days. The independent reviewer may request in writing an extension of time from the department to resolve the dispute. If an extension of time is granted by the department, the independent reviewer shall provide notice of the extension to the provider and the MCO.

8. If the independent reviewer renders a decision requiring a MCO to pay any claims or portion of the claims, within 20 calendar days, the MCO shall send the provider payment in full along with 12 percent interest calculated back to the date the claim was originally denied or recouped.

9. Within 60 calendar days of an independent reviewer's decision, either party to the dispute may file suit in any court having jurisdiction to review the independent reviewer's decision to recover any funds awarded by the independent reviewer to the other party.

E. Independent Review Costs

1. The fee for conducting an independent review shall be paid to the independent reviewer by the MCO within 30 calendar days of receipt of a bill for services. A provider shall, within 10 days of the date of the decision of the independent reviewer, reimburse a MCO for the fee associated with conducting an independent review when the decision of the MCO is upheld. If the provider fails to submit payment for the independent review within 10 days from the date of the decision, the MCO may withhold future payments to the provider in an amount equal to the cost of the independent review, and the department may prohibit that provider from future participation in the independent review process.

2. If the MCO representatives fails to pay the bill for the independent reviewer's services, the reviewer may request payment directly from the department from any funds held by the state that are payable to the MCO.

3. Repealed.

F. Independent Reviewer Selection Panel

1. The independent reviewer selection panel shall select and identify an appropriate number of independent reviewers and determine a uniform rate of compensation be paid to each reviewer, not to exceed \$2,000 per review.

2. The panel shall consist of the secretary or his/her duly designated representative, two provider representatives and two MCO representatives.

3. Each MCO shall utilize only independent reviewers who are selected in accordance with Act 349 of the 2017 Regular Session of the Louisiana Legislature, and shall comply with the provisions of this Section in the resolution of disputed adverse determinations.

G. Penalties

1. An MCO in violation of any provision governing the independent review process herein may be subject to a penalty of up to \$25,000 per violation.

a. - c. Repealed.

2. An MCO may be subject to an additional penalty of up to \$25,000 if subject to more than 100 independent reviews annually and the percentage of adverse determinations overturned in favor of the provider as a result of an independent review is greater than 25 percent.

H. Independent Review Applicability

1. Independent review shall not apply to any adverse determination:

a. associated with a claim filed with an MCO prior to January 1, 2018, regardless of whether the claim is re-filed after that date;

b. associated with an adverse determination involved in litigation or arbitration;

c. not associated with a Medicaid enrollee.

2. Independent review does not otherwise prohibit or limit any alternative legal or contractual remedy available to a provider to contest the partial or total denial of a claim for payment for healthcare services. Any contractual provision executed between a provider and a MCO which seeks to limit or otherwise impede the appeal process as set forth in this Section shall be null, void, and deemed to be contrary to the public policy of this state.

AUTHORITY NOTE: 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 44:283 (February 2018), amended LR 47:

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 in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, 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, as described in R.S. 49:965.2 et seq, as it will allow them to obtain independent review for claims.

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 Patrick Gillies, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030. Mr. Gillies is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on October 30, 2021.

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 October 12, 2021. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on October 28, 2021 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 October 12, 2021. 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 LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Managed Care for Physical and Behavioral Health—Independent Review Process for Provider Claims**

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 21-22. It is anticipated that \$1,296 (\$648 SGF and \$648 FED) will be expended in FY 21-22 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 21-22. It is anticipated that \$648 will be collected in FY 21-22 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)

In compliance with Act 204 of the 2021 Regular Session of the Louisiana Legislature, this proposed rule amends the provisions governing the independent review process for claims filed by managed care providers in order to add provisions that allow mental health rehabilitation providers to seek an independent review of waste and abuse recoupments by managed care organizations (MCOs). This proposed rule will be beneficial to providers of mental health rehabilitation services as it will allow them to obtain independent reviews of adverse determinations by MCOs that result in the recoupment of the payment of claims. The implementation of this proposed rule may result in an impact to the MCOs and mental health rehabilitation providers for FY 21-22, FY 22-23, and FY 23-24; however, any potential impact cannot be determined as there is no way to know if there will be recoupments or payments made as a result of this process.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Patrick Gillies
Executive Medicaid Director
2109#052

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Office of Public Health

Public Health Immunization Requirements (LAC 51:II.701)

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 amend and recodify parts of Chapter 7 of Title 51—Public Health Immunization Requirements.

This proposed Rule will amend §701 of Chapter 7 of Title 51—Public Health Immunization Requirements. The proposed amendments add vaccines for SARS-CoV-2 to the list of required vaccinations for school entry to the extent that such vaccines are approved by the Food and Drug Administration for the individual's age, and also require such vaccines, and all potential boosters, on the same basis for school attendance.

Title 51

PUBLIC HEALTH—SANITARY CODE

Part II. The Control of Diseases

Chapter 7. Public Health Immunization Requirements

§701. Immunization Schedule

[formerly paragraph 2:025]

A. The Office of Public Health (OPH) will determine the Louisiana immunization schedule, with appropriate immunizations for age using the current immunization schedule from the Advisory Committee for Immunization Practice (ACIP) of the United States Public Health Service (USPHS). Compliance for school and day care center entry will be based on the individual having received an appropriate number of immunizations for his/her age of the following types:

1. vaccines which contain tetanus and diphtheria toxoids, including Diphtheria and Tetanus (DT), Diphtheria/Tetanus/Acellular Pertussis (DTaP), Tetanus and Diphtheria (Tdap), Tetanus Toxoid (TT) or combinations which include these components;

2. polio vaccine, including Inactivated Polio Vaccine (IPV), or combinations which include this component;

3. vaccines which contain measles antigen, including Measles, Mumps, and Rubella (MMR) and combinations which include these components;

4. vaccines which contain hepatitis antigen, including Hepatitis B (HepB), Hepatitis A (HepA), and combinations which include these components;

5. vaccines which contain varicella antigen, including varicella and combinations which include this component.

6. vaccines which contain meningococcal antigen and combinations which include this component.

7. vaccines for severe acute respiratory syndrome-coronavirus 2 (SARS-CoV-2, the virus which causes Coronavirus Disease 2019, also known as COVID-19), or variants thereof, to the extent that such vaccines have been fully approved by the U.S. Food & Drug Administration (FDA) for the individual's age.

B. - D. ...

E. Notwithstanding anything in this Section or Code to the contrary, and in addition to any other requirements of law, each individual entering or attending any school within the state in-person shall present to such school satisfactory evidence of having received vaccination(s) in accordance with the dosing schedule, including any booster doses recommended by the U.S. Centers for Disease Control and Prevention (CDC), set forth in the applicable Vaccine Information Statement (VIS) for severe acute respiratory syndrome-coronavirus 2 (SARS-CoV-2, the virus which causes COVID-19), or known variants thereof, to the extent that such vaccines have been fully approved by the U.S. Food and Drug Administration (FDA) for the individual's age. Satisfactory evidence that administration of such vaccinations is in progress will satisfy this requirement. Each school in this state shall prohibit in-person attendance of any individual not vaccinated as required by this subsection, unless the individual submits a written statement from a physician stating that such vaccination is contraindicated for medical reasons, or the individual or his parent or guardian submits a written dissent. Each school in this state shall maintain records showing compliance of each

attending individual with the requirements of this subsection. As used in this subsection, the term "school" shall include, but is not limited to, elementary and secondary schools, kindergartens, colleges, universities, proprietary schools, vocation schools, and licensed day care centers.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2), R.S. 40:5(A) and R.S. 40:31.15. Also see R.S. 17:170, R.S. 22:1030, and R.S. 44:17.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1221 (June 2002), amended LR 38:1252 (May 2012), amended by the Department of Health, Office of Public Health, LR 45:670 (May 2019), amended LR 46:590 (April 2020), amended by the Department of Health, Office of Public Health, LR 47:

Family Impact Statement

1. Will the proposed rule affect the stability of the family? Yes. The stability of the family will be enhanced by having more persons in the home vaccinated against SARS-CoV-2 and by protecting the health of the children.

2. Will the proposed rule affect the authority and rights of parents regarding the education and supervision of their children? No, parents will still be able to exempt their children from being vaccinated for religious, medical, or philosophical reasons.

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 the proposed rule? Yes.

Poverty Impact Statement

1. The effect on household income, assets, and financial security. The intent of this vaccination Rule is to prevent the additional spreading of SARS-CoV-2 disease to other persons; therefore, prevention of additional cases of the disease will help to keep other family members and the community at-large healthy and thus would be expected to help to prevent the depletion of household income, assets, and financial security.

2. The effect on early childhood development and preschool through postsecondary education development. Other than attempting to keep school aged children healthy, there will be no effect on childhood development and preschool through postsecondary education development.

3. The effect on employment and workforce development. Persons who are able to prevent becoming infected with SARS-CoV-2 would be expected to remain healthy and such healthy persons would improve his or her chances to either remain employed or become employed. Keeping persons healthy would enhance the workforce as a whole.

4. The effect on taxes and tax credits. Keeping persons healthy by implementing this proposed Rule should help to maintain taxes at a lower level since the fewer sick persons there are in the SARS-CoV-2 pandemic would be expected to check the total amount of funds necessary to maintain a healthy population. This, in turn, should help to prevent the need for additional taxation.

5. The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance. There will be a positive effect on child and dependent care,

housing, health care, nutrition, transportation, and utilities assistance because less services will be needed.

Small Business Analysis

It is anticipated that the proposed Rule will not have a significant 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 no later than October 28, 2021 to DeAnn Gruber, Bureau Director, Bureau of Infectious Diseases, Office of Public Health, 1450 Poydras St., Ste. 2136, New Orleans, LA, 70112 or faxed to (504) 568-7044.

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 October 10, 2021. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9 a.m. on Monday, October 28, 2021, 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 October 11, 2021. 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.

Joseph Kanter, MD, MPH
State Health Officer
and
Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Public Health Immunization Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Office of Public Health (OPH) will incur \$426 in expenses associated with the publication of this proposed rule change. The expenses will be paid with State General Fund.

There will also be a cost to the Medicaid program associated with reimbursing providers for administering vaccines to Medicaid patients. This total cost to the Medicaid program is dependent on the number of Medicaid patients that receive the vaccine. The Medicaid reimbursement rate is \$37.08 and paid for with 100% federal funds.

This proposed rule amends §701 of Chapter 7 of Title 51—Public Health Immunization Requirements. The proposed amendments add vaccines for SARS-CoV-2 to the list of required vaccinations for school entry to the extent that such vaccines are approved by the Food and Drug Administration for the individual's age. The rule also provides that each school in this state shall prohibit in-person attendance of any individual not vaccinated, unless the individual submits a written statement from a physician stating that such vaccination is contraindicated for medical reasons, or the individual or his/her parent or guardian submits a written dissent.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule may have an economic benefit to healthcare providers that administer vaccines and vaccine manufacturers, given that this is likely to be an increase demand for vaccinations. The proposed rule may have an increased cost to health insurance programs, including Medicaid, associated with reimbursing providers for the cost associated with administering the vaccines.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is not anticipated to have an impact on existing competition or employment among vaccination providers.

Kimberly Hood, JD, MPH
Assistant Secretary
2109#033

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Regulation 119—Issuance of Consent or a
Waiver Pursuant to R.S. 22:1554
(LAC 37:XIII.Chapter 177)

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 promulgate Regulation 119—Issuance of Consent or a Waiver Pursuant to R.S. 22:1554. Regulation 119 (1) establishes the procedure for the issuance of consent or a waiver to an insurance producer seeking to employ or to otherwise associate with his business an individual engaged in the business of insurance who has been convicted of a felony in accordance with R.S. 22:1554(A)(18); (2) prescribes the duration and transferability of consent or a waiver issued to an insurance producer; (3) provides for the applicability of 18 U.S.C. §1033(e)(B)(2); and (4) provides for the penalties imposed for failure to comply with this regulation in accordance with R.S. 22:1554A.

Title 37
INSURANCE

Part XIII. Regulations

Chapter 177. Regulation Number 119—Issuance of Consent or a Waiver Pursuant to R.S. 22:1554

§17701. Purpose

A. The purpose of this regulation is to establish a procedure by which an insurance producer may request consent or a waiver to employ or to otherwise associate with his business an individual engaged in the business of insurance who has been convicted of a felony in accordance with R.S. 22:1554(A)(18), prescribe the duration and transferability of consent or a waiver issued to an insurance producer; provide for the applicability of 18 U.S.C. §1033(e)(B)(2); and provide for the penalties imposed for failure to comply with this regulation in accordance with R.S. 22:1554A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1554, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR

§17703. Applicability and Scope

A. Regulation 119 shall apply to all insurance producers licensed in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1554, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR

§17705. Definitions

A. Strictly for the purposes of Regulation 119, the following terms are defined as follows:

Business of Insurance—the writing of insurance or the reinsuring of risks by an insurance producer, including all acts necessary or incidental to such writing or reinsuring, and the activities of persons who act as, or are, officers, directors, agents, or employees of producers, or who are other persons authorized to act on behalf of such persons.

