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Executive Orders

EXECUTIVE ORDER MJF 99-27

Advisory Council on Disability Affairs

WHEREAS, Executive Order No. MJF 96-55, signed on October 17, 1996, reestablished and recreated the Governor's Advisory Council on Disability Affairs within the executive department, Office of the Governor; and

WHEREAS, it is necessary to update Executive Order No. MJF 96-55 through the issuance of a replacement order;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., 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: The Advisory Council on Disability Affairs (hereafter "Council") is reestablished and recreated within the executive department, Office of the Governor, Office of Disability Affairs.

SECTION 2: The duties of the Council shall include, but are not limited to, the following:

A. Advising the governor, through the Office of Disability Affairs, on issues of concern to the citizens of Louisiana who have disabilities and the identification of all their areas of need; and

B. Identifying possible solutions for the areas of concern and need identified pursuant to Subsection 2(A) of this Order and, when requested, assisting the Office of Disability Affairs in the resolution of other disability issues.

SECTION 3: The members of the Council shall be appointed by, and serve at the pleasure of, the governor. The Council membership shall be selected as follows:

A. The governor, or the governor's designee;

B. The lieutenant governor, or the lieutenant governor's designee;

C. The secretary of state, or the secretary's designee;

D. The superintendent of the Department of Education, or the superintendent's designee;

E. The secretary of the Department of Health and Hospitals, or the secretary's designee;

F. The secretary of the Department of Labor, or the secretary's designee;

G. The secretary of the Department of Transportation and Development, or the secretary of designee;

H. The secretary of the Department of Social Services, or the secretary's designee;

I. The secretary of the Department of Wildlife and Fisheries, or the secretary's designee;

J. The state treasurer, or the treasurer's designee;

K. The commissioner of the Department of Agriculture and Forestry, or the commissioner's designee;

L. The commissioner of the Department of Elections and Registration, or the commissioner's designee;

M. The attorney general, or the attorney general's designee;

N. One (1) member of the Louisiana House of Representatives designated by the speaker of the House of Representatives;

O. One (1) member of the Louisiana State Senate designated by the president of the Senate;

P. The state fire marshal, or the state fire marshal's designee;

Q. The director of Facility Planning and Control, or the director's designee;

R. The chair of the Developmental Disabilities Council, or the chair's designee;

S. A disability service provider from a higher education institution;

T. The chair of the Advocacy Center, or the chair's designee;

U. The chair of the Louisiana Assistive Technology Access Network, or the chair's designee;

V. The chair of the Louisiana Rehabilitation Council, or the chair's designee;

W. The chair of the Statewide Independent Living Council, or the chair's designee;

X. The chair of the Mental Health Planning Council, or the chair's designee; and

Y. Fifteen (15) at large members, ten (10) of whom have disabilities or have family members with disabilities, selected from Louisiana seven (7) congressional districts.

SECTION 4: The Council shall be chaired by the governor, or the governor's designee. The membership of the Council shall elect all other officers.

SECTION 5: The Council shall meet at regularly scheduled intervals and, if necessary, at special meetings called in accordance with the Council's bylaws.

SECTION 6: Support staff for the Council and facilities for its meetings shall be provided by the Office of Disability Affairs.

SECTION 7: The members of the Council shall not receive additional compensation or a per diem. Nonetheless, contingent upon the availability of funds, members who are not an employee of the state of Louisiana or one of its political subdivisions, or an elected official, may receive reimbursement from the Office of the Governor, for actual travel expenses incurred, in accordance with state guidelines and procedures, with the prior written approval of the commission of administration.

SECTION 8: Executive Order No. MJF 96-55, signed on October 17, 1996, is terminated and rescinded.

SECTION 9: The provisions of this Order are effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in city of Baton Rouge, on this 23rd day of June, 1999.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9907#062

EXECUTIVE ORDER MJF 99-28

Bond Allocation—Industrial Development Board of the City of New Orleans, Louisiana, Inc.

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order No. MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 to establish

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1999 (hereafter "the 1999 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 1999 Ceiling; and

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

WHEREAS, the Industrial Development Board of the City of New Orleans, Louisiana, Inc., has requested an allocation from the 1999 Ceiling to be used to finance the acquisition, construction and installation of a development project for the reconstruction and reconfiguration of a building to accommodate a mixed housing/commercial development facility located at 602 North Cortez, New Orleans, parish of Orleans, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., 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: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1999 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$13,000,000	Industrial Development Board of the City of New Orleans, Louisiana, Inc.	3700 Orleans, L.L.C. Project

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

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 1999,

provided that such bonds are delivered to the initial purchasers thereof on or before October 7, 1999.

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

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 9th day July, 1999.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9907#063

EXECUTIVE ORDER MJF 99-29

Bond Allocation—East Baton Rouge Mortgage Finance Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order No. MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996, to establish

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1999 (hereafter "the 1999 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 1999 Ceiling; and

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

WHEREAS, the East Baton Rouge Mortgage Finance Authority has requested an allocation from the 1999 Ceiling to be used in connection with a program of financing mortgage loans for single family, owner-occupied residences in the parish of East Baton Rouge, by low and moderate income home buyers, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., 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: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1999 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$12,000,000	East Baton Rouge Mortgage Finance Authority	Single Family Mortgage Revenue Bond Program

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

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before October 7, 1999.

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

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 9th day of July, 1999.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9907#064

EXECUTIVE ORDER MJF 99-30

Bond Allocation—The Finance Authority of New Orleans

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order No. MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996, to establish

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1999 (hereafter "the 1999 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 1999 Ceiling; and

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

WHEREAS, the Finance Authority of New Orleans has requested an allocation from the 1999 Ceiling to be used in connection with a program to acquire qualified single

family residences in the city of New Orleans, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., 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: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1999 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$12,000,000	The Finance Authority of New Orleans	Single Family Mortgage Revenue Bond Program

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

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before October 7, 1999.

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

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 9th day of July, 1999.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9907#065

EXECUTIVE ORDER MJF 99-31

Bond Allocation—Parish of Jefferson Home Mortgage Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order No. MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996, to establish

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1999 (hereafter "the 1999 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 1999 Ceiling; and

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

WHEREAS, the Parish of Jefferson Home Mortgage Authority has requested an allocation from the 1999 Ceiling to be used in connection with a program of financing certain qualifying mortgage loans for single family, owner-occupied residences throughout the parish of Jefferson, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., 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: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1999 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$12,000,000	Parish of Jefferson Home Mortgage Authority	Single Family Mortgage Revenue Bond Program

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

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before October 7, 1999.

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

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state

of Louisiana, at the Capitol, in the city of Baton Rouge, on this 9th day of July, 1999.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9907#066

EXECUTIVE ORDER MJF 99-32

Bond Allocation—Hammond-Tangipahoa Home Mortgage Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order No. MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996, to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1999 (hereafter "the 1999 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 1999 Ceiling; and

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

WHEREAS, the Hammond-Tangipahoa Home Mortgage Authority (hereafter "Authority") has requested an allocation from the 1999 Ceiling to be used in connection with financing a program to acquire certain mortgage notes secured by mortgages on owner occupied residential real or immovable property owned by low and moderate income persons in the parish of Tangipahoa originated by participating mortgage lenders to acquire such mortgage notes and/or acquire federally guaranteed mortgage backed securities or refund any outstanding indebtedness of the Authority in order to free up moneys to acquire additional mortgages notes, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., 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: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1999 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$5,000,000	Hammond-Tangipahoa Home Mortgage Authority	Mortgage-Backed Securities Program

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

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before October 7, 1999.

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

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 9th day of July, 1999.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9907#067

EXECUTIVE ORDER MJF 99-33

Community Programs

WHEREAS, Executive Order No. MJF 99-14, signed on March 26, 1999, established the Office of Community Programs within the Office of the Governor; and

WHEREAS, it is necessary to transfer another division of the Office of the Governor to the Office of Community Programs;

NOW THEREFORE, I, M.J. "MIKE" FOSTER, JR., 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: Section 2 of Executive Order No. MJF 99-14 is amended to provide as follows:

The Office shall be composed of the following agencies and divisions of the Office of the Governor:

- A. Office of Disability Affairs (R.S. 46:2581, *et seq.*);
- B. Office of Elderly Affairs (R.S. 46:931, *et seq.*);
- C. Office of Indian Affairs (R.S. 46:2301, *et seq.*);
- D. Office of Municipal Affairs;
- E. Louisiana State Interagency Coordinating Council for Child Net (R.S. 17:1979 and R.S. 36.4(R));
- F. Office of Rural Development (R.S. 3:314, *et seq.*);
- G. Louisiana Abstinence Education Project (Executive Order No. MJF 98-11, as amended by Executive Order No. MJF 99-13);
- H. Louisiana State Troops to Teachers Placement Assistance Program (Memorandum of Agreement dated February 2, 1995);
- I. Office of Urban Affairs and Development (Executive Order No. MJF 96-47);
- J. Office of Women's Services (R.S. 46:2521, *et seq.*); and
- K. Governor's Office of Safe and Drug Free Schools and Communities.

SECTION 2: All other sections and subsections of Executive Order No. MJF 99-14 shall remain in full force and effect.

SECTION 3: The provisions of this Order are effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 9th day of July, 1999.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9907#068

Emergency Rules

DECLARATION OF EMERGENCY

Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

Privately Owned Sewage Treatments
(LAC 33:IX.2331, 2381, 2383, 2385,
2769, and 2801-2809)(WP035E)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under authority of R.S. 30:2011, the Secretary of the Department of Environmental Quality declares that an emergency action is necessary as a result of Act 399 of the 1999 Legislative Session requiring the execution of a surety bond for all privately-owned sewage treatment facilities, regulated by the Public Service Commission, prior to receiving discharge authorization. This Act applies to any issuance, renewal, modification, or transfer of such permits after July 1, 1999, and mandates that the Department establish by rule the acceptable forms of financial security and the amount of financial security required for the various types and sizes of facilities. Therefore, after July 1, 1999, and until the necessary rule is in effect, the Department would be required to withhold all new discharge permits, renewal of existing, modification of existing, and transfers of existing discharge permits to all privately-owned, for-profit community sewage treatment facilities.

The delays inherent in the normal rulemaking process would imperil public health, safety, and welfare by precluding the legal operation of some sewage treatment facilities subject to Act 399. The legal operation of those sewage treatment facilities is essential for the proper treatment of sewage, necessary to reduce disease-causing microorganisms and pollutants that are harmful to fish and other aquatic life. The cessation of operation of such a treatment facility, as would be required by law, would necessitate either bypassing the treatment facility (resulting in the discharge of untreated sewage) or blocking all flow of sewage through the collection system (rendering uninhabitable every building served by that system). The Department cannot ensure protection of public health, welfare, and the environment without the issuance of discharge permits with proper effluent limitations and monitoring requirements.

The immediate impact of this rule is to give effect to the terms and conditions of Act 399, thus allowing the Department to continue regulating treated sanitary discharges from private treatment facilities which serve large segments of Louisiana's population.

This emergency rule is effective July 1, 1999, and shall remain in effect for a maximum of 120 days or until a final rule is promulgated, whichever comes first. For more information concerning WP035E, you may contact the

Regulation Development Section at (225) 765-0399.
Adopted this 1st day of July, 1999.

Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality Regulations

Chapter 23. The Louisiana Pollutant Discharge Elimination System (LPDES) Program Subchapter B. Permit Application and Special LPDES Program Requirements

§2331. Application for a Permit

[See Prior Text in A - O. Editorial Note]

P. Additional Requirements for Privately-Owned Sewage Treatment Facilities Regulated by the Public Service Commission. Privately-owned sewage treatment facilities regulated by the Public Service Commission must also comply with the financial security requirements in LAC 33:IX.Chapter 23.Subchapter W. Following receipt of the permit application the administrative authority shall calculate and subsequently notify the applicant of the "waste discharge capacity per day" for the facility. The applicant will use this figure to determine the amount of the financial security required by LAC 33:IX.Chapter 23.Subchapter W. The applicant shall subsequently obtain and supply the department with the financial security document in accordance with LAC 33:IX.Chapter 23.Subchapter W. No permit shall be issued after July 1, 1999, without the required financial security.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and(4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:723 (June 1997), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:

Subchapter D. Transfer, Modification, Revocation and Reissuance, and Termination

§2381. Transfer of Permits

[See Prior Text in A - B.1]

2. the notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them;

3. the state administrative authority does not notify the existing permittee and the proposed new permittee of his or her intent to modify or revoke and reissue the permit. A modification under this Subsection may also be a minor modification under LAC 33:IX.2385. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in LAC 33:IX.2381.B.2; and

4. additional requirements are met for privately-owned sewage treatment facilities regulated by the Public Service Commission when transferred after July 1, 1999.

The new permittee shall comply with the financial security requirements in LAC 33:IX.Chapter 23.Subchapter W.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and (4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:

§2383. Modification or Revocation and Reissuance of Permits

* * *

[See Prior Text in A - B.2]

C. Upon modification or revocation and reissuance of a permit for a privately-owned sewage treatment facility regulated by the Public Service Commission, the permittee shall comply with the financial security requirements in LAC 33:IX.Chapter 23.Subchapter W.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and (4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:724 (June 1997), LR 23:1524 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:

§2385. Minor Modifications of Permits

A. Upon the consent of the permittee, the state administrative authority may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this Section, without following the procedures of LAC 33:IX.Chapter 23.Subchapters E-G. Any permit modification not processed as a minor modification under this Section must be made for cause and with LAC 33:IX.Chapter 23.Subchapters E-G draft permit and public notice as required in LAC 33:IX.2383. Minor modifications may only:

1. correct typographical errors;
2. require more frequent monitoring or reporting by the permittee;
3. change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement; or
4. allow for a change in ownership or operational control of a facility where the state administrative authority determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the state administrative authority. The new permittee of a privately-owned sewage treatment facility regulated by the Public Service Commission must additionally comply with the financial security requirements in LAC 33:IX.Chapter 23.Subchapter W.