Commissioner—the Louisiana Commissioner of Insurance.

Convicted—having been found guilty of a felony by a judge or jury, having entered a felony plea of guilty or nolo contendere or no contest, or having been given felony probation, a suspended sentence, or a fine, regardless of whether the record is expunged.

Employee—an individual who has established an employment relationship as a W-2 employee or as a 1099 independent contractor.

Insurance License—a document issued by the commissioner authorizing a person to act as an insurance producer issued pursuant to Title 22.

Insurance Producer—a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance, and includes all persons or business entities otherwise referred to as "insurance agent" or "agent," or "insurance broker" or "broker," or "insurance solicitor" or "solicitor," or "surplus lines broker" pursuant to R.S. 22:1542(6).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1554, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR

§17707. Procedure to Request Consent or a Waiver Pursuant to R.S. 22:1554

A. The commissioner may place on probation, suspend, revoke, or refuse to issue, renew, or reinstate an insurance producer license, or may levy a fine not to exceed five hundred dollars if an insurance producer, without the consent of or a waiver from the commissioner, has employed or has allowed to associate with his business, in any manner, any person engaged in the business of insurance who has been convicted of a felony under the laws of this state or any other state or territory, the District of Columbia, the United States, or any foreign country.

B. In order to ensure compliance with R.S. 22:1554(A)(18), insurance producers should screen potential employees by performing a background check.

C. An insurance producer requesting consent or a waiver pursuant to R.S. 22:1554(A)(18) shall do so in writing in a form approved by the commissioner. Such request shall include:

1. the employee's name, job title and date of birth;
2. the employee's date of employment;
3. a detailed description of the employee's job duties;
4. a statement from the employee explaining the facts and circumstances of the conviction;
5. a bill of information or other charging documents, court minutes, sentencing documents, and proof of successful completion of sentence for the felony conviction(s);
6. any other information deemed necessary by the commissioner.

D. The decision to grant or deny a request for consent or a waiver shall be issued in writing to the requesting employer.

E. The commissioner may deny consent or a waiver if he finds:

1. the competence, experience or integrity of the employee are such that it would not be in the best interest of clients of the employer or the public to allow the individual to be employed in the business of insurance;
2. the employing insurance producer or the employee knowingly makes a materially false statement or omission of material information in the request; or
3. any other reason, now or hereinafter, as provided for in applicable statutes and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1554, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR

§17709. Duration and Transferability

A. Consent or a waiver issued pursuant to R.S. 22:1554(A)(18) shall be issued solely to the employing insurance producer and shall remain in effect during the employment of the individual with the insurance producer. However, such consent or waiver may be rescinded if the employee is found to have subsequently committed an act pursuant to R.S. 22:1554(A)(7), or it is found that the request for consent or a waiver contained materially false information or omitted material information.

B. Consent or a waiver shall not be transferred to another employer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1554, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR

§17711. Applicability of 18 U.S.C. §1033

A. An individual who has been convicted of a felony involving dishonesty or breach of trust shall be required to request written consent from the commissioner to engage in the business of insurance or participate in such business pursuant to 18 U.S.C. §1033(e)(B)(2).

B. The employing insurance producer of an individual who obtained written consent pursuant to 18 U.S.C. §1033(e)(B)(2) is required to obtain a waiver pursuant to R.S. 22:1554(A)(18). However, an employer is not required to submit the documents enumerated in §17707 B.5. of Regulation 119 if the employee has an active license in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1554, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR

§17713. Violations and Penalties

A. The commissioner may impose penalties in accordance with R.S. 22:1554A for failure to comply with this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1554, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR

§17715. Effective Date

A. This regulation shall become effective upon final publication in the Louisiana Register.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1554, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR

§17717. Severability

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. 22:11, 22:1554, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR

Family Impact Statement

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed amended 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 amended regulation should have no impact upon the rights and authority of parents regarding the education and supervision of their children.

3. Describe the Effect of the Proposed Regulation on the Functioning of the Family. The proposed amended 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 amended 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 amended regulation should have no impact upon the behavior and personal responsibility of children.

6. 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 amended 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 amended 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 amended 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 amended regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed amended 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 amended 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 amended 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 amended regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed amended 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 amended 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 amended 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 amended regulation will have no effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed amended 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, or by faxing comments to (225) 342-1632. Comments will be accepted through the close of business, 4:30 p.m., October 10, 2021.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Regulation 119—Issuance of Consent or a Waiver Pursuant to R.S. 22:1554

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule is not anticipated to result in implementation cost or savings to the state or local governmental units. The proposed rule is promulgated to establish the procedure for the issuance of consent or a waiver to an insurance producer seeking to employ or to otherwise associate with his business an individual engaged in the business of insurance who has been convicted of a felony in accordance with R.S. 22:1554(A)(18). The proposed rule prescribes the duration and transferability of consent or a waiver issued to an insurance producer; provides applicability of 18 U.S.C. §1033(e)(B)(2); and provides for the penalties imposed for failure to comply with this regulation.

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.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will affect all insurance producers requesting consent or a waiver pursuant to R.S. 22:1554(A)(18). A producer must file a written request of consent or a waiver in writing on a form approved by the commissioner. Penalties may be imposed for failure to comply with this regulation. The number of insurance producers that may be assessed penalties is unknown.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact upon competition and employment in the state.

S. Denise Gardner
Chief of Staff
2109#032

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Louisiana Lottery Corporation

Lottery Sports Wagering
(LAC 42:XV.Chapter 11)

The Louisiana Lottery Corporation in compliance with, and under authority of R.S. 49:950 et seq. and R.S. 47:9000 et seq., as amended by Act 80 of the 2021 Regular Session, hereby gives notice of its intent to submit rules to implement lottery sports wagering.

During the last regular session, the Legislature enacted Act 80 authorizing the Louisiana Lottery Corporation to conduct and administer sports wagering in the State of Louisiana.

As stated in Act 80, the Legislature recognizes that the Louisiana Lottery Corporation is uniquely positioned to participate in the sports wagering industry based upon its business model, infrastructure, and current relationship with retail establishments.

In May of 2018, the Supreme Court issued a decision that allowed all states to authorize sports wagering. Since then, sports wagering has been implemented in 22 jurisdictions. Several lotteries throughout the United States have approved regulations to begin offering sports wagering through their website, on their mobile application or at retail locations. Most of the state lotteries that offer sports wagering are doing so electronically. Montana is one state that does offer sports wagering at licensed retail locations with several other states to follow suit very soon.

In other states, the lotteries are the only licensee for sports wagering or one of a very few. Act 440 of the 2021 Regular Session authorizes 20 sports wagering licenses in addition to the Louisiana Lottery Corporation for both onsite and mobile sports wagering.

The Corporation will look to implement sports wagering in retail establishments in the 55 parishes where sports wagering is authorized. In addition, the corporation will offer sports wagering via a website and a mobile application.

The Corporation will offer sports wagering in keeping with its mission statement as defined by R.S. 47:9000 et seq. to generate maximum revenue for the State of Louisiana while upholding the highest standards of integrity and public trust.

Title 42 GAMING

Part XV. Lottery

Chapter 11. Lottery Sports Wagering

Subchapter A. General Provisions

§1101. Policy Statement

A. The rules and procedures contained herein are promulgated by the corporation in order to assure public

confidence in the procedures followed by the corporation in the operation and administration of lottery sports wagering. The operation of lottery sports wagering is a unique activity of an instrumentality of the State of Louisiana. Public confidence depends on the corporation developing and maintaining procedures that are subject to the highest ethical standards and promote administrative efficiency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

§1103. Definitions

A. The following words and terms shall have the meaning set forth herein when used in the policies and rules.

Act—the provisions of the Louisiana Lottery Corporation Law, R.S. 47:9001 et seq.

Anti-Money Laundering Standards or *AML*—the requirements and guidelines provided in the federal Bank Secrecy Act of 1970, as amended, and the Anti-Money Laundering Act of 2020, as amended, for the prevention and detection of money laundering and the financing of terrorism.

Applicant—a person, business, or legal entity who has submitted an application to the corporation seeking a permit or the renewal of a permit.

Application—the forms and schedules prescribed by the corporation upon which an applicant seeks a permit or the renewal of a permit. An application shall also include any other information or fee required by the corporation to be submitted with an application such as disclosure statements, financial statements, and any type of fee.

Board—the board of directors of the Louisiana Lottery Corporation.

Corporation—the Louisiana Lottery Corporation.

Distributor—a permitted business or legal entity that is domiciled in this state and markets, buys, sells, leases, services, or repairs sports wagering mechanisms in this state.

Electronic Sports Wagering—sports wagering via a sports wagering mechanism on the premises of a permitted retail establishment or via a website or mobile application.

Lottery—any game of chance approved by the corporation and operated pursuant to this Chapter and shall not include sports wagering authorized pursuant to this Subtitle.

Major Procurement—any item, product, or service in the amount of one hundred thousand dollars or more, including but not limited to major advertising contracts, annuity contracts, prize products, and services unique to the Louisiana lottery, but not including materials, supplies, equipment, and services common to the ordinary operations of a corporation.

Manufacturer—a permitted person that contracts with an operator to manufacture a self-service sports wagering mechanism.

Mobile Application—an application on a mobile phone or other device through which a player is able to register, fund, and place a wager with an operator on a sports event and receive a credit on their sports wagering account.

Mobile Wagering—wagering on a sports event through a website or mobile application.

Net Gaming Proceeds—the amount equal to the total gross revenue of all sports wagers placed by patrons less the total amount of all winnings paid out to patrons.

Net Proceeds—gross lottery revenues less amounts paid or estimated to be paid as prizes and expenses of operation of the lottery.

Operator Vendor—a permitted person that contracts with an operator to provide products or services related to sports wagering but not including products and services common to the ordinary operations of a corporation.

Patron or *Player*—an individual who places a wager on a sports event.

Permit—any permit or authorization, or application therefor, issued pursuant to the provisions of this Subtitle.

Permittee—any person who is issued a permit pursuant to the provisions of this Subtitle.

Person—any individual, corporation, partnership, unincorporated association, or other legal entity.

Personnel—permitted employees that directly participate in the conduct and operation of the sports book.

President—the president of the Louisiana Lottery Corporation, who shall also serve as chief executive officer of the corporation.

Retail Establishment—a retail business that is permitted by the corporation to host a sports wagering mechanism.

Retailer—any person with whom the corporation has contracted to sell lottery tickets to the public.

Security—the protection of information that would provide an unfair advantage to any individual involved in the operation of the lottery, protection, and preservation of the integrity of lottery games and operations, as well as measures taken to prevent crimes against the corporation and its retailers.

Sports Book—the offering of sports wagering by a sports wagering platform provider on the premises of a permitted retail establishment or through a sports wagering platform.

Sports Event—any professional sport or athletic event, any collegiate sport or athletic event, any Olympic or international sports competition event, or any other special event or competition of relative skill as authorized by the corporation to be a sports event for purposes of this Chapter. "Sports event" shall not include high school sports, youth events, any international sports events where the majority of the athletes are under the age of eighteen years old, electronic sports, competitive video games, fantasy sports contests as provided in Chapter 6 of Title 27 of the Louisiana Revised Statutes of 1950, and any event prohibited by law.

Sports Wager or *Sports Bet*—a sum of money or representation of value risked by a player on an occurrence associated with a sports event for which the outcome is uncertain. The term includes but is not limited to single-game bets, teaser bets, parlay bets, over-under bets, money line bets, pools, exchange wagering, in-game wagering, in-play bets, proposition bets, and straight bets.

Sports Wagering—the acceptance of a wager on a sports event or on a portion of a sports event or on the individual performance or statistics of an athlete or participant in a sports event or a combination of sports events, by any system or method of wagering.

Sports Wagering Account—an electronic financial record established with an operator for an individual patron in which the patron may deposit and withdraw funds for sports wagering and other authorized purchases and to which the operator may credit winnings or other amounts due to that patron or authorized by that patron.

Sports Wagering Mechanism or *Kiosk*—a corporation approved self-service mechanical, electrical, or computerized terminal, device, apparatus, or piece of equipment that is directly tied to the central system of the sports wagering platform provider approved by and contracting with the corporation, which allows a patron to place a sports wager on premises of a permitted retail establishment. Sports wagering mechanism does not include a personal computer, mobile phone, or other device owned and used by a player to wager on a sports event.

Sports Wagering Platform—an integrated system of hardware, software, or applications, including mobile applications and servers, through which an operator conducts the business of offering sports wagering conducted in accordance with this Subtitle.

Sports Wagering Platform Provider or *Operator*—a suitable person that holds a permit from the corporation to engage in the operation of a sports book on behalf of the corporation.

Sports Wagering Service Provider—a person that holds a permit from the corporation that contracts with an operator to provide support services for the operation of a sports book.

Supplier—a permitted person that contracts with an operator to provide goods or services related to sports wagering but not including materials, supplies and services common to the ordinary operations of a corporation.

Vendor—any person who has entered into a major procurement contract with the corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

§1105. Compliance with Law/Rules

A. In placing a sports wager, the player agrees to abide by applicable laws, operator rules, all corporation rules, policies, instructions, conditions, and final decisions of the president of the corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

§1107. Operation and Administration

A. The corporation through a contract with an operator will operate and administer a sports book. The sports book operated on behalf of the corporation will be a separate and distinct responsibility and operation from lottery gaming.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

Subchapter B. Permitting

§1109. Permits, General

A. The operator, sports wagering service providers, distributors, manufacturers, vendors, suppliers, personnel, and retail establishments will be permitted by the

corporation based on qualifications and suitability standards detailed in the Act and this Subchapter.

B. Any permit issued by the corporation is deemed to be a revocable privilege. No person holding such a permit is deemed to have acquired any vested rights therein.

C. Permits are not transferable or assignable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

§1111. Applications

A. An application for a permit is seeking the granting of a privilege. The burden of proving qualification and suitability to receive the permit is at all times on the applicant.

B. An applicant accepts the risk of adverse public notice, embarrassment, criticism or other action or financial loss that may result from action with respect to an application and expressly waives any claim for damages as a result thereof, except relating to willful misconduct by the corporation.

C. The filing of an application constitutes a request for a decision upon the applicant's general suitability, character, integrity, and ability to engage in a contract with the corporation or the operator. By filing an application, the applicant specifically consents to the making of such decision by the corporation.

D. Any false statement contained in any report, disclosure application, permit form or any other document required by the corporation shall be a violation of these rules and the Act.

E. All original and renewal applications may be submitted to the corporation by certified or registered mail, return receipt, private or commercial interstate carrier, electronic submission, hand delivery or any other method of delivery approved by the corporation.

F. Renewal applications may be submitted to the corporation 120 days prior to the expiration of the permit term.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

§1113. Application Contents

A. The application for a permit should demonstrate by clear and convincing evidence to the corporation the applicant's qualifications and suitability.

B. The application must contain the disclosure requirements in the applicable suitability standards.

C. The application must include the names of all persons required to submit to suitability pursuant to the Act or these rules.

D. The application must contain a certification signed by a duly authorized representative of the applicant that:

1. the information contained therein is true and correct;
2. the applicant has read the act and these rules; and
3. the applicant agrees to comply with these rules and the Act.

E. The application must include tax clearance from the appropriate state agencies prior to the granting of a permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

§1115. Fees

A. Application, permit, and renewal fees will be charged and paid in accordance with R.S. 47:9095, R.S. 47:9096, R.S. 47:9097 and R.S. 47:9098.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

§1117. Forms

A. The corporation may develop forms for permit applications requesting all such information required by law or that the corporation deems necessary or appropriate to evaluate applicants. The corporation may require that such application be completed, executed, acknowledged, notarized or any of the foregoing, and that an officer of the applicant execute and acknowledge or notarize any oath that the corporation deems necessary or appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

Subchapter C. Qualification and Suitability Standards

§1119. Operator Permit

A. An applicant for an operator permit must meet and maintain the suitability standards provided for in the Act and these rules, including but not limited to, R.S. 47:9094.

B. An applicant for an operator permit must demonstrate the ability to satisfy the technical and operational standards and requirements for sports wagering required by the corporation.

C. An applicant must demonstrate the ability to satisfy the requirement that the operator will contract with multiple distributors and operator vendors to provide maximum opportunity for economic development.

D. An applicant must be a person domiciled in Louisiana or a domestic business entity with a certificate of existence from the Secretary of State and in good standing or a foreign corporation with a certificate of authority to transact business in this state from the Secretary of State and in good standing.

E. An applicant must provide the corporation with financial statements indicating any sports wagering revenues or gaming revenues for the previous three years.

F. Suitability is an ongoing process. A permittee or person required to submit to suitability by the Act or these rules has a continuing duty to inform the corporation of any action which could reasonably be believed to constitute a violation of the Act or these rules.

G. An applicant, permittee or person required to submit to suitability by the Act or these rules has a continuing duty to inform the corporation of material changes in their affiliations, businesses, financial standing, operations, ownership relationships, corporate management personnel, officers, or directors.

H. The corporation may consider the following criteria when deciding whether to issue a permit or a finding of suitability to conduct sports wagering or whether to continue permitting or finding a person suitable to participate in sports wagering:

1. the applicant or permittee and its operation is properly financed;

2. the corporation may consider whether the sports wagering platform is designed and secured in a manner that provides adequate security for all aspects of its operation and for players;

3. the corporation may consider the character and reputation of all persons identified with the ownership and operation of the applicant or permittee and their capability to comply with the Act and these rules; and

4. the corporation may consider such other factors as may arise in the circumstances presented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

§1121. Retail Establishment Permit

A. An applicant for a retail establishment permit must meet one of the requirements of R.S. 47:9098(B) to be qualified to receive a permit.

B. An applicant for permit must meet and maintain the following suitability standards.

1. An applicant must be a person of good character, honesty, and integrity.

2. An applicant must be a person whose prior activities or criminal activity, if any, do not pose a threat to the effective operation of lottery sports wagering.

3. An applicant must be likely to conduct the activities for which the applicant or permittee is approved or permitted.

4. An applicant must not have been found guilty of a felony related to the security or integrity of a lottery in this or any other state or jurisdiction.

C. An applicant must provide the applicant's name and address and, as applicable, the name and address of the following:

1. if the applicant is a corporation, the officers, directors, and each stockholder in such corporation, other than the stockholders of a publicly traded corporation;

2. if the applicant is a trust, the trustee and all persons entitled to receive income or benefit from the trust;

3. if the applicant is an association, the members, officers, and directors;

4. if the applicant is a partnership or joint venture, all of the general partners, limited partners, or joint ventures.

D. An applicant for a retail establishment may not become and remain a permitted retail establishment unless the applicant meets the following threshold criteria:

1. The applicant is current in payment of all taxes, interest, and penalties owed to any taxing political subdivision where the applicant's establishment is located.

2. The applicant is current in filing all applicable tax returns and in payment of all taxes, interest, and penalties owed to the state of Louisiana, excluding items under formal appeal pursuant to applicable statutes.

3. The applicant has not been:

a. convicted of any illegal gambling activity, false statements, false swearing, or perjury in this or any other jurisdiction, or convicted of any crime punishable by more than one year imprisonment or a fine of more than one thousand dollars, or both;

b. found to have violated the provisions of these rules, the Act or any rule adopted thereunder, unless either 10 years have passed since the violation, or the president and the board find the violation both minor and unintentional in nature;

c. a vendor [as defined in Section 9002(30) of the Act] or any employee or agent of any vendor doing business with the corporation;

d. a resident in the same household as an officer of the corporation;

e. found to have made a statement of material fact to the corporation, knowing such statement to be false.

4. The applicant meets such other criteria as the Corporation adopts from time to time relating to the integrity, reputation, financial responsibility, business practices or qualifications of an applicant.

E. In assessing the qualification of an applicant, the corporation may consider the following factors, among others:

1. financial responsibility;
2. integrity;
3. reputation;
4. accessibility of the place of business or activity to the public;
5. security of the premises;
6. sufficiency of existing retail establishments to serve the public convenience;
7. projected volume of sales for sports wagering.

F. The corporation may conduct whatever investigations it deems necessary to analyze an application and may require any applicant to produce any information the corporation deems necessary.

G. The selection of a retail establishment shall be made without regard to political affiliation, activities, or monetary contributions to political organizations or candidates for any public office.

H. The corporation will maintain a limitation on the number of self-service sports wagering mechanisms made available based on the number allowed under the corporation's contract with the operator.

I. An applicant agrees to provide written approval for a criminal background investigation by the corporation.

J. Any contract between a retail establishment and the operator is contingent upon the applicant receiving and maintaining a permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

§1123. Additional Permits

A. The provisions of this section apply to sports wagering service providers, distributors, manufacturers, operator vendors, suppliers, and personnel.

B. An applicant for a permit must meet and maintain the following suitability standards.

1. An applicant must be a person of good character, honesty, and integrity.

2. An applicant must be a person whose prior activities or criminal activity, if any, do not pose a threat to the effective operation of lottery sports wagering.

3. An applicant must be likely to conduct the activities for which the applicant or permittee is approved or permitted.

4. An applicant must not have been found guilty of a felony related to the security or integrity of a lottery in this or any other state or jurisdiction.

C. In order to demonstrate qualification and suitability, an applicant must provide the following disclosures:

1. A disclosure of the applicant's name and address, and as applicable, the name and address of the following:

a. if the applicant is a corporation, the officers, directors, and each stockholder in such corporation, other than the stockholders of a publicly traded corporation;

b. if the applicant is a trust, the trustee and all persons entitled to receive income or benefit from the trust;

c. if the applicant is an association, the members, officers, and directors;

d. if the applicant is a partnership or joint venture, all of the general partners, limited partners, or joint ventures.

2. A disclosure of all the states and jurisdictions in which the applicant has contracts to supply gaming services, including but not limited to sports wagering, for lotteries or other gaming entities, or to supply other gaming goods and services, and the nature of the goods or services involved for each state or jurisdiction.

3. A disclosure of all the states and jurisdictions in which the applicant has applied for, has sought renewal of, has received, has been denied, has pending, or has had revoked a gaming license of any kind, or had fines or penalties assessed against their license, contract or operation, and the disposition of such in each such state or jurisdiction. If any lottery or gaming license or contract has been revoked or has not been renewed or any lottery or gaming license or application has been either denied or is pending and has remained pending for more than six months, all of the facts and circumstances underlying the failure to receive such a license must be disclosed.

4. A disclosure of the details of any finding of plea, conviction, or adjudication for guilt, in a state or federal court, of the applicant or any person included in Paragraph C.1. above for any felony or any other criminal offense other than a traffic violation.

5. A disclosure of the details of any bankruptcy, insolvency, or reorganization of the applicant

6. A listing of gaming clients currently serviced by the applicant under an existing contract in the United States, including the length of time each contract has been in effect, and provide information regarding any contract that has ended for any reason within the last three years.

D. An applicant currently providing gaming services related to sports wagering and internet gaming in this or any other state or jurisdiction may be considered qualified and suitable by the corporation.

E. An applicant agrees to provide written approval for a criminal background investigation by the corporation.

F. Any contract between an applicant and the operator must be contingent upon the applicant receiving and maintaining a permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

§1125. Continuing Suitability

A. Suitability is an ongoing process. An applicant or permittee, or person required to submit to suitability by the

rules or the Act has a continuing duty to inform the corporation of any action which could reasonably be believed to constitute a violation of these rules or the Act.

B. An applicant, permittee, or person required to submit to suitability shall also have a continuing duty to inform the corporation of material changes in the affiliations, businesses, financial standing, operations, ownership relationships, corporate management personnel, officers, or directors.

C. An applicant, permittee, or person required to submit to suitability shall also have a continuing duty to inform the corporation of all administrative actions instituted or pending in any other jurisdiction against or involving the applicant or permittee.

D. Failure to report or provide required notice may constitute grounds for delaying consideration of the application or denial of the application, suspension, or revocation of the permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

§1127. Permit Renewal

A. The renewal application must contain a statement by the applicant that any and all changes in history and financial information provided in the previous application have been disclosed.

B. A permittee in good standing with the corporation at the time of renewal will be considered qualified and suitable for renewal of the permit.

C. Renewal applications may be submitted to the corporation 120 days prior to the expiration of the permit term.

D. Renewal applications must include tax clearances from the appropriate state agencies prior to the granting of the renewal. The corporation may consider a temporary extension of a permit to avoid interruption of service in the event there is a delay in receiving the tax clearances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

§1129. Suspension, Revocation

A. Any permit may, for good cause, be suspended or revoked by the president if the permittee is found to have violated any provisions of these rules, the Act, or objective criteria established by the corporation.

B. Any permit granted by the corporation pursuant to these rules and the Act will specify the reasons for which any permit may be suspended or revoked by the corporation, which reasons include but are not limited to:

1. commission of a violation of these rules, the Act, or other provisions of Louisiana law;
2. commission of any fraud, deceit, or misrepresentation;
3. conduct prejudicial to public confidence in the lottery;
4. the permittee filing for or being placed in bankruptcy or receivership;
5. failure to accurately account for tickets, revenues or prizes as required by the corporation;
6. insufficient sale of sports wagers; or

7. any material changes in any matter considered by the corporation in granting the permit to the permittee.

C. If, in the discretion of the president, suspension or revocation of a permit is in the best interests of the lottery, the public welfare, or the state of Louisiana, the president may suspend or revoke, after notice and a hearing, any permit granted pursuant to these rules or the Act. Such permit may, however, be temporarily suspended by the president without prior notice, pending any prosecution, hearing, or investigation, whether by a third party or by the president. A permit may be suspended or revoked by the president for any one or more of the reasons enumerated herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

§1131. Appeals

A. The procedures stated in this section apply to an appeal of a corporation determination by a permittee or a person seeking a permit under these rules and the Act.