* * *

[See Prior Text in A.5 - 7]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and (4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:

Subchapter V. Additional Requirements Applicable to the LPDES Program

§2769. Additional Requirements for Permit Renewal and Termination

A. The following are causes, in addition to those found in LAC 33:IX.2387, for terminating a permit during its term or for denying a permit renewal:

* * *

[See Prior Text in A.1]

2. due consideration of the facility's history of violations and compliance;
3. change of ownership or operational control (see LAC 33:IX.2381); and/or
4. failure to provide or maintain a surety bond in accordance with LAC 33:IX. Chapter 23.Subchapter W.

* * *

[See Prior Text in B - D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and (4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:726 (June 1997), amended by the Office of the Secretary, LR 25:662 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:

Subchapter W. Financial Security

§2801. Applicability

A. This Subsection shall be applicable to the following actions, for privately-owned sewage treatment facilities regulated by the Public Service Commission, when taken after July 1, 1999:

1. issuance of a new discharge permit;
2. renewal of an existing discharge permit;
3. modification of an existing discharge permit; and
4. transfer of an existing discharge permit to a different permittee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and (4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:

§2803. Acceptable Form of Financial Security

A. Financial security required by R.S. 30:2075.2 shall consist exclusively of a surety bond conforming to the requirements of this Subchapter. The bond must be executed by the permittee and a corporate surety licensed to do business in Louisiana. The surety must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury and approved by the administrative authority.

B. The wording of the surety bond must be identical to the following, except that material in brackets is to be replaced with the relevant information and the brackets deleted:

PERFORMANCE BOND

Date bond was executed: _____

Effective date: _____

Principal: [legal name and business address of permit holder or applicant]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation: _____

Surety: [name(s) and business address(es)]

[Site identification number, site name, facility name, facility permit number, facility address, amount for each facility guaranteed by this bond]

Total penal sum of bond: \$ _____

Surety's bond number: _____

Know All Persons By These Presents That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, provided that, where Sureties are corporations acting as cosureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us and, for all other purposes, each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq., to have a permit in order to discharge wastewater from the facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for the conditions specified in LAC 33:IX.Chapter 23.Subchapter W, as a condition of the permit; and

THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully perform, in a timely manner, the requirements of LAC 33:IX applicable to the facility for which this bond guarantees the requirements of LAC 33:IX, in accordance with the other requirements of the permit as such permit may be amended and pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended;

OR, if the Principal shall provide other financial assurance as specified in LAC 33:IX.Chapter 23.Subchapter W and obtain written approval of the administrative authority of such assurance within 90 days after the date of notice of cancellation of this bond is received by both the Principal and the administrative authority, then this obligation shall be null and void; otherwise, it is to remain in full force and effect.

The Surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described hereinabove.

Upon notification by the administrative authority that the Principal has been found in violation of the requirements of LAC 33:IX or of its permit, for the facility for which this bond guarantees performances of the requirements of LAC

33:IX.Chapter 23.Subchapter W, the Surety shall either perform the requirements of LAC 33:IX.Chapter 23.Subchapter W, or place the closure amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

The Surety hereby waives notification of amendments to permit, applicable laws, statutes, rules, and regulations and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the administrative authority. Cancellation shall not occur before 120 days have lapsed, beginning on the date that both the Principal and the administrative authority received the notice of cancellation as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

Principal and Surety hereby agree to adjust the penal sum of the bond for inflation yearly, based upon the inflation factor derived from the Annual Implicit Price Deflator for Gross Domestic Product, as published by the U. S. Department of Commerce in its *Survey of Current Business*. The penal sum shall not decrease without the written permission of the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this PERFORMANCE BOND on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the state of Louisiana, and that the wording of this surety bond is identical to the wording specified in LAC 33:IX.Chapter 23.Subchapter W, effective on the date this bond was executed.

PRINCIPAL

[Signature(s)]

[Name(s)]

[Title(s)]

CORPORATE SURETY

[Name and address]

State of incorporation: _____

Liability limit: \$ _____

[Signature(s)]

[Name(s) and title(s)]

[For every cosurety, provide signature(s) and other information in the same manner as for Surety above.]

Bond premium: \$ _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and (4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:

§2805. Amount of Required Financial Security

A. For the calendar year 1999 the penal sum of any bond issued must be equal to or greater than \$2 per gallon of wastewater discharge per day from the facility, as determined by the administrative authority.

B. After December 31, 1999, the penal sum of any bond issued or renewed must be equal to or greater than \$2 per gallon of wastewater discharge capacity per day for the facility, as determined by the administrative authority, plus an adjustment for inflation since December 31, 1999, based upon the inflation factor derived from the Annual Implicit Price Deflator for Gross Domestic Product, as published by the U.S. Department of Commerce in its *Survey of Current Business*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and (4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:

§2807. Conditions for Forfeiture

A. The secretary or his designee may enter an order requiring forfeiture of all or part of the bond or other financial security, if he determines that:

1. the continued operation or lack of operation and maintenance of the facility covered by this Subsection represents a threat to public health, welfare, or the environment because the permittee is unable or unwilling to adequately operate and maintain the facility or the facility has been actually or effectively abandoned by the permittee. Evidence justifying such determination includes, but is not limited to:

a. the discharge of pollutants exceeding limitations imposed by applicable permits;

b. failure to utilize or maintain adequate disinfection facilities;

c. failure to correct overflows or backups from the collection system;

d. a declaration of a public health emergency by the state health officer; and

e. a determination by the Public Service Commission that the permittee is financially unable to properly operate or maintain the system;

2. reasonable and practical efforts under the circumstances have been made to obtain corrective actions from the permittee; and

3. it does not appear that corrective actions can or will be taken within an appropriate time as determined by the secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and (4) and 2075.2 and 3.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:

§2809. Use of Proceeds

The proceeds of any forfeiture shall be used by the secretary, or by any receiver appointed by a court under R.S. 30:2075.3, to address or correct the deficiencies at the facility or to maintain and operate the system, as deemed necessary by the secretary under LAC 33:IX.2807.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and (4) and 2075.2 and 3.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:

J. Dale Givens
Secretary

9907#013

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Alligator Season—1999

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set seasons, the Wildlife and Fisheries Commission does hereby set the 1999 wild alligator harvest season.

The 1999 wild alligator harvest season shall be from official sunrise September 1, 1999 through official sunset September 30, 1999. Alligators taken from the wild may be removed from hook and line and taken with other legal capture devices only during daylight hours between official sunrise and official sunset.

Emergency procedures are necessary to allow Department biologists adequate time to gather the biological data required to recommend season dates and harvest quotas.

The Wildlife and Fisheries Commission does hereby also authorize the Secretary of the Department of Wildlife and Fisheries to delay, extend, close or reopen this season based on technical data or if enforcement problems develop.

Bill A. Busbice, Jr.
Chairman

9907#023

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Shrimp Season Closure—Zone 2

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure

Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters, and a resolution adopted by the Wildlife and Fisheries Commission on May 6, 1999, which authorized the Secretary of the Department of Wildlife and Fisheries to close the 1999 Spring Inshore Shrimp Season in any area or zone when biological and technical data indicates the need to do so, the Secretary hereby declares:

The 1999 Spring Inshore Shrimp Season in that portion of Zone 2 from the western shore of Vermilion Bay and Southwest Pass at Marsh Island east to the western bank of Bayou Lafourche, shall close at 6:00 a.m., Monday, June 28, 1999. The remainder of Zone 2, i.e., the waters from the western bank of Bayou Lafourche east to the South Pass of the Mississippi River shall close at 6 a.m., Tuesday, July 6, 1999.

Zones 1 and 3 will remain open until further notice.

The State Territorial Waters south of the Inside/Outside Shrimp Line, as described in R.S. 56:495, shall remain open.

Substantial numbers of small white shrimp have been taken west of Bayou Lafourche in recent shrimp samples by Department personnel. These small white shrimp are widely distributed throughout the western portion of Zone 2, and the number of white shrimp in the remainder of the Zone is expected to increase substantially over the next few weeks.

James H. Jenkins, Jr.
Secretary

9907#004

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Shrimp Season Closure—Zone 3

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters and a resolution adopted by the Wildlife and Fisheries Commission on May 6, 1999 which authorized the Secretary of the Department of Wildlife and Fisheries to close the 1999 Spring Inshore Shrimp Season in any area or zone when biological and technical data indicates the need to do so, the Secretary hereby declares:

That the 1999 Spring Inshore Shrimp Season shall be closed in all of Zone 3, that portion of Louisiana's inshore waters from the western shore of Vermilion Bay and Southwest Pass at Marsh Island west to the Louisiana/Texas State Line, at 6:00 a.m., Tuesday, July 6, 1999.

Small white shrimp have begun to occur in shrimp samples taken by Department personnel throughout Zone 3. The number of white shrimp has increased substantially since the previous week, and is expected to continue to increase over the next few weeks.

James H. Jenkins, Jr.
Secretary

9907#015

Rules

RULE

Department of Economic Development Board of Architectural Examiners

Association with Registered Architect
(LAC 46:I.1119)

Under the authority of La. R.S. 37:144(C) and in accordance with the provisions of La. R.S. 49:951 et seq., the Board of Architectural Examiners adopted LAC 46:I.1119 pertaining to the board's interpretation of La. R.S. 37:155(A)(3). R.S. 37:155(A)(3) exempts from the Architects Licensing Law, La. R.S. 37:141 et seq., registered architects of other states when associated with any registered architect of this state who will seal or stamp and bear professional responsibility for all specifications and other construction documents pertaining to work in this state. The rule interprets the meaning of "associated" in this statute.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part I. Architects

Chapter 11. Administration

§1119. Interpretation of La. R.S. 37:155(A)(3)

Registered architects of other states will be deemed to be associated with a registered architect of this state on a specific project within the meaning of R.S. 37:155(A)(3) only when:

1. a written agreement is signed by both the out-of-state and the in-state architects describing the association prior to executing the work;
2. the in-state architect reviews all documents prepared by the out-of-state architect and makes necessary revisions to bring the design documents into compliance with applicable codes, regulations, and requirements;
3. the in-state architect independently performs or contracts with an engineer or engineers licensed in Louisiana to perform necessary calculations, and maintains such calculations on file;
4. after reviewing, analyzing and making revisions and/or additions, the in-state architect issues the documents with his/her title block and seal (by applying his/her seal the architect assumes professional responsibility as the architect of record); and
5. the in-state architect maintains control over the use of the design documents just as if they were his/her original design.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 25:1211 (July 1999).

Mary "Teeny" Simmons
Executive Director

9907#006

RULE

Department of Economic Development Board of Architectural Examiners

Carry Over of Continuing Education Hours (CEH)
(LAC 46:I.1117)

Under the authority of La. R.S. 37:144 and in accordance with the provisions of La. R.S. 49:951 et seq., the Board of Architectural Examiners amended LAC 46:I.1117 pertaining to the carry over of continuing education hours (CEH). The existing rule prohibits the carry over of CEH from prior years. The Board amended this rule to permit the carry over of a maximum of 12 qualifying CEH to the subsequent renewal period.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part I. Architects

Chapter 11. Administration

§1117. Continuing Education

* * *

F. Number of Continuing Education Hours Earned

1. Continuing education credits shall be measured in CEH and shall be computed as follows:

a. attending seminars, lectures, presentations, workshops, or courses shall constitute one CEH for each contact hour of attendance;

b. successfully completing tutorials, short courses, correspondence courses, televised or video-taped courses, monographs and other self-study courses shall constitute the CEH recommended by the program sponsor;

c. teaching or instructing a qualified seminar, lecture, presentation, or workshop shall constitute two CEH for each contact hour spent in the actual presentation. Teaching credit shall be valid for teaching a seminar or course in its initial presentation only. Teaching credit shall not apply to full-time faculty at a college, university or other educational institution;

d. authoring a published paper, article or book shall be equivalent of 8 CEH;

e. successfully completing one or more college or university semester or quarter hours shall satisfy the continuing education hours for the year in which the course was completed.

2. Any program in HSW contained in the record of an approved professional registry will be accepted by the board as fulfilling the continuing education requirements of these rules. The board approves the AIA as a professional registry, and contact hours listed in HSW in the AIA/CES Transcript of Continuing Education Activities will be accepted by the board for both resident and non-resident architects.

3. If the architect exceeds the continuing education requirements in any renewal period (January 1 through December 31), the architect may carry over a maximum of 12 qualifying CEH to the subsequent renewal period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144-145.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 17:753 (June 1991), amended LR 18:250 (March 1992), LR 24:910 (May 1998), LR 25:1211 (July 1999).

Mary "Teeny" Simmons
Executive Director

9907#005

RULE

Department of Economic Development Board of Architectural Examiners

Rules of Conduct; Violations (LAC 46:I.1701)

Under the authority of R.S. 37:144 and in accordance with the provisions of R.S. 49:951 et seq., the Board of Architectural Examiners amended LAC 46:I.1701 pertaining to the rules of conduct for architects. The Board replaced its existing rules of conduct with the rules and commentaries published by the National Council of Architectural Registration Boards Professional Conduct Committee.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part I. Architects

Chapter 17. Rules of Conduct; Violations

§1701. Rules of Conduct

(NOTE: Commentaries provided by the NCARB Professional Conduct Committee, except the numbering has been changed to conform to the format required by the *Louisiana Register*.)