1. Prior to making an appeal, an appellant must send the president a request letter stating the action of which the appellant seeks modification and all reasons the appellant advances for modification. The request letter must state the appellant's name and address, must enclose copies of all documents relevant to the request and must be signed by the appellant. The appellant must represent that all facts stated in the request letter are correct to the best knowledge of the appellant. The president shall respond to the request letter in writing within 10 days of the corporation's receipt of it, stating all reasons for the response.

2. An appellant may appeal the president's denial of all, or any part of the appellant's request stated in the appellant's request letter by sending the president a notice of appeal. The notice of appeal shall be effective only if it is in writing, states the substance and basis of the appeal, and is received by the corporation within 10 days of the appellant's receipt of the president's letter denying the appeal. The notice may request that the hearing be expedited, provided that such a request shall constitute an undertaking by the appellant to pay the costs assessable by the board. Upon receipt of a notice of appeal, the president shall deliver the notice, the appellant's request letter and the president's denial letter to the board.

3. The board shall consider the appeal at its next regular meeting to occur five or more days after receipt of the notice of appeal. The hearing shall be conducted in accordance with the provisions of the Administrative Procedure Act. The chairman may call a special meeting of the board to hear an appeal if the appellant has requested an expedited hearing and the chairman in his or her sole discretion believes that the appeal warrants an expedited hearing. The president shall give the appellant reasonable notice of the time and location of the board meeting. The appellant shall be permitted to present the appeal orally for a time period determined by the board. The presentation may not include points or subjects which were not included in the appellant's request letter. The corporation shall keep a complete record of the hearing and shall make it available to the appellant. The board shall render its decision on the

appeal by majority vote within five days after conclusion of the hearing.

4. If the appellant requested an expedited hearing, the board conducts the hearing at a special meeting, and the board denies the appeal, the board may charge the appellant the corporation's reasonable costs incurred in connection with the special meeting, including any travel and per diem expenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

Subchapter C. Rules; Operations

§1133. Sports Wagering Operator Requirements and Restrictions; Internal Controls; Comprehensive Rules

A. The operator may only conduct sports wagering expressly authorized by the Act, these rules, or its internal controls.

B. Sports wagering authorized by the Act shall be conducted pursuant to the Act, these rules, and an operator's internal controls.

C. The operator shall have an ongoing responsibility to contract with multiple distributors and operator vendors to provide maximum opportunity for economic development.

D. The operator shall comply with all provisions of the Act, these rules, and its internal controls regarding child support arrearages.

E. The operator shall not accept a sports wager from a prohibited player.

F. An applicant shall submit its internal controls with its application for permitting as a sports wagering platform provider or operator. Whenever internal controls are updated, they shall be immediately submitted to the corporation for approval to ensure the corporation is in possession of the current internal controls at all times.

G. The operator shall implement internal controls and commercially reasonable procedures for sports wagering to ensure compliance with all requirements of the Act and these rules including, but not limited to:

1. prohibit a player from sports wagering while the player is located in a prohibited parish;

2. comply with all applicable tax laws and rules including, without limitation, laws, and rules applicable to winnings and tax withholdings;

3. preventing the sharing or prohibited release of personal patron data and confidential information that could affect sports wagering with third parties until the information is made publicly available;

4. not knowingly accept a wager from a prohibited player, and shall comply with the limitations listed in LR 47:47:9099;

5. verifying that a player is 21 years of age or older;

6. providing players with access to information on responsible play;

7. providing players with access to the player's play history and account details that are not confidential;

8. slowing individuals to restrict themselves from placing a sports wager upon request and provide reasonable steps to prevent the person placing a sports wager offered by an operator;

9. insuring that commercially reasonable measures are in place to deter, detect, and, to the extent reasonably

possible, prevent cheating, collusion, and the use of cheating devices;

10. not offer sports wagering on any prohibited sports events;

11. withholding all winnings from players determined to be under the age of 21 or determined to have participated in sports wagering from within a prohibited parish;

12. allowing players to file complaints regarding the sports wagering operation and the handling of the player's sports wagering account;

13. requiring patrons to establish a sports wagering account prior to accepting wagers through a website or mobile application. Verifying the following for players requesting to open an account, in accordance with the information provided by players under section 1139(B)(2) of this Chapter:

a. identity; and

b. date of birth;

14. publishing and facilitating parental control procedures to allow parents or guardians to exclude minors from access to a sports wagering platform;

15. determining the geographical location of a player when placing a sports wager;

16. reporting of problem gamblers;

17. operational controls for sports wagering accounts;

18. setting up and maintaining user access control for a sports wagering platform and ensuring proper segregation of duties at the sports book and sports wagering platform;

19. procedures for identifying and reporting fraud and suspicious wagering activity;

20. anti-money laundering compliance standards, including limitations placed on anonymous sports wagering at sports wagering mechanisms;

21. detailing procedures for W-2G issuance when triggered.

22. automated and manual risk management procedures;

23. process for submitting and receiving approval for all types of sports wagers available to be offered by the operator;

24. description of process for accepting sports wagers and issuing payouts, including additional controls for accepting sports wagers and issuing payouts in excess of \$10,000;

25. description of process for accepting multiple sports wagers from one player within a 24-hour cycle, including process to identify player structuring of sports wagers to circumvent recording and reporting requirements; and

H. the operator shall report all winnings withheld and remit all withheld amounts to the corporation. Winnings withheld from underage and excluded patrons shall be sent to the corporation.

I. The operator shall provide information regarding the player's ability to file a complaint with the corporation and provide the information necessary to file such a complaint.

J. the operator shall ensure that all information required by the Act, these rules, or its internal controls to be provided to players is easily accessible through the sports wagering platform or printed copies, is clear and concise in language, and provides methods to contact the operator with questions.

K. The operator shall adopt comprehensive rules governing sports wagering transactions with its patrons and

submit such rules to the corporation for approval. The comprehensive rules shall include, at a minimum:

1. the method for calculation and payment of winning wagers;
2. the effect of schedule changes for sports events;
3. the method of notifying players of odds or proposition changes;
4. acceptance of wagers at terms other than those posted;
5. expiration dates for winning tickets in accordance with the Act;
6. circumstances under which the operator will cancel a bet;
7. treatment of errors, late bets, and related contingencies;
8. method of contacting the operator with complaints or questions;
9. description of those persons who are prohibited from wagering with the operator;
10. instructions on how to self-restrict, self-limit, and self-exclude, including hyperlinks to such;
11. the method and location and posting and publishing the comprehensive rules; and
12. the methods for redeeming a winning ticket, including by mail if the operator allows such.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

§1135. Sports Wagering Platforms; Duties of Operator

A. To ensure the protection of players, a sports wagering platform shall identify the person that is the operator.

B. The operator shall provide a set of terms and conditions readily accessible to the player on its sports wagering platforms.

C. The operator shall provide a readily accessible privacy policy to the player on its sports wagering platforms. The privacy policy shall state the information that is required to be collected, the purpose for information collection, and the conditions under which information may be disclosed. Any information about a player's sports wagering account that is not subject to disclosure pursuant to the privacy policy shall be kept confidential, except where the release is required by law or requested by the corporation. Player information shall be securely erased from hard disks, magnetic tapes, solid state memory, and other devices before the device is decommissioned. If erasure is not possible, the storage device must be destroyed.

D. An operator shall ensure that wagering on its sports wagering platform complies with the Act, these rules, and any requirements of the corporation. An operator shall comply with AML standards, Federal and state law, and the limitations set forth in R.S. 47:9099.

E. The operator shall have procedures that do all of the following prior to operating in this state:

1. prevent unauthorized withdrawals from a sports wagering account by the operator or others;
2. make clear that funds in a sports wagering account are not the property of the operator and are not available to the operator's creditors;
3. ensure any amounts won by a player from a sports wager is deposited into the player's account within one day

from the time of the event, unless the wager is part of an investigation;

4. ensure players can withdraw the funds maintained in their sports wagering accounts in accordance with the Act and these rules;

5. allows a player to permanently close his sports wagering account at any time for any reason;

6. offers players access to their play history and account details;

7. prevent all persons from tampering with or interfering with the operation of sports wagering or sports wagering equipment.

F. The operator shall establish procedures for a player to report complaints to the operator regarding whether his sports wagering account has been misallocated, compromised, or otherwise mishandled, and a procedure for the operator to respond to those complaints. The operator shall maintain a record of all complaints for a period of five years.

1. A player who believes his account has been misallocated, compromised, or otherwise mishandled may notify the corporation. Upon notification, the corporation shall investigate the claim and may take any action the corporation deems appropriate pursuant to the provisions of the Act or these rules.

G. If a session is terminated due to player inactivity, the player's device must display to the player that the session has timed out and inform him of the steps needed to be taken to reestablish the session. If the session is terminated due to a player inactivity timeout, no further participation is permitted unless and until a new session is established by the player. This process shall include, at a minimum, the manual entry of the player's secure password or an alternate form of authentication approved by the corporation.

H. With the approval of the corporation, the operator shall cooperate with investigations conducted by sports governing bodies or law enforcement agencies. However, an operator shall not share any information that would interfere or impede a criminal investigation or an investigation of the corporation. Information shared under this subsection by an operator or a sports governing body is confidential, unless disclosure is required by the corporation or court order for enforcement or legal purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

§1137. Prohibited Parish; Geolocation, Geofencing; Proxy Servers

A. The operator shall not allow a player to place a sports wager while located in a prohibited parish.

B. The operator shall implement and abide by protocols and procedures to ensure a player is not utilizing remote desktop software, rootkits, virtualization, proxy servers, virtual private network, spoofing, or other means to disguise their physical location or their computer or device's physical location when conducting a sports wagering transaction. Operator shall use, at a minimum:

1. geolocation and geo-fencing techniques and capability; and

2. commercially reasonable standards for the detection and restriction of remote desktop software, rootkits,

virtualization, proxy servers, virtual private networks, spoofing, or other means of disguising one's location.

C. The operator shall prohibit the placing of a sports wager if a player is utilizing any means to disguise his identity or physical location or his computer or device's physical location or attempting to act as a proxy for another player.

D. The operator shall detect and block patrons that make malicious or repeated unauthorized attempts to access the online sports wagering system. This includes players utilizing any means to disguise their identity or physical location or their computers or device's physical location or acting as a proxy for another player in order to place a sports wager. The player's sports wagering account shall be flagged and reviewed, and the operator shall follow protocols to reach a final determination about the player's sports wagering account and future access and account privileges. The operator shall maintain a record of all information, documentation, or evidence of such activity.

E. The operator shall immediately notify the corporation of any sports wagers made when the player was located in a prohibited parish and shall provide the corporation with all information, documentation, and other evidence of such sports wager.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

§1139. Sports Wagering Account; Player Registration Required

A. A person shall register with an operator prior to placing a sports wager on a sports wagering platform through a website or mobile application. Operator shall not allow any person to place a sports wager on its sports wagering platform through a website or mobile application unless that person is registered and maintains a sports wagering account. Nothing in this section shall prohibit an operator from accepting anonymous wagers at a sports wagering mechanism on the licensed premises in accordance with the Act, these rules, and internal controls.

1. The operator shall include sports wagering account procedures necessary to setup and register for an account in the internal controls submitted for approval prior to implementation.

B. With respect to registration, an operator shall do all of the following:

1. implement security standards to prevent the placing of sports wagers by a person whose identity has not been verified in accordance with the Act, these rules, or internal controls;

2. ensure that all persons provide the following information before establishing a sports wagering account and placing a sports wager;

a. legal name;

b. date of birth;

c. Social Security number, or the last four digits thereof, or an equivalent identification number for a noncitizen person such as a passport or taxpayer identification number;

d. residential address; a post office box is unacceptable;

e. electronic mail address;

f. telephone number; and

g. any other information necessary to verify the person's identity;

3. utilize commercially reasonable steps to confirm that a person registering for an account is at least 21 years of age before such person places a sports wager;

4. clearly and conspicuously publish parental control procedures to facilitate parents or guardians to exclude minors from access to a sports wagering platform.

5. maintain a patron file including, at a minimum, the information obtained in establishing a sports wagering account, the method used to verify the person's identity; and the date of verification. The person's Social Security or identification number, passwords, PINs, and personal financial information shall be encrypted.

C. During the registration process, a person shall agree to the privacy policy and the following applicable terms and conditions of service:

1. registration information provided by the person to the operator is accurate;

2. the person has been informed, and acknowledges, that as a player he is prohibited from allowing any other person access to or use of his sports wagering account;

3. specify the handling of funds where the sports wager is canceled;

4. specify the handling of funds for sports events that are voided or canceled;

5. clearly define the rules by which any unrecoverable malfunctions of hardware or software are addressed;

6. advise the player to keep his password and login ID secure;

7. advise the player on requirements regarding forced password changes, password strength, and other related items;

8. No individual less than 21 year of age is permitted to maintain a sports wagering account or place a sports wager;

9. the method by which players will be notified of updates to the terms and conditions and privacy policy;

10. the conditions under which an account is declared inactive and explain what actions will be undertaken on the account once this declaration is made including the forfeiting of any monies remaining in the sports wagering account; and

11. clearly define what happens to any winnings from a sports wager prior to and after any self-imposed or operator-imposed exclusion.

D. An operator shall not allow any business entity or any entity other than an individual person to register for a sports wager account or to place a sports wager.

E. Players may fund a sports wagering account through:

1. online and mobile payment systems that support online money transfers;

2. winnings remaining in their sports wagering account;

3. adjustments or refunds pursuant to these rules;

4. promotional play;

5. reloadable prepaid card, which has been verified as being issued to the player and is non-refundable; and

6. any other method approved by the corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

§1141. Limitation on Active Accounts; Obligations to Players

A. An operator shall:

1. limit each authorized player to one active and continuously used account and username;
2. implement rules and procedures to suspend all accounts of any player that establishes or seeks to establish more than one username or more than one account, whether directly or by use of another person as a proxy;
3. publish parental control procedures to facilitate parents or guardians to exclude minors from access to a sports wagering platform. The procedures shall include a link or toll-free number to call for help in establishing such parental controls;
4. make clear conspicuous statements that are not inaccurate or misleading concerning the conduct of sports wagering;
5. permit any player to permanently close an account registered to the player at any time and for any reason;
6. implement measures to protect the privacy and online security of players, their sports wagering account, and their personal financial information and personal patron data.
7. not allow a player to transfer funds from a sports wagering account to another player's sports wagering account.
8. employ a mechanism that can detect and prevent any sports wagering or withdrawal activity initiated by a player that would result in a negative balance of a sports wagering account.
9. allow a player to withdraw the funds maintained in his sports wagering account within five business days of the request being made. For purposes of this Paragraph, a request for withdrawal is considered honored if it is processed by the operator but delayed by a payment processor, credit card issuer, or by the custodian of a financial account through no fault, action, or inaction of the operator. If an operator has requested documentation from a player in order to facilitate the withdrawal, the time waiting for such documentation shall not be factored into the five business days for approval.

a. An operator may decline to honor a player's request to withdraw funds only if the operator believes in good faith that the player engaged in fraudulent conduct or other conduct that would put the operator in violation of the Act or these rules. In such cases, the operator may withhold the funds for a reasonable investigatory period until the investigation is resolved, if the operator conducts its investigation in a reasonable and expedient fashion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

§1143. Charging for Inactive Accounts

A. An operator shall not charge a player for an inactive sports wagering account.

B. No player shall be charged for failure to deposit certain amounts of cash or cash equivalent into a sports wagering account.

C. The operator shall follow state law as it regards unclaimed property for inactive accounts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

§1145. Protection for Problem or Compulsive Gamblers

A. Self-Restriction

1. The operator shall allow a player to restrict themselves from placing a sports wager or accessing a sports wagering account for a specific period of time, minimum of which shall be 30 days, as determined by the player and shall implement procedures to prevent the person from placing sports wagers.

2. The operator shall develop and maintain an online self-restriction form and a process to exclude any person from placing a sports wager who completes and submits the form to the operator and shall provide a mechanism on its sports wagering platforms to access the online self-restriction form. The operator shall retain each submitted online self-restriction form and restrict such persons from placing a sports wager and may close the player's sports wagering account for the specified time.

3. Online self-restriction is different than submitting for the state's self-exclusion list. When a player chooses the option of self-restriction, the operator shall notify the requester of the option to also self-exclude with the state.

B. Self-Imposed Limits

1. The operator shall implement and maintain procedures that allow players to limit themselves from:

- a. placing a sports wager for a set period of time;
- b. paying more than a certain amount of money for a sports wager; and
- c. depositing more than a set amount of funds into their sports wagering account.

d. players shall have the option to adjust the self-limits to make them more restrictive as often as they choose but shall not have the option to make the time period or limits less restrictive within 72 hours of setting. Any change must provide a prompt to ensure the player is aware of the change and the player must then confirm the change.

C. The operator shall enforce the limitations placed upon sports wagering accounts by:

1. providing a plan to honor requests from players to self-restrict or self-limit or self-exclude;
2. providing a plan to ensure that, immediately upon a player self-restricting or self-excluding, no sports wagers or deposits are accepted from that player until the self-restriction expires or is removed or the self-exclusion is terminated;
3. providing a plan to allow a player that self-restricts or self-excludes to access and withdraw remaining funds from his sports wagering account; and
4. ensuring self-restricted and self-excluded persons do not receive marketing or advertisement during the period of self-restriction or self-exclusion.

D. The operator shall provide the information necessary for a person to self-exclude.

F. The operator shall comply with all requirements of the Act, these rules, and internal controls.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

§1147. Advertising, Mandatory Signage

A. The corporation and the operator shall not advertise sports wagering to a person by phone, email, or any other form of individually targeted advertisement or marketing material if the person has self-restricted or is excluded pursuant to the provisions of the Act or these rules, or if the person is otherwise barred from participating in sports wagering (including, but not limited to, advertisements targeted to persons under the age of 21).

B. Advertisements and marketing material shall not depict minors.

C. The corporation and the operator shall not advertise or run promotional activities at any primary or secondary schools, as defined by Louisiana law and including elementary, middle, and high schools, or sports venues exclusively used for primary or secondary schools.

D. The corporation and the operator shall ensure that all advertisements of sports wagering do not target prohibited players, persons under the age of 21, or self-restricted or excluded persons.

E. The corporation and the operator shall not misrepresent the frequency or extent of winning in any advertisement.

F. The corporation and the operator shall provide on its sports wagering platform, any websites, and in any print advertisement of sports wagering for such the toll-free telephone number available for information and referral services regarding compulsive or problem gambling.

G. The corporation and the operator shall ensure that all advertising, public relations activities, and marketing campaigns comply with this Section and do not: contain false or misleading information; fail to disclose conditions or limiting factors associated with the advertisement; use a font, type size, location, lighting, illustration, graphic depiction or color obscuring conditions or limiting factors associated with the advertisement; consist of indecent or offensive graphics or audio, or both; encourage players to chase their losses or re-invest their winnings; or suggest that sports wagering is a means of solving financial problems.

H. The operator shall retain a copy of all advertising and marketing materials intended to promote any sports wagering operation in the State of Louisiana, which shall be made available to the corporation upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

§1149. Sports Events

A. Operator shall not offer sports wagering on sports events or subjects prohibited by the Act, these rules, or the corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

§1151. Sports Wagers

A. The operator shall not accept any sports wager on a sports event unless it has received approval from the corporation to conduct that type or category of sports wager. A type of sports wager refers to the method of determining the outcome of the sports wager. The category refers to the kind of event being wagered on. For all particular categories or sports wager types approved by the Act or these rules or

later approved by the corporation for its first use may be used on multiple events by the operator without further approval.

1. If an operator accepts a sports wager on an unapproved sports event, the operator shall void and refund all sports wagers associated with that sports event. If any sports wagers for unapproved sports events cannot be refunded in full, the operator shall immediately provide the corporation with a report detailing such sports wagers and the reasons therefore.

2. The corporation maintains the right to disapprove of the source of data for any reason including, but not limited to, the type of sports wager and method of data collection.

B. Sports Wagers; Restrictions

1. The operator shall only offer and accept sports wagers in accordance with the Act and these rules and on sports events where:

- a. the outcome of the event can be verified, and the operator shall disclose the source of verification;
- b. the event would be effectively supervised;
- c. there are integrity safeguards in place;
- d. the outcome can be generated by a reliable and independent process;
- e. the outcome of the event is unlikely to be affected by any sports wager placed; and
- f. the outcome is conducted in conformity with all applicable federal and state laws, the Act, these rules, and internal controls.

2. Sports wagers shall only be made through a player's sports wagering account, cash, cash equivalents, or promotional play.

3. The operator shall adopt procedures to obtain personally identifiable information from any person who places any single sports wager in an amount of \$10,000 or greater on a sports event. Subsequent to accepting a sports wager in excess of \$10,000 or making a payout in excess of \$10,000 on a winning sports wager, the Operator shall record or maintain records that include: the date and time of the sports wager or payout; the amount of the sports wager or payout; the player's legal name and the ticket number or other identifying number for the sports wager or payout;

4. The operator shall not knowingly allow, and shall take reasonable steps to prevent, the circumvention of reporting requirements through a player making a structured sports wager, including multiple sports wagers or a series of sports wagers that are designed to accomplish indirectly that which could not be accomplished directly. The operator shall not encourage or instruct the player to structure or attempt to structure sports wagers. This section does not prohibit an operator from informing a player of the regulatory requirements imposed upon the operator, including the definition of structured sports wagers. An operator shall not knowingly assist a player in structuring or attempting to structure sports wagers.

C. Categories

1. The corporation shall maintain a list of approved categories for which an operator may accept a sports wager.

D. Types

1. The corporation shall maintain a list of approved types of sports wagers that an operator may accept.

2. No sports wagers may be accepted or paid by an operator on the occurrence of injuries or penalties or the outcome of an athlete's disciplinary rulings or replay reviews.

E. Tickets

1. Upon placing a sports wager, the player shall receive an unalterable virtual or printed wager record (ticket) which shall contain the information required in these rules.

2. Any sports wager placed with a sports wagering mechanism shall be evidenced by a ticket indicating: the information required in R.S. 47:9101 D.; the name of the operator; and a statement that the patron must redeem the ticket within 180 days of the date of the event, that the failure to present a winning ticket within such time shall constitute a waiver of the right to the payment, and that the holder of the ticket shall thereafter have no right to enforce payment of the ticket.

F. Canceled Wagers

1. The operator's comprehensive rules shall clearly state what is to occur when a sports event is canceled, or the subject of the bet ceases to exist. Any such cancellations of a sports wager shall be made available to the corporation.

2. Canceled wagers may only be made at the system level and in accordance with the requirements of this subsection and these rules.

3. All canceled wagers shall be refunded to the player as soon as practical and deducted from the adjusted gross sports wagering revenue if already included.

G. Voided Wagers

1. A sports wager is deemed void if the player is a prohibited person or located in a prohibited parish at the time the sports wager was made. An operator shall void sports wagers made by prohibited persons or a persons located in a prohibited parish immediately upon becoming aware the player is a prohibited person or located in a prohibited parish.

2. A sports wager is deemed void if the subject of the wager was not approved by the corporation prior to accepting the wager.

3. An operator may void a sports wager if the operator has reasonable basis to believe there was obvious error in the placement or acceptance of the sports wager. Errors include but are not limited to: the sports wager was placed with incorrect odds; human error in the placement of the sports wager; the ticket does not correctly reflect the sports wager; or equipment failure rendering a ticket unreadable. Wagers voided in this case must be approved pursuant to the internal controls or house rules.

4. The operator shall include procedures and conditions on which they will void wagers in their internal controls.

5. All voided wagers shall be refunded to the player and deducted from the adjusted gross sports wagering revenue if previously included. However, should a player self-exclude after placing a wager, the player shall not be entitled to a refund or any winnings; the monies shall be handled in accordance with internal controls.

6. No wagers shall be rescinded except in compliance with the Act, these rules, internal controls, and house rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

§1153. Unusual and Suspicious Wagering Activity

A. The operator shall employ a system to identify irregularities in volume or odds and swings that could signal suspicious wagering activities that should require further investigation.

B. The operator shall have internal controls in place to identify unusual wagering activity and report such to the corporation.

C. An operator receiving a report of suspicious wagering activity shall be permitted to cancel related wagers after receiving approval from the corporation and in accordance with approved procedures as set forth in internal controls.

D. All information and data received pursuant to this Section by the corporation or corporation related to unusual or suspicious wagering activity shall be considered confidential and shall not be revealed in whole or in part, except upon the lawful order of a court of competent jurisdiction or, with any law enforcement entity, member club, sports governing body, or regulatory agency that the corporation deems appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

§1155. Sports Wagering Mechanisms

A. Sports wagering mechanisms shall be linked to the sports wagering operator's sports wagering platform.

B. Sports wagering mechanisms or the platform shall be capable of generating a transaction report which documents each completed transaction. Unless otherwise approved by the corporation, the report shall include, at a minimum:

1. the date and time;
2. a description of the transaction;
3. the value of non-cash transactions;
4. the value of currency inserted;
5. the value of all promotional play;
6. the value of all sports wagering tickets dispensed.

C. Sports wagering mechanisms shall not: dispense cash; allow deposits to a sports wagering account of more than \$10,000; or accept wagers of \$3,000 or more unless made using funds in a sports wagering account.

D. The operator shall contract with only permitted distributors domiciled in Louisiana for the services of collection and repair of sports wagering mechanisms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

§1157. Retail Establishment Contract

A. A contract between the operator and a retail establishment shall include the following requirements.

1. The operator may suspend or terminate the contract in the event of suspension or termination of the retail establishment permit. No person may operate as a retail establishment without a permit.

2. A sports wagering mechanism shall be located only in an area where accessibility is limited to patrons 21 years of age or older.

3. In consideration for the hosting of a sports wagering mechanism, the retail establishment shall be paid the greater of the following each month.

a. One and one half percent of the cash accumulated in the sports wagering mechanism located on the retail establishment's premises.

b. Ten percent of the net gaming proceeds of all wagers placed by patrons through a sports wagering mechanism located on the premises of the retail establishment and wagers placed through an operator website or mobile application while the patron is located on the premises of the retail establishment.