A. Competence

1. In practicing architecture, an architect shall act with reasonable care and competence, and shall apply the technical knowledge and skill which is ordinarily applied by architects of good standing, practicing in the same locality.

Commentary—Although many of the existing state board rules of conduct fail to mention standards of competence, it is clear that the public expects that incompetence will be disciplined and, where appropriate, will result in revocation of the license. Section 1701.A.1 sets forth the common law standard which has existed in this country for a hundred years or more in judging the performance of architects. While some few courts have stated that an architect, like the manufacturer of goods, impliedly warrants that his design is fit for its intended use, this rule specifically rejects the minority standard in favor of the standard applied in the vast majority of jurisdictions that the architect need be careful but need not always be right. In an age of national television, national universities, a national registration exam, and the like, the reference to the skill and knowledge applied in the same locality may be less significant than it was in the past when there was a wide disparity across the face of the United States in the degree of skill and knowledge which an architect was expected to bring to his or her work. Nonetheless, the courts have still recognized this portion of the standard, and it is true that what may be expected of an architect in a complex urban setting may vary from what is expected in a more simple, rural situation.

2. In designing a project, an architect shall take into account all applicable state and municipal building laws and regulations. While an architect may rely on the advice of other professionals (e.g., attorneys, engineers, and other qualified persons) as to the intent and meaning of such regulations, once having obtained such advice, an architect

shall not knowingly design a project in violation of such laws and regulations.

Commentary—It should be noted that the rule is limited to applicable state and municipal building laws and regulations. Every major project being built in the United States is subject to a multitude of laws in addition to the applicable building laws and regulations. As to these other laws, it may be negligent of the architect to have failed to take them into account, but the rule does not make the architect specifically responsible for such other laws. Even the building laws and regulations are of sufficient complexity that the architect may be required to seek the interpretation of other professionals. The rule permits the architect to rely on the advice of such other professionals.

3. An architect shall undertake to perform professional services only when he or she, together with those whom the architect may engage as consultants, are qualified by education, training, and experience in the specific technical areas involved.

Commentary—While an architect is licensed to undertake any project which falls within the definition of the practice of architecture, as a professional, the architect must understand and be limited by the limitations of his or her own capacity and knowledge. Where an architect lacks experience, the rule supposes that he or she will retain consultants who can appropriately supplement his or her own capacity. If an architect undertakes to do a project where he or she lacks knowledge and where he or she does not seek such supplementing consultants, the architect has violated the rule.

4. No person shall be permitted to practice architecture if, in the board's judgment, such person's professional competence is substantially impaired by physical or mental disabilities.

Commentary—Here the state registration board is given the opportunity to revoke or suspend a license when the board has suitable evidence that the license holder's professional competence is impaired by physical or mental disabilities. Thus, the board need not wait until a building fails in order to revoke the license of an architect whose addiction to alcohol, for example, makes it impossible for that person to perform professional services with necessary care.

B. Conflict of Interest

1. An architect shall not accept compensation for services from more than one party on a project unless the circumstances are fully disclosed to and agreed to (such disclosure and agreement to be in writing) by all interested parties.

Commentary—This rule recognizes that in some circumstances an architect may receive compensation from more than one party involved in a project but that such bifurcated loyalty is unacceptable unless all parties have understood it and accepted it.

2. If an architect has any business association or direct or indirect financial interest which is substantial enough to influence his or her judgment in connection with the performance of professional services, the architect shall fully disclose in writing to his or her client or employer the nature of the business association or financial interest, and if the client or employer objects to such association or financial interest, the architect will either terminate such association or interest or offer to give up the commission or employment.

Commentary—Like §1701.B.1, this rule is directed at conflicts of interest. It requires disclosure by the architect of any interest which would affect the architect's performance.

3. An architect shall not solicit or accept compensation from material or equipment suppliers in return for specifying or endorsing their products.

Commentary—This rule appears in most of the existing state standards. It is absolute and does not provide for waiver by agreement.

4. When acting as the interpreter of building contract documents and the judge of contract performance, an architect shall render decisions impartially, favoring neither party to the contract.

Commentary—This rule applies only when the architect is acting as the interpreter of building contract documents and the judge of contract performance. The rule recognizes that that is not an inevitable role and that there may be circumstances (for example, where the architect has an interest in the owning entity) in which the architect may appropriately decline to act in those two roles. In general, however, the rule governs the customary construction industry relationship where the architect, though paid by the owner and owing the owner his or her loyalty, is nonetheless required, in fulfilling his or her role in the typical construction industry documents, to act with impartiality.

C. Full Disclosure

1. An architect, making public statements on architectural questions, shall disclose when he or she is being compensated for making such statement or when he or she has an economic interest in the issue.

Commentary—Architects frequently and appropriately make statements on questions affecting the environment in the architect's community. As citizens and as members of a profession acutely concerned with environmental change, they doubtless have an obligation to be heard on such questions. Many architects may, however, be representing the interests of potential developers when making statements on such issues. It is consistent with the probity which the public expects from members of the architectural profession that they not be allowed under the circumstances described in the rule to disguise the fact that they are not speaking on the particular issue as an independent professional but as a professional engaged to act on behalf of a client.

2. An architect shall accurately represent to a prospective or existing client or employer his or her qualifications, capabilities, experience, and the scope of his or her responsibility in connection with work for which he or she is claiming credit.

Commentary—Many important projects require a team of architects to do the work. Regrettably, there has been some conflict in recent years when individual members of that team have claimed greater credit for the project than was appropriate to their work done. It should be noted that a young architect who develops his or her experience working under a more senior architect has every right to claim credit for the work which he or she did. On the other hand, the public must be protected from believing that the younger architect's role was greater than was the fact.

3. The architect shall not falsify or permit misrepresentation of his or her associate's academic or professional qualifications. The architect shall not misrepresent or exaggerate his or her degree of responsibility in or for the subject matter or prior assignments. Brochures or other presentations incidental to the solicitation of employment shall not misrepresent pertinent facts concerning employer, employees, associates

joint ventures, or his/her or their past accomplishments with the intent and purpose of enhancing his/her qualifications or his/her work.

4.a. If, in the course of his or her work on a project, an architect becomes aware of a decision taken by his or her employer or client, against the architect's advice, which violates applicable state or municipal building laws and regulations and which will, in the architect's judgment, materially affect adversely the safety to the public of the finished project, the architect shall,

i. report the decision to the local building inspector or other public official charged with the enforcement of the applicable state or municipal building laws and regulations,

ii. refuse to consent to the decision, and

iii. in circumstances where the architect reasonably believes that other such decisions will be taken notwithstanding his objection, terminate his services with reference to the project unless the architect is able to cause the matter to be resolved by other means.

b. In the case of a termination in accordance with §1701.C.4.a.iii, the architect shall have no liability to his or her client or employer on account of such termination.

Commentary—This rule holds the architect to the same standard of independence which has been applied to lawyers and accountants. In the circumstances described, the architect is compelled to report the matter to a public official even though to do so may substantially harm the architect's client. Note that the circumstances are a violation of building laws which adversely affect the safety to the public of the finished project. While a proposed technical violation of building laws (e.g., a violation which does not affect the public safety) will cause a responsible architect to take action to oppose its implementation, the Committee specifically does not make such a proposed violation trigger the provisions of this rule. The rule specifically intends to exclude safety problems during the course of construction which are traditionally the obligation of the contractor. There is no intent here to create a liability for the architect in this area. Section 1701.C.4.a.iii gives the architect the obligation to terminate his or her services if he or she has clearly lost professional control. The standard is that the architect reasonably believes that other such decisions will be taken notwithstanding his or her objection. The rule goes on to provide that the architect shall not be liable for a termination made pursuant to §1701.C.4.c. Such an exemption from contract liability is necessary if the architect is to be free to refuse to participate on a project in which such decisions are being made.

5. An architect shall not deliberately make a materially false statement or fail deliberately to disclose a material fact requested in connection with his or her application for registration or renewal.

Commentary—The registration board which grants registration or renews registration on the basis of a misrepresentation by the applicant must have the power to revoke that registration.

6. An architect shall not assist the application for registration of a person known by the architect to be unqualified in respect to education, training, experience, or character.

7. An architect possessing knowledge of a violation of these rules by another architect shall report such knowledge to the board.

Commentary—This rule has its analogue in the Code of Professional Responsibility for lawyers. Its thrust is consistent with the special responsibility which the public expects from architects.

D. Compliance with Laws

1. An architect shall not, in the conduct of his or her architectural practice, knowingly violate any state or federal criminal law.

Commentary—This rule is concerned with the violation of a state or federal criminal law while in the conduct of the registrant's professional practice. Thus, it does not cover criminal conduct entirely unrelated to the registrant's architectural practice. It is intended, however, that rule §1701.E.4 will cover reprehensible conduct on the part of the architect not embraced by rule §1701.D.1. At present, there are several ways in which member boards have dealt with this sort of rule. Some have disregarded the requirement that the conduct be related to professional practice and have provided for discipline whenever the architect engages in a crime involved "moral turpitude."

The Committee declined the use of that phrase as its meaning is by no means clear or uniformly understood. Some member boards discipline for felony crimes and not for misdemeanor crimes. While the distinction between the two was once the distinction between serious crimes and technical crimes, that distinction has been blurred in recent years. Accordingly, the committee specifies crimes in the course of the architect's professional practice, and, under §1701.E.4, gives to the member board discretion to deal with other reprehensible conduct. Note that the rule is concerned only with violations of state or federal criminal law. The Committee specifically decided against the inclusion of violations of the laws of other nations. Not only is it extremely difficult for a member board to obtain suitable evidence of the interpretation of foreign laws, it is not unusual for such laws to be at odds with the laws, or, at least, the policy of the United States of America. For example, the failure to follow the dictates of the "anti-Israel boycott" laws found in most Arab jurisdictions is a crime under the laws of most of those jurisdictions; while the anti-Israel boycott is contrary to the policy of the government of the United States and following its dictates is illegal under the laws of the United States.

2. An architect shall neither offer nor make any payment or gift to a government official (whether elected or appointed) with the intent of influencing the official's judgment in connection with a prospective or existing project in which the architect is interested.

Commentary—Section 1701.D.2 tracks a typical bribe statute. It is covered by the general language of §1701.D.1, but it was the Committee's view that §1701.D.2 should be explicitly set out in the rules of conduct. Note that all of the rules under this section look to the conduct of the architect and not to whether or not the architect has actually been convicted under a criminal law. An architect who bribes a public official is subject to discipline by the state registration board, whether or not the architect has been convicted under the state criminal procedure.

3. An architect shall comply with the registration laws and regulations governing his or her professional practice in any United States jurisdiction.

Commentary—Here, again, for the reasons set out under §1701.D.1, the Committee chose to limit this rule to United States jurisdictions.

E. Professional Conduct

1. Any office offering architectural services shall have an architect resident and regularly employed in that office.

2.a. An architect shall not sign or seal drawings, specifications, reports or other professional work which was not prepared by or under the responsible supervision of the architect; except that:

i. he or she may sign or seal those portions of the professional work that were prepared by or under the responsible supervision of persons who are registered under the architecture registration laws of this jurisdiction if the architect has reviewed in whole or in part such portions and has either coordinated their preparation or integrated them into his or her work, and

ii. he or she may sign or seal portions of the professional work that are not required by the architects' registration law to be prepared by or under the responsible supervision of an architect if the architect has reviewed and adopted in whole or in part such portions and has integrated them into his or her work.

b. *Responsible supervision* shall be that amount of supervision over and detailed professional knowledge of the content of technical submissions during their preparation as is ordinarily exercised by architects applying the required professional standard of care. Reviewing, or reviewing and correcting, technical submissions after they have been prepared by others does not constitute the exercise of responsible supervision because the reviewer has neither supervision over nor detailed knowledge of the content of such submissions throughout their preparation. Any registered architect signing or sealing technical submissions not prepared by that architect but prepared under the architect's responsible supervision by persons not regularly employed in the office where the architect is resident shall maintain and make available to the board upon request for the prescriptive period applicable to claims against the architect which may arise from his or her involvement in the project adequate and complete records demonstrating the nature and extent of the architect's supervision over and detailed knowledge of such technical submissions throughout their preparation.

Commentary—This provision reflects current practice by which the architect's final construction documents may comprise the work of other architects as well as that of the architect who signs and seals professional submissions. The architect is permitted to apply his or her seal to work over which the architect has both control and detailed professional knowledge, and also to work prepared under the direct supervision of another architect whom he or she employs when the architect has both coordinated and reviewed the work.

3. An architect shall neither offer nor make any gifts, other than gifts of nominal value (including, for example, reasonable entertainment and hospitality), with the intent of influencing the judgment of an existing or prospective client in connection with a project in which the architect is interested.

Commentary—This provision refers to "private bribes" (which are ordinarily not criminal in nature) and the unseemly conduct of using gifts to obtain work. Note that the rule realistically excludes reasonable entertainment and hospitality and other gifts of nominal value.

4. An architect shall not engage in conduct involving fraud or wanton disregard of the rights of others.

Commentary—Violations of this rule may involve criminal conduct not covered by §1701.D.1 (crimes committed "in the conduct of his or her architectural practice"). The Committee believes that a state board must, in any disciplinary matter, be able to point to a specific rule which has been violated. An architect who is continuously involved in nighttime burglaries (no connection to his daytime professional practice) is not covered by §1701.D.1 (crimes committed "in the conduct of his or her architectural practice"). The Committee believes that serious misconduct, even though not related to professional practice, may well be grounds for discipline. To that end, the Committee recommends §1701.E.4. Many persons who have reviewed and commented on the draft rules were troubled by the sententious character of §1701.E.4. The committee has, however, found that lawyers commenting on the rules had little trouble with the standard set in §1701.E.4; it applies to conduct which would be characterized as wicked, as opposed to minor breaches of the law. While each board must "flesh out" the rule, the Committee assumes that murder, rape, arson, burglary, extortion, grand larceny, and the like, would be conduct subject to the rule, while disorderly conduct, traffic violations, tax violations, and the like, would not be considered subject to this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144-145.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Architectural Examiners, December 1965, amended and repromulgated LR 10:739 (October 1984), amended LR 25:1212 (July 1999).