4. The monies owed to the retail establishment shall be remitted to the retail establishment within 20 days of the end of each calendar month for the immediately preceding calendar month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

Subchapter D. Audit and Accounting

§1159. Audit and Accounting Requirements

A. The operator must meet specific auditing and accounting obligations as set forth below, including, but not limited to:

1. the operator shall have a complete corporate financial audit conducted annually, at its own expense. The audit must follow generally accepted auditing standards (GAAS) (or the appropriate non-U.S. equivalent). A copy of the operator's audited financial statement shall be provided within one quarter after the close of the operator's fiscal year;

2. the operator shall provide the corporation with Securities and Exchange Commission (SEC) 10-K reports (or the appropriate non-U.S. equivalent) as they are issued, together with any other reports required pursuant to Section 13 of the Securities and Exchange Act of 1934, as amended;

3. a third-party review of the operator's Louisiana operations must also be conducted annually. This audit will be a SOC 2 Type 2, SOC for Service Organizations: Trust Services Criteria and shall be paid for by the operator. For this review the operator will suggest, for the corporation's approval, the firm(s) to perform the work. All relevant aspects shall be conducted pursuant to auditing standards as issued by the American Institute of Certified Public Accountants. The SOC 2 Type 2 audit shall be completed and submitted to the corporation by March 31 of each year;

4. the operator is required to maintain its books, records, and all other evidence pertaining to the contract in accordance with generally accepted accounting principles (GAAP) (or the appropriate non-U.S. equivalent) and such other procedures specified by the corporation. These records shall be available to the Lottery, its internal auditors, or external auditors (and other designees) at all times during the contract period and for five years from the contract expiration date or the final payment on the contract, whichever is later.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

§1161. Segregation of Funds

A. The operator shall segregate sports wagering account funds from operational funds.

B. The operator contract with the permitted operator vendor for sports wagering account services shall require the operator vendor to maintain crime insurance in an amount determined by the operator and the corporation. Such insurance shall cover any loss due to any fraudulent or dishonest act on the part of the permitted operator's officers, employees, agents, or subcontractors. Such an event, in the sole discretion of the corporation, could be grounds for termination of the operator vendor permit whether or not the losses arising as a result thereof were paid under the crime insurance policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

Subchapter E. Computer Systems and Sports Wagering Platforms; Security

§1163. Computer Systems and Sports Wagering Platforms

A. The operator shall use a sports wagering platform to offer, conduct, or operate sports wagering in accordance with the Act and rules set forth by the corporation.

1. The operator shall comply with, and the corporation adopts and incorporates by reference, the Gaming Laboratories International, LLC Standard, GLI-33: Standards for Event Wagering systems and its Appendices, version 1.1 and any future amendments and updates thereto. The GLI-33 standards are intended to supplement rather than supplant other technical standards and requirements under these rules.

2. The operator may provide evidence of compliance with GLI-33 in other states where the operator has an existing sports wagering platform until the operator can certify the sports wagering platform in Louisiana.

3. A sports wagering platform utilized to conduct sports wagering shall meet the specifications of these rules and any additional technical specifications prescribed by the corporation.

B. The operator shall submit all equipment and software utilized with the sports wagering platform to a designated firm approved by the corporation for an initial certification to ensure the sports wagering platform is in operational compliance with the Act, these rules, corporation technical guidelines, and internal controls. The certification report shall, at a minimum, identify system interfaces of service providers and the applicable methods, programs, protocols, and security measures implemented by the operator to ensure compliance.

C. At the discretion of the corporation, additional testing or re-certification of the entire sports wagering platform may be required and shall be completed by a designated firm approved by the corporation. The operator shall incur all costs associated with the testing of the sports wagering platform.

D. Upon placing a sports wager at a sports wagering mechanism, the player shall receive an unalterable virtual or printed wager record (ticket) which shall contain, at a minimum:

1. name of the operator issuing the ticket;
2. the date and time the sports wager was placed;
3. the date and time the sports event is expected to occur;
4. any patron choices involved in the sports wager including, but not limited to:
 - a. sports wager selection(s);
 - b. type of sports wager and line postings;
 - c. any special condition(s) applying to the sports wager;
 - d. pay out, applicable at the time the sports wager is placed;
5. total amount wagered, including any promotional play if applicable;
6. sports event and market identifiers;
7. a barcode or similar symbol or marking as approved by the corporation, corresponding to the unique wager identifier.

E. A sports wagering platform system that offers in-play wagering shall be capable of the following:

1. the accurate and timely update of odds for in-play wagers;
2. the ability to notify the patron of any change in odds after a wager is attempted that is not beneficial to the patron;
3. the ability for the patron to confirm the wager after notification of the odds change; and
4. the ability to freeze or suspend the offering of wagers, when necessary.

F. A sports wagering platform shall be capable of performing the following functions:

1. creating wagers;
2. settling wagers;
3. reprinting tickets;
4. resettling wagers;
5. voiding wager
6. cancelling wagers; and
7. preventing the acceptance of wagers on prohibited sports events.

G. When a sports wager is voided or cancelled, the operator shall clearly indicate that the ticket is voided or cancelled, render it nonredeemable, and make an entry in the system indicating the void or cancellation and identity of the automated process.

H. A sports wagering platform shall prevent past posting of wagers and the cancellation of wagers after the outcome of an event is known.

I. In the event a patron has a pending sports wager and then the operator becomes aware of the patron self-excluding, the wager shall be governed in accordance with the Act, these rules, and internal controls.

J. A sports wagering platform shall periodically perform a self-authentication process on all software used to offer, record, and process wagers to ensure there have been no unauthorized modifications. In the event of an authentication failure, the sports wagering platform operator shall notify the appropriate corporation employees as provided in the internal controls using an automated process. The operator shall notify the corporation of the authentication failure within 24 hours. The results of all self-authentication attempts shall be recorded by the system and maintained for a period of 90 days.

K. A sports wagering platform shall have controls in place to review the accuracy and timeliness of any data feeds used to offer or settle wagers. In the event that an incident or error occurs that results in a loss of communication with data feeds used to offer or redeem wagers, such error shall be recorded in a log capturing the date and time of the error, duration of the error, the nature of the error, and a description of its impact on the system's performance. Such information shall be maintained for a period of two years.

L. The sports wagering platform operator shall provide access to wagering transaction and related data as deemed necessary by the corporation in a manner approved by the corporation.

M. A sports wagering platform shall be capable of preventing any wager in excess of \$10,000 or making a payout in excess of \$10,000 until authorized by a supervisor, unless pre-approved and in accordance with internal controls.

N. A sports wagering platform shall be capable of recording and storing the following information for each wager made:

1. description of the event;
2. wager selection;
3. type of wager;
4. amount of wager;
5. amount of potential payout or an indication that it is a pari-mutuel wager;
6. date and time of wager;
7. unique wager identifier, which shall be masked on all system menus, printed reports, and displays, except when accessed by users with supervisor or higher authority, for all unredeemed and unexpired wagers;
8. expiration date of ticket;
9. patron name, if known;
10. date, time, amount, and description of the settlement;
11. location where the wager was made;
12. location of redemption;

O. For all sports wagering accounts, a sports wagering platform shall record and maintain the following information:

1. a unique player identification;
2. the player's identity details including, but not limited to: player's legal name; date of birth; and residential address;
3. any self-restrictions;
4. any previous accounts; and
5. the date and location from which the sports wagering account was registered or accessed.

P. The operator shall provide the following information upon demand by the corporation. As appropriate, the information shall include, at a minimum, month to date and year to date:

1. total sports wagering account deposits for the requested period;
2. total sports wagering account withdrawals for the requested period;
3. total sports wagers collected from players; and
4. total winnings paid to players.

Q. A sports wagering platform shall be capable of recognizing valid tickets that contain a duplicate unique wager identifier used for redemption.

R. A sports wagering platform shall be capable of preventing the redemption of any tickets when the data related to tickets has been manually altered outside of the approved system procedures.

S. All servers necessary for the processing of sports wagers, other than backup servers, shall be physically located in Louisiana, and shall be located in a restricted area with adequate security and surveillance in accordance with internal controls and as approved by the corporation. Other servers used in the operation of the sports book may be located outside of the state as long as they are not used to process sports wagers. The corporation may approve of the use of internet or cloud-based hosting of duplicate data or data not related to transactional wagering data upon written request of the operator.

T. All sports wagering mechanisms shall be submitted to a designated gaming laboratory for testing and required certification prior to being placed at a licensed premise. A designated gaming laboratory shall certify that the sports wagering mechanism meets or exceeds the most current corporation approved version of standards for sports wagering mechanisms, or equivalent standards as approved by the corporation, and the standards established by the corporation.

U. System Integrity and Security Assessment

1. The operator of online sports wagering shall upon installation of the sports wagering platform and annually thereafter, perform a system integrity and security assessment of the sports wagering platform and systems which shall be conducted by an independent professional selected by the operator and subject to approval of the corporation. The scope shall include, at a minimum: a vulnerability assessment of digital platforms, mobile applications, internal, external, and wireless networks with the intent of identifying vulnerabilities of all devices, the sports wagering platform, and applications transferring, storing, and/or processing personal identifying information and other sensitive information connected to or present on the networks; a penetration test of all digital platforms, mobile applications, internal, external, and wireless networks to confirm if identified vulnerability of all devices, the sports wagering platform, and applications are susceptible to compromise; a review of the firewall rules to verify the operating condition of the firewall and the effectiveness of its security configuration and rule sets performed on all the perimeter firewalls and the internal firewalls; a technical security control assessment against the provisions adopted in these rules with generally accepted professional standards and as approved by the corporation; an evaluation of information security services, cloud services, payment services (financial institutions, payment processors, etc.), location services, and any other services which may be offered directly by the operator or involve the use of third parties; and any other specific criteria or standards for the sports wagering platform integrity and security assessment as prescribed by the corporation. The assessment report shall include, at a minimum: scope of review; name and company of affiliation of who conducted the assessment; date of assessment findings; recommended corrective action, if any; and the operator's response to the findings and recommended corrective action.

2. The operator conducting sports wagering shall perform a system integrity and security assessment of the sports wagering platforms and systems used for conducting retail sports wagering, which shall be completed by an independent professional selected by the operator and subject to approval of the corporation. The operator shall submit the results of an independent system integrity and security assessment to the corporation for review, subject to the following requirements:

a. the testing organization must be independent of the operator;

b. results from the network security risk assessment shall be submitted to the corporation no later than 90 days after the assessment is conducted;

c. at the discretion of the corporation, additional network security risk assessments may be required; and

d. the operator shall periodically assess the risk to operations, assets, patrons, employees, and other individuals or entities resulting from the operation of the operator's computer systems and the processing, storage, or transmission of information and data. The assessment shall be documented and recorded in a manner that can be displayed or printed upon demand by the corporation and shall be maintained for a period of five years. The operator shall assess the collection of personnel and patron data annually to ensure that only information necessary for the operation of the business is collected and maintained. No unnecessary personal information shall be retained.

3. The operator may submit for approval a request to the corporation to leverage the results of prior assessments within the past year conducted by the same independent professional against standards such as ISO/IEC 27001, ISO/IEC 27017, ISO/IEC 27018, the NIST Cybersecurity Framework (CSF), the Payment Card Industry Data Security Standards (PCI-DSS), or equivalent. Such leveraging shall be noted in the independent professional's report. This leveraging does not include critical components unique to the corporation which will require more current and separate assessments.

V. The sports wagering platform and systems shall provide a mechanism for the corporation to query and export, in a format approved by the corporation, all sports wagering platform data.

W. The sports wagering platform and systems shall be designed in a way to comply with all Federal requirements including, but not limited to: suspicious wagering activity; Title 31; and W-2G reporting.

X. Upon request by the corporation, an operator shall create test accounts for the corporation's use to conduct compliance inspections and testing of the sports wagering platform.

Y. The corporation may establish test accounts to be used to test the various components and operation of a sports wagering platform pursuant to the corporation's approved internal control procedures which must address procedures for identifying test accounts, issuing funds, maintaining proper records for all test accounts and conducting audits of all test activity to ensure proper adjustments to gross sports wagering revenue and any additional requirements specified by the corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

§1165. Sports Wagering Platform Quality Assurance Testing Program

A. Any modifications to the operator's sports wagering platform shall comply with the corporation's Quality Assurance Testing Program. At a minimum, all software modifications shall be submitted in a functional specifications document detailing all software changes. Prior to deployment, the corporation's Quality Assurance team shall conduct testing to ensure that all modifications to the sports wagering platform perform as detailed in the functional specifications document. The corporation must approve all software modifications, including deviations from the functional specifications document discovered in testing by the corporation's Quality Assurance team prior to the software deployment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

§1167. Information Security Management and Data Security

A. The operator shall implement, maintain, regularly review and revise, and comply with a comprehensive Information Security Management System (ISMS), the purpose of which shall be to take reasonable steps to protect the confidentiality, integrity, and availability of personal identifying information of individuals who place a wager with the operator, and shall contain administrative, technical, and physical safeguards appropriate to the size, complexity, nature, and scope of the operations and the sensitivity of the personal information owned, licensed, maintained, handled, or otherwise in the possession of the operator. Additional ISMS specifications may be adopted by the corporation.

B. The operators shall comply with all applicable state and federal requirements for data security.

C. Logging of Sports Wagering Platform Data

1. The sports wagering platform shall be designed to ensure the integrity and confidentiality of all patron communications and ensure the proper identification of the sender and receiver of all communications. If communications are performed across a public or third-party network, the system shall either encrypt the data packets or utilize a secure communications protocol to ensure the integrity and confidentiality of the transmission.

2. Sports wagering platforms shall employ a mechanism capable of maintaining a separate copy of all of the information required to be logged in this section on a separate and independent logging device capable of being administered by an employee with no incompatible function. If the sports wagering platform can be configured such that any logged data is contained in a secure transaction file, a separate logging device is not required.

3. The operators shall provide upon request, in a format required by the corporation, all online sports betting system data. Sports betting system data includes, but is not limited to, employee data and logs, geo-fence logs, player activity and betting information, and event logs related to the operator's Louisiana sports wagering operations.

4. Requirements for system specifications and sports wagering platform logging shall be detailed in internal controls.

D. The sports wagering platform shall provide a logical means for securing individual and player data and wagering data, including accounting, reporting, significant event, or other sensitive information, against alteration, tampering, or unauthorized access.

E. The operator shall describe its process for the backup and recovery of the required sports wagering platform data in its approved internal controls. Any changes to the process shall be approved by the corporation prior to the changes being implemented on the platform.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

§1169. Defective and Malfunctioning Devices, Equipment, and Accessories

A. Operators shall document and maintain any system malfunction or deviation from the sports wagering platform and maintain the data for a minimum period of three years.

B. The sports wagering platform must have sufficient redundancy and modularity so that if any single component or part of a component fails, the functions of the internet sports betting platform and the process of auditing those functions can continue with no critical data loss. If 2 or more components are linked, the process of all internet sports betting operations between the components must not be adversely affected by restart or recovery of either component and upon restart or recovery, the components must immediately synchronize the status of all transactions, data, and configurations with one another.

C. A business continuity and disaster recovery plan must be in place to recover sports wagering operations conducted under the Act if the sports wagering platform's production environment is rendered inoperable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

Subchapter F. Special Rules and Regulations on Payment of Prizes

§1171. General

A. The corporation is required by R.S. 47:9104 to establish and maintain rules providing for the withholding of sports wagering prizes of persons who have outstanding child support arrearages or delinquent debt as reported to the corporation. Pursuant to that mandate, these rules are intended to provide general guidelines concerning the withholding of lottery prizes of persons with outstanding child support arrearages or delinquent debt.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

§1173. Definitions

A. The following italicized terms shall have the meaning set forth herein when used in these rules:

Arrearage—outstanding child support or delinquent debt by a debtor or otherwise collectible by the claimant agency.

Claimant Agency—the Department of Children and Family Services (DCFS) and Office of Debt Recovery.

Debtor—a person who has been reported by a claimant agency to the corporation pursuant to these rules as having an arrearage, as evidenced by the records of the claimant agency.

Winner—a person entitled to the payment of a sports wagering prize of \$600.00 or more.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

§1175. Obtaining Information from Claimant Agency

A. The corporation shall provide to the claimant agency a computer-readable format for the compilation, storage, and maintenance of a list of debtors by the claimant agency. The list of debtors generated by the claimant agency shall contain their arrearages and such other information as is mutually determined by the corporation and the claimant agency to be necessary and compatible with the goals of R.S. 47:9104 and the efficient and effective operation of the corporation and the claimant agency. The corporation shall accept the list as the claimant agency transmits and updates it to the corporation in the prescribed format at the intervals and times as specified by the corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

§1177. Confirmation of Child Support Obligations or Delinquent Debt

A. The corporation shall determine that a winner is a debtor according to the following provisions.

1. Prior to the payment of any sports wagering prize of \$600 or more, the corporation's staff shall determine whether the name of the winner and/or social security number appears on the most current list of debtors provided to the corporation by the claimant agencies.

2. If the name of the winner appears on a claimant agency's most current list of debtors, the corporation may contact the claimant agency to confirm the winner's status as a debtor and verify the amount of his or her arrearage. The corporation shall not be obligated to request confirmation but shall act in accordance with the information it obtains thereby if it does.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

§1179. Disbursement of Prize Money to a Debtor.

A. The corporation shall disburse sports wagering prize money to a winner who is also a debtor as follows:

1. The corporation shall subtract the debtor's arrearage and all other amounts required to be withheld from sports wagering prizes from the debtor's prize, and shall pay the remainder to the debtor. If the remainder is less than zero, the debtor shall not receive a payment.

2. At regular intervals mutually determined by the corporation and the claimant agency, the corporation shall transfer all arrearages withheld by the corporation to the claimant agency.

3. Transfer of the debtor's arrearages to the claimant agency shall discharge the corporation from any liability to the debtor for payment of any prize money.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

§1181. Reliance on Claimant Agency Information.

A. The corporation may enter into an agreement with the claimant agency entitling the corporation to rely on information it receives from the claimant agency and requiring the claimant agency to defend claims against the corporation for erroneous withholding of prize money in cases in which the corporation acts in accordance with information provided by the claimant agency. Otherwise, the corporation shall not be liable to any person for withholding a sports wagering prize based upon information provided to it by the claimant agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

§1183. No Third Party Rights Created Hereby.

A. These rules are not intended to create contractual rights on behalf of any person or impose contractual obligations on the corporation, but are merely intended to provide a procedure for the corporation's staff to follow in assisting the appropriate state agency in the process of withholding the sports wagering prizes of persons with outstanding arrearages. No third party rights against the corporation arise by virtue of these rules. These rules are subject to modification or change at any time at the sole discretion of the corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation LR 47:

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 October 10, 2021, to John Carruth, General Counsel, P. O. Box 90008, Baton Rouge, LA, 70879.

Rose J. Hudson
President and CEO

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Lottery Sports Wagering

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Louisiana Lottery Corporation (Corporation) was created by La. R.S. 47:9000 et seq. and exists as a quasi-public corporation. All costs of the Corporation are funded by revenue generated by the Corporation. Act 80 amends the lottery statute, instructing the Corporation to operate and administer a sports book through an operator as a separate and distinct responsibility and operation from lottery gaming.

The Corporation projects total net gaming proceeds from mobile sports wagering and sports wagering mechanisms to range from \$2.6M to \$7.6M annually. Significant portions of the costs incurred by the Corporation will be in direct proportion to these net gaming proceeds. Major components of overall costs to the Corporation include:

- The sports wagering platform provider fee is estimated to be 40% of the net gaming proceeds for retail wagering and 45% for mobile wagering, ranging from an estimated \$1.1M to \$3.4M paid by the Corporation to platform providers annually.
- Advertising, promotions, personnel costs and other administrative fees are estimated to range from \$950,000 to \$2.2M per year, depending on total net gaming proceeds.
- The commission earned by a sports wagering establishment for onsite wagering through a sports wagering mechanism or mobile application is projected at 10% of estimated net gaming proceeds, resulting in an anticipated cost of approximately \$100,000 each year.

The amounts listed in this impact statement are annual totals. The actual amounts for FYE 2022 will depend on the implementation date, which is uncertain at the time of the writing of this impact statement.

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.

Act 80 levies a 10% tax upon the net gaming proceeds of an operator from sports wagering offered to consumers onsite at a permitted retail establishment through a sports wagering mechanism. Act 80 levies a 15% tax upon the net gaming proceeds of an operator from sports wagering offered to consumers electronically through a website or mobile application. Act 80 instructs the Corporation to collect the taxes and deposit the taxes into the Community and Family Support System Fund.

Based on the projected total net gaming proceeds, the total revenue to be deposited into the Community and Family Support System Fund is estimated to be between \$346,000 and \$1.1M each year.

Act 80 states that the Corporation shall transfer to the Lottery Sports Wagering Fund the amount of net revenue which the Corporation determines is surplus to its needs. Net revenues shall be determined by deducting from the Corporation's net gaming proceeds the payment costs incurred or estimated to be incurred in the operation and administration of sports wagering. After deducting the estimated costs to be incurred in the operation of sports wagering, the Corporation is projecting net revenue to be transferred to the Lottery Sports Wagering Fund to range from \$383,000 to \$1.1M in the first year of operation, and from \$168,000 to \$913,000 annually in subsequent years.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Sports wagering establishments are projected to earn 10% of net gaming proceeds or \$100,000 per year.

Sports betting patrons as a group are projected to have net additional purchases ranging from \$2.6M to \$7.6M annually from mobile sports wagering and sports wagering mechanisms provided by the Corporation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No material impact on competition and employment is anticipated.

Rose J. Hudson
President and CEO
2108#017

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Transportation and Development Professional Engineering and Land Surveying Board

Principles and Practice of Land Surveying Examination,
Engineering Co-Op Programs and
Continuing Professional Development
(LAC 46:LXI.1309, 1507 and 3105)

Under the authority of the Louisiana professional engineering and land surveying licensure law, R.S. 37:681 et seq., and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Professional Engineering and Land Surveying Board has initiated procedures to amend its rules contained in LAC 46:LXI.1309, 1507 and 3105.

This is a revision of existing rules under which LAPELS operates. The revision (a) permits land surveyor interns to take the principles and practice of land surveying examination prior to meeting the applicable experience requirement for licensure, (b) clarifies the requirements for applicants to receive engineering experience credit for the performance of engineering co-op program work and (c) clarifies the continuing professional development requirements for professional engineers who design, review or approve plans for buildings and/or building systems.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LXI. Professional Engineers and Land Surveyors

Chapter 13. Examinations

§1309. Approval to Take the Examinations in the Principles and Practice of Land Surveying and in the Louisiana Laws of Land Surveying

A. Except as otherwise provided in Subsection B, only an individual who meets all of the other requirements for licensure as a professional land surveyor may be permitted to take the examinations in the principles and practice of land surveying and in the Louisiana laws of land surveying.

B. An individual who has already been duly certified as a land surveyor intern by the board may be permitted to take the examination in the principles and practice of land surveying, even though such individual has not yet met the experience requirement for licensure as a professional land surveyor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:113 (May 1979), amended LR 7:647 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1030 (July 2001), LR 30:1715 (August 2004), repromulgated LR 44:619 (March 2018), LR 47:895 (July 2021), LR 47:

Chapter 15. Experience

§1507. Engineering Experience Subsequent to Degree

A. ...

B. Up to one year of engineering experience may be obtained prior to graduation, if obtained through a college or university-sponsored co-op program as part of an accredited engineering curriculum approved by the board, and only after completion of the first half of the curriculum. The co-op program work must appear on the applicant's college or university transcript for it to be considered. The amount of credit given for co-op program work will be based on the amount of co-op program work performed, will be limited by the applicant's academic course load and will only include co-op program work performed during an academic term. The co-op program work must be performed under the supervision of a professional engineer holding a valid license to engage in the practice of engineering issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, or, if not, an explanation shall be made showing why the work should be considered acceptable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:112 (May 1979), amended LR 7:647 (December 1981), LR 11:362 (April 1985), LR 27:1031 (July 2001), LR 30:1716 (August 2004), LR 44:620 (March 2018), LR 47:

Chapter 31. Continuing Professional Development (CPD)

§3105. Requirements

A. Every professional engineer, including those listed in two or more disciplines, is required to earn 15 PDHs per calendar year in engineering-related acceptable activities.

Professional engineers may not earn more than 8 PDHs within a single calendar day.

1. ...

2. At least four of the PDHs per calendar year shall be earned in *Life Safety Code*, building codes and/or Americans with Disabilities Act Accessibility Guidelines by every professional engineer who designs buildings and/or building systems or reviews and/or approves plans for buildings and/or building systems in Louisiana during such calendar year.

B. - B2. ...

C. Each dual licensee is required to earn 15 PDHs per calendar year; however, at least one-third of the PDHs for each calendar year shall be earned separately for each profession.

1. - 2. ...

3. At least four of the PDHs per calendar year shall be earned in *Life Safety Code*, building codes and/or Americans with Disabilities Act Accessibility Guidelines by every professional engineer who designs buildings and/or building systems or reviews and/or approves plans for buildings and/or building systems in Louisiana during such calendar year.

D. - E. ...

F. As used in this Section, the phrase *designs buildings and/or building systems* shall mean the design of and/or specifications for any component of any building and/or building system including but not limited to architectural engineering design, site work, foundations, structural, electrical, mechanical, fire protection system, communications and associated appurtenances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2152 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1047 (July 2001), LR 30:1730 (August 2004), LR 37:2420 (August 2011), LR 42:1104 (July 2016), LR 44:629 (March 2018), LR 47:495 (April 2021), LR 47:

Family Impact Statement

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*: The proposed Rule has no known impact on family formation, stability or autonomy.