Mary "Teeny" Simmons
Executive Director

9907#008

RULE

Department of Economic Development Board of Examiners of Certified Shorthand Reporters

Guidelines for Professional Practice (LAC 46:XXI.1301)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq. notice is hereby given that the Louisiana Board of Examiners of Certified Shorthand Reporters, has adopted the Professional Code of Ethics Rule.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXI. Certified Shorthand Reporters

Chapter 13. Code of Ethics

§1301. Guidelines for Professional Practice

A. The mandatory Code of Ethics defines the ethical relationship the public, the bench, and the bar have a right to expect from a Certificate Holder. It sets out the required conduct of the Louisiana Certified Court Reporter when dealing with the user of reporting services, and acquaints the user, as well as the Certificate Holder, with guidelines established for professional behavior. The Guidelines for Professional Practice are goals for which every Certificate Holder should strive. Certificate Holders are urged to comply with the Guidelines, which do not exhaust the moral and ethical considerations with which the Certificate Holder

should conform, but provide the framework for the practice of reporting. Not every situation a Certificate Holder may encounter can be foreseen, but fundamental ethical principles are always present. By complying with the Code of Ethics and Guidelines for Professional Practice, Certificate Holders maintain their profession at the highest level.

B. A current certificate holder shall:

1. be fair and impartial toward each participant in all aspects of reported proceedings, treat all parties equally, and always offer comparable services and prices to all parties in a proceeding;

2. be alert to situations that are conflicts of interest or that may give the appearance of a conflict of interest. If a conflict or a potential conflict arises, the Certificate Holder shall timely disclose said conflict or potential conflict to all parties in the proceeding or take the action(s) necessary for extraction from said conflict or potential conflict;

3. guard against not only the fact but the appearance of impropriety;

4. preserve the confidentiality and ensure the security of information, written, entrusted to the Certificate Holder by any of the parties in a proceeding;

5. be truthful and accurate when making public statements or when advertising the Certificate Holder's qualifications or the services provided;

6. refrain, as an official reporter, from freelance reporting activities that interfere with official duties and obligations;

7. determine fees independently, except when established by statute or court order, entering into no unlawful agreements with others, whether for services or charges;

8. deliver requested transcripts of testimony timely to all parties on the same day. Delivery shall be by hand, if reasonable, or by proper posting if hand delivery is not reasonable;

9. refrain from giving, directly or indirectly, any gift, incentive, reward, or anything of value to attorneys, clients, witnesses, insurance company personnel or any other persons or entities associated with (the) litigation, or to the representatives or agents of any of the foregoing, except for:

a. items that do not exceed \$100.00 in the aggregate per recipient each year; or

b. pro bono services as defined by the National Court Reporters Association Guidelines for Professional Practice or by applicable state and/or local laws, rule, and regulations;

10. abide by the applicable nation/state/local laws and court rules and the rules promulgated by the Louisiana Board of Examiners of Certified Shorthand Reporters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554 and 37:2557(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 25:1215 (July 1999).

Milton Donegan, Jr.
Chairman
Office Administration Committee

9907#002

RULE

**Department of Economic Development
Office of Financial Institutions**

Capital Companies Tax Credit Program
(LAC 10:XV.303 and 305)

The following amendments to LAC 10:XV.303 and 305 have been proposed to clarify the ability of investors to obtain income tax credits for making investments in a Louisiana Certified Capital Company. These amendments are required to assure that the Louisiana Commissioner of Administration will be able to anticipate annual budget requirements for those investors who claim income tax credits.

Title 10

**FINANCIAL INSTITUTIONS, CONSUMER CREDIT,
INVESTMENT SECURITIES, AND UCC**

Part XV. Other Regulated Entities

Chapter 3. Capital Companies Tax Credit Program

§303. Definitions Provided by Rule

* * *

Certified Louisiana Capital Company Group—Any two or more CAPCOs which share common management or is under common control, whether such management or control is accomplished directly or indirectly.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1921-1933.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 18:251 (March 1992), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:154 (February 1994), LR 23:1128 (September 1997), LR 25:1216 (July 1999).

§305. Income and Premium Tax Credits

A. - B. ...

C.1. The total income tax credits granted pursuant to R.S. 51:1924.A in any calendar year shall not result in an additional reduction of total income tax revenues of greater than four-million (\$4,000,000) dollars per year.

2. During any calendar year in which this subsection will limit the amount of certified capital for which income tax credits are allowed, certified capital for which income tax credits are allowed will be allocated among Louisiana certified capital companies. Requests for allocation shall be prepared for filing not later than December first on a form prescribed by the department, which form shall include an affidavit by the investor pursuant to which such investor shall become legally bound and irrevocably committed to make an investment of certified capital in a certified Louisiana capital company subject only to receipt of allocation pursuant to this subsection. Any requests for allocation filed with the department before December first of any calendar year shall be deemed to have been filed on

December first of such year. Requests for allocation shall be allocated as followed.

a. When aggregate requests for allocation by certified Louisiana capital company groups do not exceed eleven million, four hundred twenty-eight thousand, five hundred seventy-one dollars and forty-three cents (\$11,428,571.43), all requests for allocation shall be approved by the department.

b. When aggregate requests for allocation exceed eleven million, four hundred twenty-eight thousand, five hundred seventy-one dollars and forty-three cents (\$11,428,571.43), each certified Louisiana capital company group shall be entitled to receive an allocation to be calculated by dividing eleven million, four hundred twenty-eight thousand, five-hundred seventy-one dollars and forty three cents (\$11,428,571.43) by the number of certified Louisiana capital company groups requesting an allocation. In the event that this allocation results in one or more certified Louisiana capital company groups receiving an allocation in excess of the amount which was requested, the excess shall be reallocated to the remaining certified Louisiana capital company groups on an equal basis until the entirety of the allocation has been fully distributed.

3. No certified Louisiana capital company certified after December first of any year shall be entitled to receive an allocation pursuant to Paragraph (b) of this Subsection for the same calendar year in which it was certified.

4. Annually within ten days of December first, the department shall review all requests for allocation of income tax credits and notify the certified Louisiana capital companies of the amount of certified capital for which income tax credits are allowed to the investors in such company. During this ten day period, each CAPCO or CAPCO group may allow for the substitution of one investor for another investor when the initial investor is unable or unwilling to complete the proposed investment.

5. In the event a certified Louisiana capital company or group does not receive an investment of certified capital equaling the amount of the allocation made pursuant to paragraph (b) of this Subsection within ten days of its receipt of notice of such allocation it shall notify OFI within 3 days. The unused portion will be redistributed on an equal basis among any remaining CAPCOs or CAPCO groups that have not received an allocation equal to their initial request.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1924, 1927, 1928 and 1929, and R.S. 22:1068(E).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended LR 12:664 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 16:762 (September 1990), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:154 (February 1994), LR 23:1132 (September 1997), amended LR 25:1216 (July 1999).

Doris B. Gunn
Acting Commissioner

9907#025

RULE

Board of Elementary and Secondary Education

Bulletin 1179—Driver Education, Traffic Safety, and Administration Guide (LAC 28:XXXI.Chapters 1-15)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq. the State Board of Elementary and Secondary Education approved for advertisement revised Bulletin 1179. Bulletin 1179 is designed to provide administrative guidelines and curriculum content to school administrators and Driver Education Teachers in Louisiana. The Bulletin was revised to modernize and update its contents.

Title 28 EDUCATION

Part XXXI. Bulletin 1179—Driver Education, Traffic Safety, and Administrative Guide for Louisiana Schools Chapter 1. Rationale

§101. Introduction

A. This publication was prepared as a guide to teaching students the attitude and skills necessary for safe driving performance and as a reference for administrators and instructors working with the Driver Education Program. Emphasis is placed upon pupil participation and a positive approach to the many phases of driver education.

B. The secondary schools are the best equipped, both from a professional and a psychological standpoint, to prepare young drivers for the driving task and its inherent hazards. The best time to train drivers is before their driving habits and attitudes have crystallized.

C. Learning tasks that individuals perform relative to driving and traffic safety serve as focal points around which to structure the curriculum. In this project, objectives and content items were derived from and centered around what people do, on and off the highway, in relating to the traffic system. Behavioral objectives were included where they contribute to a decision on performance involved in one of the tasks.

D. Instructional objectives are stated in terms of expected student outcomes and imply both method and content. They exhibit constructive changes to be produced in the behavior of students. This approach tends to motivate and direct the learning process. Objectives related to operator tasks present real world behavior (passing, turns, entering freeways, etc.). In some cases, the behavior that can be taught and evaluated during the course only enables students to perform effectively in real world situations. In every case, however, objectives stress student-environment interaction as opposed to student-instructor interaction.

E. Before Driver and Safety Education can hope to modify the behavior of students, instructors must become more than dispensers of information and trainers of skills. Concepts that students discover are more meaningful and remembered longer than those handed down to them or imposed upon them. In short, information and skills must be taught in such a climate that students see and accept the responsibilities associated with the learnings.

F. The human functions - Search, Identify, Predict, Decide, and Execute - involved in performing safe traffic related tasks, serve as references throughout this guide. Each

unit of study is designed to improve learner capability in one or more of these functions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1217 (July 1999).

Chapter 3. Format of Curriculum

§301. Goal of Driver Education

A. The goal of driver education is the training of traffic citizens who will be safe, efficient and skilled users of the highway transportation system. To achieve this goal we must provide the best instructional system utilizing existing resources and modern technology. The program of instruction provided in this guide is one that is relevant, measurable, and structured for effective learning.

B. When driver education is properly taught it promotes a reduction of accidents and fatalities on the highway. It also provides an excellent medium for the development of self-control and accurate thinking; and social responsibilities are more easily taught in connection with an activity that the student feels to be vitally significant. As such, educated drivers can become the best drivers on our highways.

C. The program of instruction outlined here for driver education reflects recent trends and developments in curriculum construction and traffic safety research. The basic approach follows the task analysis procedures that have been developed and utilized for describing and analyzing the individual's role in man-machine systems. By describing the human functions in relationship to their role in performing the driving task, emphasis is placed upon the behavioral processes. The content of the course, then, focuses on the processes, decisions, commitments and actions of drivers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1217 (July 1999).

§303. Overview of Instructional Units

A. The suggested program of instruction is divided into ten classroom units and six laboratory units. These units should be considered as guides or blueprints from which to build a quality driver education program that meets the needs of each local system. The units provide adequate materials for the minimum program, and they can easily be expanded for the development of an optimum program.

B. Classroom unit one serves as an overview of the complete course by providing for a description of the highway transportation system and driving task requirements. Such an orientation not only provides a baseline or road map for future reference, but it can continue throughout the course. The student will get acquainted with the purpose of the highway transportation system at large. He/she will also get some brief information on how the system malfunctions so he/she can better appreciate and, later, anticipate those disturbances and failures that are a part of the operational environment whenever he/she is a user of the system. In essence, the first unit tries to answer these questions:

1. Why am I here?
2. What can I hope to accomplish?
3. What will I be doing?

C. Classroom units two through six and all the laboratory units deal with the competencies or human performances required for becoming a proficient driver. It is in these units that the principles for sensory perception, judgmental abilities, and decision making are demonstrated and applied in realistic settings. Although these human functions or abilities are integrated into observable classes of behavior, there seems to be no doubt that errors or poor performance can occur at any point. Therefore, it is important to set up separate training programs and evaluative criteria for each definitive ability. For each of these abilities which must be practiced if proficiency is to be acquired, there is a body of knowledge that must be integrated for proper training to take place.

D. Other classroom units are concerned with driver condition and responsibilities. Drivers must be responsible if the highway transportation system is to be operated effectively. Responsible drivers must have a properly registered and mechanically safe vehicle. They must recognize the degree to which such factors as emotions, fatigue, drugs, and alcohol can affect their driving proficiencies. Once students have learned the role certain human functions have in driving, and the proficiency levels that must be obtained, then they are psychologically ready to study those factors which can impair their driving proficiency.

E. Dominant themes or strands of knowledge are established, expanded, reinforced, and applied throughout the units. The mental and social aspects of driving are introduced in the first unit and then become the rationale for introducing each subsequent unit. Other such themes are traffic regulations, vehicle performance requirements (space, time, and traction), and the common traffic situations. Provision is also made for that common thread of education which should run through all secondary school curricula—the *development of the ability to think*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1217 (July 1999).

§305. Structure and Format of Units

A. The units are divided into two or more segments with the three major components needed to develop daily lesson plans provided for each of the segments. First, instructional objectives are stated in behavioral terms as derived from a task analysis approach. Then, a brief outline of subject matter content is included. Finally, a few suggested learning activities are described. As such, each segment is a self-contained teaching-learning package.

B. Each unit also contains a Definition of Terms, and a brief discussion of the General Approaches to the Unit.

C. The general format used for each unit is as follows:

Chapter Title

Unit Title

A.

(Title of Segments)

B.

Rationale Statements

Unit Objective

A. (Segment Title)

Instructional Objectives

1.

2.

Content Outline

1.

a.

b.

2.

3.

Activities

1.

2.

B.

Definitions of Terms

General Approaches to Unit

Answer Key to Tests

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1218 (July 1999).