Poverty Impact Statement

In accordance with R.S. 49:953(A)(1)(a)(ix) and 973, the following Poverty Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*: The proposed Rule has no known impact on child, individual or family poverty in relation to individual or community asset development.

Small Business Analysis

In accordance with R.S. 49:953(A)(1)(a)(x) and 978.5, the following Small Business Regulatory Flexibility Analysis is submitted with the Notice of Intent for publication in the *Louisiana Register*: The impact of the proposed Rule on small businesses has been considered. LAPELS has, consistent with health, safety, environmental and economic welfare, considered utilizing regulatory methods that will accomplish the objectives of applicable statutes while

minimizing adverse impact on small businesses. The proposed Rule is not anticipated to have an adverse impact on small businesses.

Provider Impact Statement

In accordance with HCR No. 170 of the 2014 Regular Session, the following Provider Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*: The proposed Rule has no known effect on the staffing level requirements or qualifications required to provide the same level of service, the cost to the provider to provide the same level of service or the ability of the provider to provide the same level of service.

Public Comments

Interested parties are invited to submit written comments on the proposed Rule through October 11, 2021 at 4:30 p.m., to Donna D. Sentell, Executive Director, Louisiana Professional Engineering and Land Surveying Board, 9643 Brookline Avenue, Suite 121, Baton Rouge, LA 70809-1433.

Donna D. Sentell
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Principles and Practice of Land Surveying Examination, Engineering Co-Op Programs and Continuing Professional Development

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 resulting from this proposed rule change. The proposed rule change revises existing rules under which LAPELS operates to: (a) permit land surveyor interns to take the principles and practice of land surveying examination prior to meeting the applicable experience requirement for licensure, (b) clarify the requirements for applicants to receive engineering experience credit for the performance of engineering co-op program work, and (c) clarify the continuing professional development requirements for professional engineers who design, review or approve plans for buildings and/or building systems.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no estimated effect on revenue collections of state or local governmental units as a result of this proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will have no estimated impact on costs and/or economic benefits to directly affected persons, small businesses or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no estimated effect on competition and employment in the public and private sectors as a result of the proposed rule change.

Donna D. Sentell
Executive Director
2109#066

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Health Bureau of Health Services Financing

2022 First Quarter Hospital Stabilization Assessment

In compliance with House Concurrent Resolution (HCR) 51 of the 2016 Regular Session of the Louisiana Legislature, the Department of Health, Bureau of Health Services Financing amended the provisions governing provider fees to establish hospital assessment fees and related matters (*Louisiana Register*, Volume 42, Volume 11).

House Concurrent Resolution 2 of the 2021 Regular Session of the Louisiana Legislature enacted an annual hospital stabilization formula and directed the Department of Health to calculate, levy and collect an assessment for each assessed hospital.

The Department of Health shall calculate, levy and collect a hospital stabilization assessment in accordance with HCR 2 for the quarter July 1, 2021 through September 30, 2021. The quarterly assessment amount to all hospitals will be \$28,481,982 which amounts to 0.25 percent of total inpatient and outpatient hospital net patient revenue of the assessed hospitals.

Dr. Courtney N. Phillips
Secretary

2109#053

NOTICE OF INTENT

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
ATS Energy, LLC	Clovelly	L	C M RB su; Exxon-Taylor	004	52517
Davis & Hart	Caddo Pine Island	S	Muslow Oil Co	001-A	24440
Dixie Oil Company	Caddo Pine Island	S	J B Slattery	B-2	5810
Iberia Petroleum Corp.	Anse La Butte	L	Martin	A-2	25221
J.R.W. Oil & Gas	Monroe	M	Brooks	001	141988
J.R.W. Oil & Gas	Monroe	M	Brooks	002	142368
J.R.W. Oil & Gas	Monroe	M	Boldt	001	142434

Operator	Field	District	Well Name	Well Number	Serial Number
J.R.W. Oil & Gas	Monroe	M	Boldt	002	142947
J.R.W. Oil & Gas	Monroe	M	Brooks	003	143016
J.R.W. Oil & Gas	Monroe	M	Brooks	004	143017
J.R.W. Oil & Gas	Monroe	M	Brooks	005	143106
J.R.W. Oil & Gas	Monroe	M	Fairbanks N	011	144766
J.R.W. Oil & Gas	Monroe	M	Grayling	001	151900
J.R.W. Oil & Gas	Monroe	M	Grayling	003	151967
J.R.W. Oil & Gas	Monroe	M	Grayling	004	151968
J.R.W. Oil & Gas	Monroe	M	Mineral Lands N	001	152375
J.R.W. Oil & Gas	Monroe	M	Mineral Lands N	002	152376
J.R.W. Oil & Gas	Monroe	M	Grayling	005	152432
J.R.W. Oil & Gas	Monroe	M	Grayling	006	152433
J.R.W. Oil & Gas	Monroe	M	Grayling	007	152435
J.R.W. Oil & Gas	Monroe	M	Mineral Lands N	003	153245
J.R.W. Oil & Gas	Monroe	M	Grayling	008	153541
J.R.W. Oil & Gas	Monroe	M	Grayling	009	153570
J.R.W. Oil & Gas	Monroe	M	Grayling	010	153678
J.R.W. Oil & Gas	Monroe	M	Grayling	011	153679
J.R.W. Oil & Gas	Monroe	M	Cities Service A	002	186944
J.R.W. Oil & Gas	Monroe	M	Harrell SU 777; I P CO	002-ALT	190716
J.R.W. Oil & Gas	Monroe	M	Grayling	012	195167
J.R.W. Oil & Gas	Monroe	M	Grayling	013	195168
J.R.W. Oil & Gas	Monroe	M	Grayling	002	195501
J.R.W. Oil & Gas	Monroe	M	Mineral Lands N	004	195502
J.R.W. Oil & Gas	Monroe	M	Harrell Su773; Cities Service	002	201775
J.R.W. Oil & Gas	Monroe	M	Harrell Su782; Cities Service A	004-ALT	201956
J.R.W. Oil & Gas	Monroe	M	Harrell Su823; Cities Service	006	202653
J.R.W. Oil & Gas	Monroe	M	Fairbanks	001	203045
J.R.W. Oil & Gas	Monroe	M	Harrell Su784; Cities Service	015	204630
J.R.W. Oil & Gas	Monroe	M	Swd	001	970207
Milagro Exploration, LLC	West Lake Verret	L	JL & S Co	052	77962(30)

Operator	Field	District	Well Name	Well Number	Serial Number
Milagro Exploration, LLC	West Lake Verret	L	JL & S Co	052-D	132880(30)
Milagro Exploration, Llc	West Lake Verret	L	B ra Suf;Burdin St U 6	004	202715(30)
Oriole Oil & Gas Company	Logansport	S	Nash	001	264
Thornton & Brooks, Inc.	Benson	S	Turner	001	78762
Tippet, King & Hanner	Caddo Pine Island	S	P B Bostwick	001	23074(30)

Richard P. Ieyoub
Commissioner

2109#047

POTPOURRI

Department of Public Safety and Corrections Oil Spill Coordinator's Office

Notice of Consent Decree—2008 Mississippi River Oil Spill

Action: Notice of Availability of a Consent Decree (CD) for Natural Resource Damages—LOSCO NRDA case file # LA2008_0723_0230 [Gretna/MS River 2008]. The CD for Natural Resource Damages is available for public review and comment for 30 days.

Agencies: Louisiana Oil Spill Coordinator's Office, Department of Public Safety and Corrections (LOSCO); Louisiana Department of Environmental Quality (LDEQ); Louisiana Department of Natural Resources (LDNR); Louisiana Department of Wildlife and Fisheries (LDWF); Louisiana Coastal Protection and Restoration Authority (CPRA); the United States Department of the Interior, represented by the United States Fish and Wildlife Service (FWS); and the United States Department of Commerce, represented by the National Oceanic and Atmospheric Administration (NOAA); collectively referred to herein as the "Trustees."

Authorities: The Oil Pollution Act of 1990 (OPA), 33 U.S.C. 2701 et seq., and the Louisiana Oil Spill Prevention and Response Act of 1991 (OSPRA), La. R.S. 30:2451 et seq., are the principal federal and state statutes, respectively, authorizing federal and state agencies and tribal officials to act as natural resource trustees for the recovery of damages for injuries to trust resources and services resulting from oil spill incidents in Louisiana. OPA implementing regulations may be found at 15 C.F.R. Part 990 and OSPRA regulations at LAC 43:XXIX. In accordance with OPA, OSPRA, and the regulations, the Trustees have conducted a Natural Resource Damage Assessment (NRDA) for the July 23, 2008 crude oil discharge into the Mississippi River near New Orleans, Orleans Parish, Louisiana. American Commercial Barge Line LLC (ACL) was identified as the Responsible Party for the Incident.

Summary of Incident: On or about July 23, 2008, the M/T Tintomara collided with Barge DM932, owned and operated by ACL, at River Mile Marker 98 on the Mississippi River near New Orleans, Louisiana (herein referred to as the "Incident"). The collision compromised the internal compartment of Barge DM932, causing Barge

DM932 to discharge a significant amount of oil into the Mississippi River. Natural resources within and adjacent to the Mississippi River were injured as a result of the Incident. Spilled oil from the Incident spread more than 100 miles downriver and affected over 5,000 acres of shoreline habitat. Aquatic and shoreline habitats within the bature, including forested wetlands, scrub-shrub habitat, mud flats, and freshwater marsh, were oiled, as were birds, mammals, reptiles, and other wildlife. Public services provided by these natural resources were also injured. The Trustees and ACL worked cooperatively to evaluate and quantify the nature and extent of injuries to natural resources and services, and to determine the need for, type of, and scale of appropriate restoration actions.

On September 20, 2016, the Trustees issued a Notice of Intent in the *Louisiana Register* (Vol. 42, No. 09, pp. 1572-1573) to notify the public that they intended to conduct restoration planning for this Incident. On May 20, 2021, the Trustees issued a Notice of Availability in the *Louisiana Register* (Vol. 47, No. 05, pp. 694-695) to notify the public that their Draft Damage Assessment and Restoration Plan and Environmental Assessment (Draft DARP/EA) was available for public review and comment for 30 days. The Draft DARP/EA identified the natural resources and services that were determined to be injured by the Incident, described the assessment procedures used to quantify injury, outlined the scaling approach and restoration alternative selection process, and presented the Trustees' proposed plan to restore natural resources or services equivalent to those lost as a basis for compensating the public for the injuries to natural resources and services resulting from the Incident. The Trustees considered comments received by the end of the comment period in finalizing the DARP/EA. The Final DARP/EA is available through the Administrative Record (see below) and attached as Appendix A to the CD.

Purpose: Pursuant to LAC 43:XXIX, notice is hereby given that a proposed CD between the United States, the State of Louisiana, and ACL is available for public review and comment. ACL and the Trustees propose to expedite restoration for this Incident and to resolve ACL's liability for natural resource damages under Section 1002(a) and (b) of OPA, 33 U.S.C. § 2702(a) and (b), and Section 2480 of OSPRA, La. R.S. 30:2480. By entering into this CD, the mutual objectives of the Parties are for ACL (i) to contribute to the restoration, replacement, or acquisition of the equivalent of natural resources and services allegedly injured, destroyed, or lost as a result of the Incident; (ii) to reimburse natural resource damage assessment and restoration planning costs incurred by the Trustees; and (iii) to resolve its alleged civil liability for natural resource damages under OPA and OSPRA.

The CD is available to the public for a 30-day comment period, which will begin on the date of this public notice announcing availability of the document for public review. The Trustees invite the public to review the CD and submit comments to the address listed below. The Parties will consider comments received during the public comment period on the CD before finalizing the document.

Public Participation: Interested members of the public are invited to view the CD at <http://www.losco.state.la.us> (look under Newsflash/current news for 2008 Mississippi River Oil Spill Consent Decree Available for Public

Comment) or by requesting a copy of the document from Charles K. Armbruster at the following address:

Charles K. Armbruster
Louisiana Oil Spill Coordinator's Office
Department of Public Safety and Corrections
P.O. Box 66614
Baton Rouge, LA 70896
(225) 925-6606
losco@la.gov

Public participation is encouraged. Opportunities to participate in the process include public availability of Administrative Record (AR) documents as well as an opportunity for the public to review and comment on draft restoration planning documents. The Trustees have opened an AR pursuant to 15 C.F.R. § 990.45 and LAC 43:XXIX.127 to document the basis for the Trustees' decisions pertaining to injury assessment and selection of restoration alternatives. The AR can be found at

<https://data.losco.org> under "Search Administrative Records". Public participation is consistent with state and federal laws and regulations that apply, including Section 1006 of OPA, 33 U.S.C. § 2706; the OPA regulations, 15 C.F.R. Part 990; Section 2480 of OSPRA, La. R.S. 30:2480; and the OSPRA regulations, LAC 43:XXIX.

Comment Submittals: Comments to the CD must be submitted in writing or digitally to Charles K. Armbruster on or before the end of the 30-day comment period.

For Further Information: Contact Charles K. Armbruster at (225) 925-6606 or by email at charles.armbruster@la.gov.

Sam Jones
Oil Spill Coordinator

2109#029

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