§307. Development of Lesson Plans

A. For the suggested units of instruction to be of value, an instructor should use them as a guide to develop meaningful daily lesson plans. Each segment of a unit lends itself to the development of one or more lessons. These lessons can then be combined in a way that is relevant to the local school situation. This flexibility should make it easy for each school to determine its own sequence and time allotments. They are also quite applicable to the laboratory methods of instruction, be it single-car, simulation, or multiple-car range.

B. The starting point is the selection of an objective. The objectives provided were written so as to clarify the intent of instruction. They not only furnish guidance and motivation to both student and instructor, but they also become guides for selecting content and standards for evaluation. In some cases these objectives may need to be broken down into more specific subordinate objectives. If necessary, these and other enabling objectives can be formulated so that the instruction can begin with the entering capabilities of the students.

C. Once the lesson objectives are identified and defined, the content and definition of terms will need to be selected. In most cases the content provided will need to be expanded and reorganized. It is important to clearly identify all fundamental concepts and generalizations and skills that are basic to the required activities. An instructor should guard against including unnecessary content. The worst thing about a course loaded with unnecessary content is that such content gets in the way of the objective. When students have a difficult time telling what is relevant and irrelevant, they may try to learn everything and suffer from such overload.

D. A concept, such as *right-of-way* or *hazard*, is a relatively complete and meaningful idea in the mind of a person. Concepts are not facts. Facts may be used in teaching concepts, but it is possible to teach many facts without teaching a single concept. Simply teaching discrete facts and skills with little regard for their context in a broader structure makes it difficult for students to comprehend, remember, and apply the learnings.

E. A clear statement of a concept or principle to be acquired by students will save much lost motion in lesson planning and indicate a productive learning experience to be set up. In the *Process of Education*, by Bruner, four claims are made for teaching fundamental concepts, and principles.

These claims are:

1. Understanding fundamentals makes a subject more comprehensive. To understand something as a specific instance of a more general case is to have learned not only a specific thing, but also a model for understanding other things like it that one may encounter. Students learn best if they study meaningful material.

2. Unless detail is placed into a structured pattern, it is rapidly forgotten. Organizing facts in terms of principles and ideas from which they may be inferred is the only known way of reducing the quick rate of loss of human memory.

3. More adequate *transfer of training* can take place. The more a student learns fundamental principles and concepts and has opportunities to apply them, the greater will be the transfer of learning.

4. One is able to narrow the gap between *advanced* knowledge and *elementary* knowledge.

F. Perhaps the most important task of a teacher is the specification of student learning activities followed by guiding students through such experiences. Learning activities are explicit descriptions of what the student does to reach objectives. Essentially students learn through what they do rather than what is done to them. The more active the participation of the learner, the more effective the learning. Therefore, activities must be designed to involve the student in those performances required by the objective.

G. A number and variety of activities have been described for each segment of a unit. Because individuals are different, a variety of activities leading to the same objective should be included for each lesson. At least three or more diversified activities should be included for each objective. Of course, it is not intended that all activities be used in any one class. Grading or scoring of most activities should not be required by a teacher. However, some sort of feedback should be provided by other students, teachers, or a self-checking device.

H. The case history method for developing activities offers one of the best approaches to traffic safety problems. In dealing with other persons in real life situations, the student becomes involved. Students identify easily in such situations. Their intellectual curiosity impels them to stay with the problem until a solution is worked out.

I. Finally, unit tests will need to be developed to measure the effectiveness of the instruction and the extent to which students are achieving the objectives. Multiple choice tests have been provided for some of the unit segments.

J. Here are some principles that were used in the development of the unit materials and that are recommended as guides for the development of daily lesson plans.

1. Teachers get the best results when:
 - a. the objective of instruction is learning by the student;
 - b. experience is recognized as the key factor in learning;
 - c. arranging of learning environments and providing guidance for learning are the major teacher tasks.
2. Students learn best if they:
 - a. are actively involved;
 - b. receive guidance and positive reinforcement;
 - c. have a wide variety of experiences in rich and varied environments;

d. have experiences which are organized around purposes they will accept;

e. have opportunities to learn from each other.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1218 (July 1999).

Chapter 5. Administrative Policies

§501. Introduction

A. It is important that administrators and instructors are aware of the various State laws, State Board of Elementary and Secondary Education Policies, and Department of Education Policies governing driver education.

B. Strict adherence to these laws and policies by all persons connected with driver education will assure efficient operation of the program and will aid in the establishment and/or continuation of a quality program of driver education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1219 (July 1999).

§503. Driver Education and Training Program for Children. R.S. 17:270

A. The State Board of Education and the State Department of Education shall establish and operate a driver education and training program in each parish of this state for children of secondary school age. The program shall consist of a course of not less than six hours of actual driving experience and thirty hours of classroom instruction. The aims and purposes of the driver education and training program shall be to educate drivers to be competent, to develop a knowledge of those provisions of the law of this state relating to the operation of motor vehicles, a proper acceptance of personal responsibility in traffic, a true appreciation of the causes, seriousness and consequences of traffic accidents, and to develop the knowledge, attitudes, habits and skills necessary for the safe operation of motor vehicles.

B. The State Board of Education shall prescribe such rules and regulations as are necessary and proper to provide for the conduct and operation of the driver education and training program. The State Board of Education shall approve operating procedures defining the conduct and scope of the use of driving simulators to be used in the program. In addition to and supplementary to all other powers authorized by law, the State Superintendent of Public Education is authorized to purchase for cash or by lease-purchase agreement all the necessary equipment, visual and training aids and devices, and all related materials required to conduct and operate the program.

C. The State Superintendent of Education shall account for all funds provided for and expended under authority of this action in a detailed statement submitted to the next regular session of the legislature, and annually thereafter.

D. The driver training program conducted by the State Department of Public Safety under the authority of R.S. 40:1461-40:1465 is hereby abolished and all driving simulators, necessary equipment, visual and training aids and devices and related materials used in such program shall be transferred to the State Board of Education and the State Department of Education. All funds appropriated to the State

Department of Public Safety for the conduct of the driver training program shall be transferred to the State Department of Education.

E. The State Board of Elementary and Secondary Education may establish a standard cost per student enrolled in driver education and training programs, based upon the annual cost of the driver education and training program and allocation of such cost on a pro rata basis among the students in the program. The board may require local education agencies to reimburse the Department of Education for the cost of such program based upon the number of students in the program in the local education agency and the standard cost per student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1219 (July 1999).

§505. Driver Education and Training; Fees

R.S.17:271.1

A. Notwithstanding any provision of law to the contrary, each city and parish school board, when sufficient funds are not provided by state or federal funding sources for drivers education and training programs, may authorize the conduct of such programs for secondary school students or adults at any school site within their jurisdiction on such a fee-paying basis as is necessary to cover the expenses associated with the conduct of such training, including the salary and benefits of an instructor. However, any funds generated through payment of such fees shall be used solely to support the cost of a driver's education program and may not be diverted to other purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1220 (July 1999).

§507. Driver Education; Required. R.S.32:402.1

A. No application for a license for the operation of a motor vehicle shall be received from any person seventeen years or older making application for the first time unless there is also submitted with the application, on a form approved by the secretary of the Department of Public Safety and Corrections, written evidence of the successful completion by the applicant of:

1. A "driver education course", which shall include training of railroad and highway grade crossing safety, approved by the Department of Public Safety and Corrections or the Department of Education.

2. A "prelicensing training course" if a behind-the-wheel course is not completed. The prelicensing training course shall consist of a minimum of six hours of instruction in the National Safety Council's defensive driving course, Louisiana's traffic safety laws, and substance abuse education, or shall be an equivalent course approved and certified by the Department of Public Safety and Correction. The secretary of the Department of Public Safety and Corrections shall adopt rules relating to the prelicensing training course. Oversight review of these rules shall be conducted by the House and Senate Committees on Transportation, Highways and Public Works. The rules shall provide for:

- a. licensing of training agencies;
- b. course content and presentation;

- c. instructor qualifications and certification;
- d. classroom size and facilities;
- e. certificates of completion;
- f. required records and reporting;
- g. fees, which shall not exceed twenty-five dollars per student;
- h. penalties.

B. The provisions of this Section shall not apply to any person applying for a renewal license under the provisions of this Chapter or to any person living twenty-five miles or more distant from a location providing a "prelicensing training course."

C. Beginning one year after the appropriation of funds by the legislature to the State Department of Education for the implementation of a driver education and training program for all children of secondary school age in each parish of this state, and upon the certification by the state superintendent of public education to the secretary of public safety that such program is operating in each parish of this state, no application for the operation of a motor vehicle shall be received from a minor sixteen years of age or older unless there is also submitted with the application, on a form approved by the secretary of public safety, written evidence of the successful completion by the applicant of a driver education course approved by the Board of Elementary and Secondary Education or the Department of Public Safety and Corrections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1220 (July 1999).

§509. Learner's License; School Instruction Permit; Special Restrictions on Motorcycles. R.S.32:422

A. Any person who is at least seventeen years of age may apply to the department for a learner's license to drive motor vehicles or power cycles, provided such person has completed a driving course in accordance with R.S. 32:402.1. The department may, in its discretion, after the applicant has successfully passed all the parts of the examination, other than the driving test, issue to the applicant a learner's license at the regular fee of a Class E driver's license which shall entitle the applicant while having such license in his immediate possession to drive a motor vehicle upon public highways when accompanied by one licensed driver at least twenty-one years of age, or when accompanied by a parent or parents, and it shall be unlawful for any other person to accompany the beginner and licensed driver, except in the event the applicant is operating a motorcycle. Any person under the age of seventeen who has a valid learner's license and is operating a motorcycle is restricted to a distance of three miles from the applicant's residence, unless a parent, tutor, or other person having custody is temporarily staying or residing at another location, where the applicant would be restricted to within three miles of that location. Any person seventeen years of age or older being issued a learner's license may apply for a regular class "E" license thirty days after the issuance of a learner's license, or at any time after the issuance of the learner's license provided the applicant provides proof that the applicant has completed an approved thirty-six hour driver education course, and there shall not be any additional fee for the regular license.

B. Any person who is at least fifteen years of age may apply to the department for a school instruction permit if he is enrolled in a driver education course conducted by a person who meets certification requirements as established by the Board of Elementary and Secondary Education or the Department of Public Safety and Corrections for teachers of driver education and traffic safety. The department may, in its discretion, after the applicant has successfully passed all parts of the examination, other than the driving test, issue to the applicant a school instruction permit for which no fee shall be charged. Such school instruction permit shall be valid only during the period of such instruction, and when the person to whom the permit is issued is accompanied by the high school instructor of driver education and traffic safety. Such permit shall be in the possession of the instructor during the period of its validity and shall be presented at any time for examination, when so requested by any law enforcement officer. Upon completion of such course of instruction, it shall be the responsibility of the instructor, as directed by the department, to return for cancellation any and all permits which have been issued and are held by him. Effective January 1, 1998.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1220 (July 1999).

§511. SBESE Regulations Governing Driver Education

A. The Louisiana State Board of Elementary and Secondary Education (SBESE) has adopted the following policies and regulations concerning Driver Education.

1. SBESE establishes and prescribes the following minimum standards for use by the Louisiana State Department of Education in approving courses in Driver Education for secondary school children.

a. For any public or non-public regular day school, to receive approval of its course(s) in Driver Education and/or Training, the minimum standards listed below must be met.

b. All phases of the Driver Education and/or Training course(s) must be taught by a person who meets the current certification requirements as established by the SBESE for instructors of Driver Education and/or Training and who is currently certified by the Louisiana State Department of Education as an instructor of Driver Education and/or Training.

c. The Driver Education and/or Training Course(s) must be comprised of classroom and laboratory instructional phases meeting the following standards.

i. Classroom Instruction. This phase of instruction:

(a). must be offered for a minimum of thirty (30) clock hours (with no more than five (5) clock hours of instruction to be given during any twenty-four (24) hour period);

(b) must include areas of instruction currently prescribed by the Louisiana Department of Education; and

(c). must be taught in a Department approved school classroom suitable for the proper conduct of the class.

ii.(a) Laboratory Instruction. This phase must utilize one of the options listed below:

(i). Option 1. In offering Laboratory Instruction under this option, a maximum of twelve (12)

clock hours of instruction in a State-approved driving simulator may be substituted for the first three (3) hours of instruction in a dual-controlled automobile. The last three (3) clock hours of instruction must take place in a dual-controlled automobile where the student is the actual operator of the automobile. After dusk and before dawn operator instruction in a vehicle shall not be given by the instructor.

(ii). Option 2. In offering Laboratory Instruction under this option, a minimum of six (6) clock hours of instruction with the student as the operator of a dual-controlled automobile must be offered. After dusk and before dawn operator instruction in a vehicle shall not be given by the instructor.

(b). Either option must include areas of instruction currently prescribed by the Louisiana Department of Education.

(c). A student who has received the complete classroom instruction of Units II, IV, V and IX may begin the Laboratory phase of Driver Education. The suggested teaching time for each of these classroom units is three hours. No student shall be allowed to successfully complete and pass Driver Education without having received instruction in all of the classroom and laboratory units contained herein.

(d). At a minimum a student must be administered and pass written testing covering the above referenced units before being allowed to participate in the laboratory phase of the driver education course. See Chapter 7, §705-G.

(e). No individual shall be positioned between the instructor and the student vehicle operator during operation of the driver education vehicle. It is recommended that in addition to the student vehicle operator and whenever possible a minimum of at least one other student should be in the vehicle as an observer during vehicle operation instruction.

d. Public and non-public secondary regular day schools are to grant one-half () unit credit to students who satisfactorily complete the Classroom and Laboratory Phases of an approved course in Driver Education. *Proprietary schools and commercial driving schools have not been designated the approved status required for the granting of Carnegie units.*

e. At least annually and at more frequent intervals as deemed necessary by the Louisiana Department of Education, all public or non-public regular day schools, must apply on forms prescribed by the Louisiana Department of Education (either annual school report or summer school application), for approval of its course(s) in Driver Education and/or Training.

2. The above minimum standards would apply in connection with R.S. 32:402.1 relative to the initial issuance of a driver's license to those persons who have successfully completed an approved course of Driver Education and/or Training. In addition, these standards would apply to the possible reduction of automobile insurance premiums for those persons who successfully complete and approved Driver Education and/or Training program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1221 (July 1999).

§513. Certification for Driver Education Teachers

A. Beginning with the 1997-1998 school year the following requirements and courses as approved by the SBESE apply to any teacher requesting certification in Driver and Traffic Safety Education. These requirements, as set forth in the Department's Bulletin No. 746, (Revised), Louisiana Standards for State Certification of School Personnel, are as follows:

1. a valid Louisiana teaching certificate;
2. a Louisiana driver's license;
3. a driving record clear of conviction of major accidents and/or repeated traffic violations;
4. specialized education:
 - a. General Safety Education - 3 hours;
 - i. basic safety information (home, school, traffic, community, and industrial safety) and general information on psychology of accident prevention;
 - b. Basic Information Course in Driver Education - 3 hours;
 - i. investigation of the problems facing drivers such as those of pedestrians, cycles, alcohol and drugs, traffic engineering problems, and study of the philosophy of Driver Education as it exists in our society;
 - c. Curriculum Innovations and Instructional Devices - 3 hours;
 - i. In-depth study of Driver Education and traffic safety curricular materials and familiarization with related instructional devices;
 - d. First-Aid - 1 hour;
 - i. Elementary and Secondary Education policy;
 5. revocation upon being convicted of repeated traffic violations or any major crime or accident involved in or related to the operation of a motor vehicle.

Note: For additional information concerning the certification requirements listed above, contact the Division of Certification and Higher Education, State Department of Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1222 (July 1999).

§515. Plans for Utilizing Driver Simulators

A. In the practice driving phase, a maximum of twelve hours instruction in a state-approved simulator may be substituted for the first three hours instruction in an automobile in meeting the Driver Education practice driving requirement. Simulator practice driving time must be in a ratio of four to one; that is, four hours of simulator experience equals one hour of actual practice driving instruction in an automobile. Thus, the student is to spend twelve hours in a simulator and the last three hours in a dual-controlled automobile in meeting the practice driving requirements under this plan.

B. Academic Credit for Driver Education—At its meeting of July 31, 1965, the SBESE adopted the following policy regarding academic credit for satisfactory completion of both phases of Driver Education:

Upon satisfactory completion of both Phase A (Classroom) and Phase B (Laboratory) of an approved Driver Education program, the student is to be granted one-half () unit credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1222 (July 1999).

§517. Louisiana Department of Education Regulations

A. Age-Grade Placement of Driver Education. Driver Education should be offered to students prior to their reaching the minimum legal age to obtain a regular Class E Driver's License. This procedure has been provided for by R.S. 32:422.

Any person who is at least fifteen years of age may apply to the department for a school instruction permit if the student is enrolled in a Driver Education Course conducted by a person who meets certification requirements as established by the Louisiana SBESE for teachers of Driver Education and Traffic Safety."

B. Placing Driver Education at the ninth grade level has many advantages and values. From an administrative point of view it is easier, usually, to keep the various ninth grade sections together, which makes scheduling easier. Also, scheduling Driver Education at this age-grade level will present it before the pupil has had much, if any, driving experience. Thus, many of the undesirable behavioral patterns and bad driving habits that might be developed in the next year or two can be avoided. Placing Driver Education at the ninth grade level also reaches the potential dropout, who needs such a subject for career oriented vocations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1222 (July 1999).

§519. Scheduling Driver Education

A. In scheduling students for Driver Education, it must be kept in mind that all instruction must be completed within a twelve-month period from date of enrollment. The classroom phase of Driver Education must be taught for a minimum of 30 clock hours to meet the minimum standards.

B. Various vehicle manufacturers have programs designed to either lease or loan eligible Driver Education vehicles through their dealerships or program headquarters. For information concerning this matter contact the appropriate dealership of choice.

C. Any vehicle utilized in a Department of Education approved Driver Education Course, regardless of its source, shall at a minimum meet all of the following specifications:

1. working heater and defroster;
2. dual floor brake controls;
3. current state inspection tag affixed to the automobile windshield;
4. current insurance coverage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1222 (July 1999).

§521. Recommended Minimum Insurance Coverage for the Driver Education Automobile

A. In order for the automobile owner (i.e., dealer etc.), school board and instructor to be adequately protected in case of an accident, the following suggested minimum insurance protection is given:

Bodily Injury Liability	\$100,000 each person \$300,000 each accident
Property Damage Liability	\$100,000 each accident
Medical Payment	\$ 10,000 each person
Comprehensive	\$100 deductible
Collision or Upset	80% or \$250 deductible

B. In providing this insurance protection, it has been the policy for many years for the automobile owner to contract for the insurance protection with the agency of his/her choice. The automobile owner should also agree to endorse the policy or policies to cover the school board. The insurance company should furnish a certificate stipulating that the school board and the Driver Education teacher are covered, and that the teacher, while on duty, will be insured against any liability on account of negligence on the part of the student being given instruction in the automobile. Provisions should be made to cover any student in the automobile.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1222 (July 1999).

§523. Restriction on Use of the Driver Education Automobile

A. Automobiles provided by dealers are to be used for Driver Education purposes only. *Any other use is prohibited.*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1223 (July 1999).

§525. Proper Identification of the Driver Education Automobile

A. All Driver Education vehicles should be so identified by the use of Student Driver or Driver Education decals. It is requested that no other form of identification be used. A decal should be placed on each side of the automobile and one should be placed on the rear of the automobile. These decals are available from various vendors and should be made of materials and adhesive that make removal of them possible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1223 (July 1999).

§527. Records

A. Application and School Instruction Permit. DE 1821 (R10/95)

1. This form is a four-page snap set. Its primary purpose is to provide temporary licensing for unlicensed student drivers only. With the development of the four-page snap set, other purposes include providing evidence of completing Driver Education for the student and a complete record for the local school board office, and the local school. These records must be kept locally for at least 10 years to comply with Federal and State laws.

2. A complete discussion of the processing of this form may be found beginning with §705. Each appropriate administrator and Driver Education instructor must become familiar with these regulations. No exceptions are to be made to the regulations concerning the issuance of the Permits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1223 (July 1999).

§529. Sources of Teaching Aids and Other Supplies

A. The following Driver Education materials are available from the Department of Education, Office of School & Community Support Services:

1. Application and School Instruction Permits (DE1821);

2. Administrative and Curriculum Guide (Bulletin 1179).

B. There are many materials, publications and videos available for use in Driver Education classes. These may be obtained from most of the major textbook publishers, automobile manufacturers and other companies interested in Safety and Driver Education. In addition, copies of the *Louisiana Driver's Guide* are available from the Department of Public Safety and Corrections, Office of Motor Vehicles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1223 (July 1999).

Chapter 7. Regulations Governing the Issuance of the Application and School Instruction Permit

§701. Introduction

A. Every driver education instructor who offers on-street laboratory instruction as part of the driver education program shall become familiar with the contents of this portion of the curriculum guide and shall comply with the regulations set forth for this guidance.

B. It shall be the responsibility of every instructor to restrict laboratory (practice driving) instruction to those students for whom school instruction permits have been prepared in compliance with these regulations. This is with reference to Title 32, Section 422, of the Louisiana Revised Statutes specifically concerning school instruction permits, as follows.

1. Any person who is at least fifteen years of age may apply to the department for a school instruction permit if he is enrolled in a driver education course conducted by a person who meets certification requirements as established by the Louisiana State Board of Elementary and Secondary Education for teachers of driver education and traffic safety. The department may, in its discretion, after the applicant has successfully passed all parts of the examination, other than the driving test, issue to the applicant a school instruction permit for which no fee shall be charged. Such school instruction permit shall be valid only during the period of such instruction, and when the person to whom the permit is issued is accompanied by the high school instructor of driver education and traffic safety. Such permit shall be in the possession of the instructor during the period of its validity; and, shall be presented at any time for examination when so requested by any law enforcement officer. Upon completion of such course of instruction, it shall be the responsibility of the instructor, as directed by the department, to return for cancellation any and all permits which have been issued and are held by him.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1223 (July 1999).

§703. The Application and School Instruction Permit

A. Application and School Instruction Permit(s) DE1821 (R10/95) are made available to local school board offices and approved nonpublic schools through the Department's Office of School and Community Support Services. Permits shall not be used in association with Driver Education courses either not listed on Department of Education Annual School Reports or Approved Summer School Applications. Orders for permits should be submitted on school board or school stationary.

B. The permits which are printed with blue ink are serially numbered. Each school board office and individual Driver Education instructor shall be held accountable for their distribution. All unused or spoiled permits must be returned to the school principal or appropriate school board supervisor.

C. The permit which is to be issued only to unlicensed student drivers is a four sheet snap-set designed for the following uses or purposes.

1. The original copy which is printed on safety paper is to be given to the student upon satisfactory completion of the driver education course. The student is to present this sheet to the Driver's License Examiner upon application for a regular driver's license. *It is to be given to the student only upon his/her satisfactory completion of the driver education course. Never release a blank permit to a student.*

2. The student should also be given the second sheet along with the original in order that he/she can provide documentation of successful course completion to his/her insurance agent for possible insurance premium reduction.

3. The third sheet (pink copy) of the set is to be returned to the local school board office to be retained in their files for at least ten years in order to comply with State and Federal rulings on this subject.

4. The fourth sheet is to be retained for at least ten years in the files of the local school where the course classroom sessions were presented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1224 (July 1999).

§705. Procedures for Issuing Application and School Instruction Permits

A. Procedure for Completing Permit

1. Various portions of the application-permit shall be completed in the following order:

a. information concerning *student's description and address* and questions of personal information on front of application;

i. Student affixes signature and date classwork begins. (Refer to Section B.);

b. completion of section captioned *To Be Used Only If Applicant Is A Minor*. (Refer to Section C.);

c. completion of sections concerned with:

i. visual tests (Refer to Section D.);

ii. hearing (Refer to Section E.);

iii. physical condition (Refer to Section F.);

d. indicate completion date (Refer to Section G.).

B. Student's Description and Address

1. The student is responsible for providing correct information in legible form on front of application by using a ball-point pen. Applications should be completed under supervision and with assistance of the instructor.

NOTE: Advise student that application becomes permanent record, therefore accuracy and neatness are essential.

2. The student's birthday must be carefully checked, since it is unlawful to issue a school instruction permit to anyone who has not reached his/her 15th birthday.

3. For color of eyes, describe as blue, brown, gray, hazel, or green. Do not use vague descriptions, such as *dark* or *light*. Do not abbreviate *blue* or *black*. Brown may be abbreviated *br*.

4. Check the height in feet and inches, and write down, as 5'10" or 5 ft. 10 in. If applicant's statement does not seem reasonable, measure him.

5. All questions on the front of the applicant-permit must be answered truthfully and correctly by the student. The student should sign with *usual signature*, not necessarily his/her full name. This is for identification purposes. *It must be written with a ball-point pen.*

C. Minor Drivers

1. If the applicant is a minor it is mandatory that one parent sign the application in the presence of a notary public or a designated representative of the Drivers License Division, who in this case is the driver education instructor.

2. In case of a minor, if both parents are deceased, or have lost custody, the application must be signed by the applicant's legal guardian, if he/she has one. The instructor must require proof that the person is the legal guardian.

3. This section must be completed in its entirety before the instructor affixes his/her signature in the space directly below the section in question, *and before the results of any tests are recorded on the application.*

D. Visual Tests

1. Set-up of Chart

a. The room where this test is given should be at least 20 feet long, well lighted, and large enough to facilitate proper examination procedures.

b. Obtain a standard Snellen eye test chart. Place it in a position with light from the outside coming from behind, or from one side, of the applicant. Do not have any natural or artificial light shining directly into the applicant's eyes.

c. Place the chart on the wall so that the middle of the chart is three to four feet above the floor.

d. Measure 20 feet from the chart and mark the exact distance on the floor using a line or thumb tack. Place a chair for the applicant to sit in so his eyes will be exactly 20 feet from the chart. Also, mark the 15-foot, 10-foot, and 5-foot lines.

2. Color Test

a. Ask the student to name the colors of the bars or spots on the chart. If the student correctly recognizes green and red, record the results in the appropriate space, opposite the word *Color*, and proceed to the next step.

b. If the student definitely misses either, record the fact, then explain to the student how he/she can compensate for this color deficiency. Tell the student that he/she will

have to exert extra precautions by observing the position of lights in traffic signals, and to observe flow of traffic at traffic-signal lights in unfamiliar localities. Do not fail the student for color blindness alone.

3. Acuity

a. If the student wears glasses or contact lenses, ask him/her to read, with both eyes open, each letter in the 20/20 line. If he/she does not miss over 1 or 2, score him in the space provided as 20/20. If he/she cannot read the 20/20 line, go *up* to the next line (20/40) and so on until you have found the lowest line he/she can read correctly; record the score on this line. The student should not miss over one-fourth ($\frac{1}{4}$) of the letters on any line.

b. Repeat test with *right eye* except that you have the student read from *left to right*. Repeat with *left eye* from *right to left*.

c. Next, ask student to remove the glasses or contact lenses and allow sufficient time for visual adjustment due to lack of glasses or contact lenses. If glasses or contact lenses are worn, test must be given *without glasses* or *contact lenses* as was used *with glasses* or *contact lenses*. If student cannot see well enough without glasses or contact lenses to meet the state's requirements for unrestricted license, explain to him that he must wear glasses or contact lenses at all times and note under remarks, Restricted to glasses or contact lenses.

d. If the student cannot meet the minimum standards with glasses or contact lenses, the examination must be discontinued at this point. The student should be advised of your findings in such a manner that he/she will appreciate it and at the same time will be able to explain to his/her parents the need for further examination by an eye specialist. *Do not* recommend any specific oculist or optometrist; simply advise the student that he/she should see an eye specialist of his/her own choice. After the examination, treatment, or fitting of glasses or contact lenses, re-examine the student and proceed with test. Attach any statement from eye specialist to the student's application.

4. Acuity Standards

a. The following acuity standards have been established by the State Department of Public Safety, Drivers License Division and must be complied with, without exception.

i. *Without glasses*, applicant must identify 20/40 or better in each eye to pass. *With glasses*, applicant must identify 20/40 or better in each eye to pass. (*Restricted to glasses*) *Blind in one eye, without glasses*, applicant must identify 20/40 or better to pass. *Blind in one eye, with glasses*, applicant must identify 20/40 or better to pass. (*Restricted to glasses*).

ii. An applicant failing to pass is referred for professional visual care. After he/she has received attention, he/she may again apply for a school instruction permit.

iii. Students who are blind in one eye should be thoroughly instructed as to the nature of their handicap and given every assistance necessary for proper means of compensation.

iv. One-Eyed Applicants. This group may include cross-eyed individuals and those with one impaired eye which for any reason cannot be made to meet the minimum requirements. A statement from an eye specialist to this

effect would place the student in the category of *blind in one eye*, and he should receive the same consideration, including thorough education to his handicap.

v. If a student fails to meet the minimum requirements after professional care and after presenting a certificate from the eye specialist, full information concerning the individual case should be forwarded by the instructor to the Chief of Safety Education, State Department of Education. This information will be forwarded to the Drivers License Division in order that a ruling may be secured. The instructor will be advised of the decision.

E. Hearing

1. At some point in testing, give the student instructions in a clear, ordinary tone of voice. If he hears you and follows instructions, check his hearing as *good*. If he asks you to repeat, he may have some hearing difficulty. Check such cases carefully. Stress the use of the outside rearview mirror and hearing aids. (Since deaf students will usually be instructed by special instructors, detailed instructions will not be given in this section on hearing.)

F. Physical Condition

1. Generally speaking, the instructor will have had an opportunity to observe the manner in which a student moves and will recognize any physical abnormalities such as stiffness of joints and difficulty of locomotion. Unless the student has a missing limb, or displays any difficulty which may make operation of motor vehicle unsafe, check space, *None Noted*.

2. If student presents any noticeable abnormality, especially missing members, use of crutches, or braces, a ruling should be obtained from the Drivers License Division on each individual case.

G. Test Scores

1. No student shall successfully complete a driver education course without first having been administered and passed both written knowledge and laboratory tests. The course instructor or appropriate system supervisor may design these tests. The written knowledge test should be based on information contained in this publication and the Louisiana Driver's Guide. Copies of the guide should be made available to the students at the beginning of the course.

a. Knowledge Test. If multiple written knowledge tests are administered to a student an average score of 75 must be obtained by the student to qualify for laboratory instruction. If the instructor elects to administer only a final written knowledge test the student must score no less than 75 percent correct to qualify for laboratory instruction. No student may participate in the laboratory phase of driver education without first having been instructed and tested on units II, IV, V and IX.

b. Laboratory Test. A student must obtain an average score of 75 if multiple driving tests are administered or a score of no less than 75 percent correct if only a final driving test is administered.

2. A student's overall test score (grade) shall be determined by averaging the final scores of the written knowledge test and the laboratory test. This overall score shall be placed on the student's *Application and School Instruction Permit*; (DE1821) in the box labeled test score. *Do not put a letter grade in the permit test score box*. However, the student's overall score may be converted into a letter grade for transcript purposes.

H. Completion of Application-Permit

1. If a student satisfactorily completes the aforementioned test(s) and all necessary information has been supplied, the instructor shall, *on the day the student actually completes driving*, place the completion date in the *laboratory completion* space provided on the permit. The instructor shall indicate in the *session* space the calendar school year in which the student actually completes the driver education program. At this time the instructor shall also provide the appropriate information requested in the *Student successfully completed* space.

2. Local education agencies (LEA s) and approved nonpublic schools offering Driver Education shall assign all appointed Driver Education instructors a number for identification purposes. Usually such numbers are assigned by the appropriate LEA supervisor or if applicable, a nonpublic school principal. These numbers are to be kept on record at the LEA or nonpublic school for a period of at least 10 years. It is the responsibility of the instructor to obtain the identification number before he/she begins teaching Driver Education for a particular LEA or nonpublic school. This identification number shall be preceded by the six digit site code number of the school where the instructor taught the listed student the classroom sessions of the course indicated on the permit.

I. Students Possessing Drivers' Licenses

1. In a case where a student has already been issued a Louisiana Drivers' License by the State Department of Public Safety, Drivers' License Division, no instruction permit is necessary and shall not be issued. The instructor shall verify that such students have a valid license.

J. Custody of Instruction Permits

1. Instructors who are issued a supply of the *Application and School Instruction Permit(s)* are held responsible for their safe keeping. The instructor shall keep the student's *Application and School Instruction Permit* in his/her possession at all times when providing on-street laboratory instruction. He/she shall present for inspection the application permit for the student who is at the wheel when requested by any state or local law enforcement officer. Permits shall not be in the custody of students during the course; they are to be held by the instructor and for use only when accompanied by an instructor so authorized by the State Department of Education. Appropriate copies of the permit are given to those students successfully completing the course. See §703.

K. Period of Validity

1. Disposition of "Application and School Instruction Permit"—School Instruction Permits are valid as long as the student continues laboratory (practice driving) instruction, without prolonged interruption, under the instructor issuing permit.

2. Permit shall be considered as having expired under the following conditions:

- a. when the required minimum number of hours of laboratory (6 clock hours or the equivalent) instruction has been successfully completed by the student; or
- b. when laboratory instruction is discontinued due to the close of the school session except in such case where the student will continue instruction during the summer; or
- c. when the student has acquired a *Learning Permit* or a regular drivers license from the Louisiana Department

of Public Safety, Office of Motor Vehicles. The *Application and School Instruction Permit* shall be marked void by the instructor;

d. when the student is removed from the school's roll or is removed from the Driver Education program. The *Application and School Instruction Permit* will be marked void by the instructor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1224 (July 1999).

Chapter 9. Classroom Unit I—Nature of Driving in the Highway Transportation System (HTS)

§901. Introduction

A. The HTS is an integral part of our American way of life. This vital and complex system is comprised of many elements and is increasing in size and importance constantly. The many interactions of its three major elements result in a large number of diverse traffic situations and problems. Driving in this system is one of the more hazardous daily activities for most persons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1226 (July 1999).

§903. Unit Objective

A. Describe the general nature of the driving task in our complex highway transportation system, while recognizing the importance and seriousness of the highway safety problem.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1226 (July 1999).

§905. The HTS and the American Way of Life

A. Instructional Objectives

1. Students can describe the functions of the HTS in the American social and economic structure.

2. Students can identify at least five reasons why the American life-styles are so dependent upon safe use of the HTS.

3. Students can list at least four reasons why the safe and efficient operation of HTS is so important to the economy of the United States.

B. Content Outline

1. Nature and Purpose of HTS

- a. Make-up of system.
- b. Components and elements of HTS.
- c. Safe and efficient movement of goods and people.

2. Importance to Our Way of Life

- a. Personal and individual transportation.
- b. Freedom to come and go.
- c. Education and job opportunities.
- d. Social and recreational activities.

3. Contributions to Our Economy

- a. Manufacture and repair of motor vehicles.
- b. Building and maintenance of highways.
- c. Motor truck as main carrier of goods.
- d. Gasoline and tire industries.
- e. Travel and recreation business.

C. Suggested Activities

1. Select students to discuss the advantages and disadvantages of our present HTS with classmates and/or parents. Students may be assigned to write several reasons why they should learn to use such a system safely and efficiently.

2. Ask students to conduct a survey within the community to determine:

- a. which industries and businesses are dependent on the motor vehicle;
- b. how many parents make their living directly or indirectly with motor vehicles;
- c. how the older people of the community describe their way of life prior to the popularity of the motor car;
- d. which kind of activities families participate in that could not be done without family cars.

3. Ask students to list the reasons why the HTS is important to our present way of living, and the economy of our country.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1226 (July 1999).

§907. Our Complex Highway Transportation System

A. Instructional Objectives

1. Students can list at least five examples for each of the major HTS elements.
2. Students can identify various types of highways depicted in pictured or diagramed HTS displays.
3. Students can state at least three factors contributing to the complexity of the HTS.
4. Students can explain why driving is one of the most hazardous daily activities.

B. Content Outline

1. Make-Up of a Complex System
 - a. Number and variety of elements.
 - b. Continuous interaction of elements.
 - c. Need for regulations and control.
2. Number and Variety of Traffic Units
 - a. Kinds of vehicles and their condition.
 - b. Characteristics of drivers.
 - c. Pedestrians and animals.
 - d. Traffic volumes and congestion.
3. Number and Variety of Highways
 - a. Design features.
 - b. Conditions and maintenance.
 - c. Environmental settings.
4. Number and Variety of Traffic Controls
 - a. Signs and signals.
 - b. Roadway markings.
 - c. Written laws.
5. Driving as a Hazardous Activity
 - a. Failures of vehicles, highways, and drivers.
 - b. Social and economic consequences or failures.
 - c. Causes of collisions.
 - d. Need for systematic learning experiences.

C. Suggested Activities

1. Recommend that students watch television action shows and identify examples of various HTS elements. List and discuss these findings.

2. Assign students to observe various types of traffic situations from the viewpoint of the pedestrian. From the

situations observed, three complex situations will be selected and the students will:

- a. diagram the situation;
- b. describe how the elements interact;
- c. explain why they considered the situation complex.

3. Ask students to complete the *Identification of HTS Elements*. Have them use four or more items from the list and describe how they may interact to create a complex traffic situation. Describe at least three situations in this manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1227 (July 1999).

§909. The Requirements of Driving

A. Instructional Objectives

1. The students can describe the kind of activities a driver must perform before a trip, during a trip, and after a trip.

2. The students can identify the physical, mental, and social requirements for driving an automobile.

B. Content Outline

1. Physical Requirements of Driving
 - a. Adjustment of various devices.
 - b. Operation of vehicle controls.
 - c. Sensing vehicle movements and feedbacks.
2. Mental Requirements
 - a. Knowledge of various procedures, concepts, principles, and regulations.
 - b. Observation and identification of system events.
 - c. Evaluation of roadway conditions and other user actions.
 - d. Choosing the best pathway and speed.
 - e. Selecting what, when, and where to take control actions.
3. Social Requirements
 - a. Responsibility for being qualified and properly licensed to operate a motor vehicle.
 - b. Selection and maintenance of safe motor vehicle.
 - c. Financial responsibility for damage to others.
 - d. Willingness to observe traffic laws and regulations.
 - e. Cooperation and communication with other users.
 - f. Support for adequate laws and their enforcement.
 - g. Refusal to drive when temporarily unfit.

C. Suggested Activities

1. Assign students to ride with a licensed driver and do a job analysis. Have students list and classify into meaningful groups the actions taken by the driver before, during, and after the trip. From this list, the student will identify the kinds of knowledge and abilities the driver used for each group of activities. Allow students to work together and compare lists.

2. Select five or more pictures or slides of driving scenes for students to examine carefully. For each scene, list the traffic events, roadway conditions, vehicle control factors, and driving choices. Based on this information, ask for descriptions (written or oral) of what each student perceives to be involved in each of the driving scenes.

3. Ask students to select a sport and a job. Have them compare the knowledge and skills required with those required of a driver.

4. Ask students to give reasons for and against the statement, *competent driving is largely a matter of making wise decisions*. Have them explain in writing why or why not driving should be considered as primarily a mental and social task.

D. Definition of Terms

Bicycle every device propelled by human power upon which any person may ride, having two tandem wheels either of which is more than 16 inches in diameter.

Controlled-Access Highway—every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public agency having authority over such highway, street or roadway.

Driver—every person who drives or is in actual physical control of a vehicle.

Highway or Street—consists of the entire width between boundary lines of every way that is maintained by our government agencies and open to vehicles for public use. The roadways, shoulders, and ditches or curbs are parts of the highways.

Highway Setting—the actual location or physical surroundings of the street or highway such as rural, urban, business district, and residential area.

Highway Transportation System (HTS)—a complex system consisting of numerous man-machine combinations with a variety of goals that use a rather uniform communication network and operate in a variety of regulated environments.

HTS Elements—a basic part or component of the HTS such as highway, motor vehicle, traffic control, or pedestrian.

HTS Event—an occurrence or happening that takes place in the HTS and has to do with the condition, status, or activity of one or more HTS elements.

Motor Vehicle—every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

Roadway—that part of a highway which has been improved or paved for use by vehicles and does not include the shoulders.

System—an assembly of elements that carry out a desired function by the interdependent operation of the component parts.

Traffic—consists of pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances either singly or together while using any highways for purposes of travel.

Traffic Controls—all signs, signals, roadway markings and other devices placed on or along the highway by a public official to regulate, warn, or guide traffic. Traffic laws and regulations are also included even though no special control devices are present.

Traffic Unit—any pedestrian, vehicle (with or without driver), bicycle with rider, and ridden or herded animals.

Vehicle—every device in, upon or by which any person or property is or may be transported or drawn upon a

highway except devices moved by human power or used exclusively upon stationary rails or tracks.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1227 (July 1999).

§911. General Approaches for Unit I

A. The purpose of this unit is to help provide answers to the questions:

1. Why driver education?

2. Is the problem of using the HTS safely and efficiently important to me, others, and to our society in general?

3. Is driving all so difficult, and why?

B. Certainly the actual operation of a modern car is not difficult. Driving is a mental and social task worthy of schooling only as it relates to the complexity and importance of the system in which it takes place. The difficulty of the driving task is primarily in direct proportion to the complexity of the environment.

C. The unit provides for an introduction and orientation to the course. Students can be assigned activities though much of the first two class periods may be devoted to administrative details and course requirements.

D. The concept of HTS complexity sets the stage for defining the driver tasks which in turn sets the relational for the program of instruction. Once a student gets an idea of the various parts of the HTS and their functions, he can appreciate the system and the need for the various competencies he will be asked to develop to rather high proficiency levels.

E. It is important that course requirements be understood thoroughly. Students must realize right away that they will be held responsible for independent study outside of class. A major challenge to the use of independent study materials is motivating the student to use them. Of course, the student's interest in driving will be applied to independent study only if the teacher requires it, attaches importance to it, and expresses enthusiasm for it. Should the teacher permit students to enter laboratory instruction without adequate preparation, or should the necessary information be provided in class time, the incentives for independent study will be lost.

F. Transparencies and other media may be used in the classroom for stimulating interactions among students and between students and teachers. The classroom should be used basically for students to recall and apply information they have acquired through independent study if it proves helpful.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1228 (July 1999).

Chapter 11. Classroom Unit II—Traffic Laws and Controls

§1101. Introduction

A. The HTS, a complex system used by millions of drivers, requires sophisticated controls and rules to facilitate safe, smooth vehicle operation and interaction. Such controls and rules have been developed and when used wisely, permit freedom and safety of movement that would not be possible otherwise. Drivers must recognize, understand, and properly

interpret these controls and laws in order to make accurate decisions in the complex traffic environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1229 (July 1999).

§1103. Unit Objective

A. Demonstrate a knowledge of traffic controls and laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1229 (July 1999).

§1105. Traffic Control Devices

A. Instructional Objectives

1. Students can identify and classify traffic signs by shape and color.

2. Students can list the various types of traffic signals that may be encountered and describe the function of each.

3. Students can identify and interpret the meaning of road markings and other permanent or temporary types of traffic controls found in diagramed, pictured, or actual traffic situations.

B. Content Outline

1. Regulatory Signs

a. Shape and color.

b. Message and meaning.

2. Warning Signs

a. Shape and color.

b. Message and meaning.

3. Guide Signs

a. Shape and color.

b. Message and meaning.

4. Construction and Maintenance Signs

5. Signal Lights

a. Meaning of colors and arrows.

b. Order in which lights flash on and off.

6. Pavement Markings

a. Types of lines, symbols, and colors.

b. Location and meanings.

C. Suggested Activities

1. Provide students with an activity sheet showing the shapes and symbols for the various signs. Require them to write on an answer sheet the colors and the message or meaning of each sign.

2. Prepare transparencies of signs that have similar meanings or shapes and colors. Have students tell the difference in terms of driver requirements.

3. Prepare or have students prepare diagrams of all the various types of pavement markings. On a separate sheet of paper, have students state the purpose or meaning of each marking. Prepare transparencies for test purposes.

4. Flash pictures of various signs, controls, and markings for students to identify. Shorten time span until students can recognize meanings within a fraction of a second.

5. Have students write briefly the purpose of regulatory, warning, guide, and construction signs, traffic signals and markings. Draw and label samples of each group and state colors of each.

6. Prepare self-tests and answer sheets for students to complete outside of class. Allow students to check each other's papers for scoring and review purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1229 (July 1999).

§1107. Traffic Laws for Maneuvers

A. Instructional Objectives

1. Students state reasons for establishment of various traffic laws.

2. Students identify the laws which apply to the motorist and to the vehicle in various HTS situations.

B. Content Outline

1. Speed Laws

a. Absolute or fixed maximum laws.

b. Minimum and advisory speeds.

c. Basic speed law.

2. Right-of-Way Laws

a. Basic concepts related to law.

b. Intersections — controlled and uncontrolled.

c. Entering from drive ways and parked positions.

d. Turning situations.

e. School bus and emergency vehicles.

f. Pedestrian rights and duties.

3. Turning and Signaling

4. Lane Usage and Passing

5. Parking, Standing, and Starting

C. Suggested Activities

1. Assign students to read the text of the *Louisiana Driver's Guide* and any locally prepared handouts.

2. Discuss the advantages and disadvantages of absolute speed limits, prima facie speed limits, and the basic speed law. Have students define speeding, excessive speeding, common speed, reasonable and prudent speed, and advisory speed zones.

3. Assign students to compare the requirements of drivers approaching a stop sign, yield sign, and merging traffic sign. Discuss the right-of-way problems involved.

4. Assign students to diagram or describe six different HTS situations for which the right-of-way laws apply. Have them test each other as to which driver should yield and why.

5. Prepare diagrams of right-of-way situations and answer sheet for student self-test. For each situation, students are to write down letter of vehicle or pedestrian which should yield the right-of-way. Provide answer key so students can check and score each other. Require explanations of those examples missed.

6. Have students draw diagrams (or provide) and show how a driver should enter, drive on, and leave a street or highway that has three lanes in each direction and a street that has three lanes in only one direction.

7. Provide a list of all the maneuvers that can be made in the HTS. Have students list legal procedures to follow for each one.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1229 (July 1999).

§1109. Driver Behavior Laws

A. Instructional Objectives

1. The students can define the key concepts that establish the specifications for responsible driver behavior.

2. The student will identify the traffic law violated and the penalties for violation of given driver behaviors and traffic conditions.

B. Content Outline

1. Driver License Laws and Penalties
 - a. General purposes.
 - b. Point systems and hearings.
 - c. National Driver Register Service.
2. Reckless Driving and Drag Racing
 - a. Concepts of *willful* and *wanton* behavior.
 - b. Conditions which apply.
3. Driving When Under the Influence of Alcohol and Drugs

- a. Legal definition of *under the influence*.
- b. Chemical testing and other evidence.
- c. Implied consent laws.

4. Motor Vehicle Anti-Theft and Parties to a Crime
 - a. Conditions which apply.
 - b. Penalties.

C. Suggested Activities

1. Prepare a list of the driver behavior laws and have students identify the conditions under which these laws apply. Have requirements and penalties stated or written down.

2. Prepare true-false questions for students to study in small groups. Have each group record answers and check with other groups.

3. Have students conduct a survey of friends or family members to determine how many know the requirements and penalties of the driver license laws. Also determine how many of those surveyed have attended a hearing conducted by driver license officials.

4. Have students collect newspaper accounts of arrests involving driver behavior law violations. Discuss the problems involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1229 (July 1999).

§1111. Motor Vehicle Equipment and Miscellaneous Laws

A. Instructional Objectives

1. The students can describe the equipment components of a safe motor vehicle. Identify legal and illegal equipment.

2. Have students identify the laws and how they apply to given HTS situations.

B. Content Outline

1. Legal and Illegal Equipment Regulations
 - a. Lamps and other lighting equipment.
 - b. Brakes, tires, and mufflers.
 - c. Horns and warning devices.
 - d. Mirrors and windshields.
 - e. Safety belts and safety glass.
 - f. Size, weight, and loading restrictions.
 - g. Equipment regulations for travel trailers, motorcycles, school buses, emergency vehicles, and bicycles.

2. Certificate of Title and Vehicle Registration
3. Restrictions on Backing and Coasting
4. Motor Vehicle Inspection
5. Obstructing View of Driver

C. Suggested Activities

1. Prepare a labeled diagram drawing of an automobile or select one in a textbook. Have students identify the equipment that is required by law.

2. Make up duplicates of certificate of title and vehicle registration forms. Have students complete the forms for their family or friends car.

3. Divide the class into small groups and conduct a motor vehicle inspection program for automobiles in the school parking lot.

4. Have students prepare and conduct a survey of the senior class to determine if those who drive wear seat belts regularly. Include a personal interview for a random sample of those surveyed.

D. Definition of Terms

Basic Speed Law—speed that is reasonable and prudent for existing conditions.

Common Speed—speed at which most vehicles are moving on given stretch of highways.

Delayed Signal Light—traffic light that remains red while opposite traffic is allowed to move for a short period of time.

Drag Racing—no person shall drive any vehicle upon the public roads in this state in any race, speed competition or contest, drag race or acceleration contest, test of physical endurance, exhibition of speed or acceleration, or for the purpose of making a speed record, and no person shall in any manner participate in any such race, speed competition, drag race, test of physical endurance, exhibition, or purpose of making a speed record.

Point System—the assignment of specific points to law violations for determining when to suspend or revoke driver licenses.

Prima Facie Speed Limits—a flexible speed limit which is fixed for ideal conditions. It allows driver, if arrested, to prove whether or not the speed traveled over the limit was reasonable.

Reasonable and Proper Control—it shall be unlawful for the driver of any vehicle to negligently fail to maintain reasonable and proper control of said vehicle while operating the vehicle on the public roads of this state.

Right-of-Way—the privilege of the immediate use of the highway.

Stale Green—a traffic light that has been on and can be expected to change.

Through Highway—every highway or portion thereof on which vehicular traffic is given preferential right of way.

Traffic Control Device—any sign, signal, or pavement marking used to control traffic.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1230 (July 1999).

§1113. General Approaches for Unit II

A. The term *traffic control* as used in this guide applies to all the controls designed for controlling, safe-guarding or expediting traffic. Traffic controls should not be thought of only as being used to regulate traffic. When used properly, they assist in the formulation of strategy for movement. Therefore, it is extremely important that considerable instruction be devoted to their understanding and application.

B. Remember that traffic controls consist of both devices and written laws. Traffic control devices are all those signs, signals, markings, or other devices placed on or adjacent to a street or highway by officials having jurisdiction to regulate, warn, or guide traffic. These devices are essential where special regulations apply at specific places or at specific times only, or where hazards are not self-evident. The written regulations are all those laws and ordinances established by the State Legislature or local official bodies. This means there are no so-called *uncontrolled* intersections, just because no signs or signals are present, since there are right-of-way laws that apply at all times.

1. Unit II initiates the in-depth study of the traffic controls which they deserve. Actually the knowledge and application of traffic controls becomes one of the dominant content strands of the curriculum which is expanded upon and continued throughout the course. Some of the driver behavior laws are treated more extensively in Unit IX.

2. Although considerable recall and memorization are required in this unit, the types of student learning should be geared to discrimination and application performances. Students should be provided plenty of practice in making comparisons and identifying differences. They should also be given opportunities to recognize the various situations or conditions under which the laws apply.

3. Many drivers have never realized fully that there is a definite color and shape pattern to signs, signals and markings. Graphic symbols, shape and color play an even more important role in the new and improved road signs. We must make sure our students can identify controls, but that also they can do it efficiently. We should also develop rationales and explanations so as to build positive attitudes toward traffic controls. Students should be able to appreciate that controls are constantly being researched and improved; that traffic laws are developed to provide for a maximum degree of safety and still safeguard our traditional freedoms.

4. Materials may be designed so that the acquiring of information can be primarily by self-instruction. Then the classroom and laboratory can be best utilized for applying information and demonstrating proficiencies. Teachers are encouraged to use supplemental resource materials and organize them in such a way as to cut to a minimum the classroom time required. The Louisiana Driver's Guide should be made available to each student.

5. The right-of-way situations can be classified as those dealing with traffic control devices, highway design features, and types of traffic units. The general approach is to have students:

- a. identify a situation as it is or will develop;
- b. select the proper right-of-way rule that applies and put it into action; and
- c. be willing to alter their own actions if a dangerous situation develops.

6. A set of locally made slides or videos can be provided as an interesting activity for this unit. Pictures should be taken through the windshield of a car so they represent the driver's view. Try to select scenes that include most of the signs, signals, pavement markings, and right-of-way situations.

7. When placing the slides in the projector tray, leave a space between slides so the screen can be lighted while questions are being asked. Use a stop watch or count out

time, e.g. one-thousand-one for one second. For flashes of a fraction of a second, hold the slide advance button down so the picture flashes on and off without any hesitation; or uncover and cover quickly the projector lens with your hand. It may be desirable to flash the same slide two or three times.

8. Before showing the slides or videos, make a few introductory remarks as to the nature of the slide programs to be used during the course. Show at least two demonstration slides for pointing out what to look for and a brief review of the meanings. These slides are not flashed but are shown all during the discussion.

9. The following instructions should be read aloud to students before practice slides are flashed.

a. Slides of traffic situations will be flashed on the screen for a period of one second or more. Assume you are driving and that the picture on the screen is what you see through your windshield.

b. Before a slide is flashed, say, "Ready", then flash the picture. When the picture is flashed off, I will make statements that are true or false. Each statement will be repeated only once. Make your response in the proper space on your answer sheet.

c. To do well, you must concentrate and be alert. Therefore, you are to say nothing either aloud or to yourself about the picture. You'll have a chance to discuss it later. This practice should help one identify HTS elements quicker when driving. It should also test short recall ability which can be quite important in some traffic situations. Do not guess.

10. Following is an example of the statements to be prepared and read aloud.

Slide #		True/False Statement
A	This is not passing zone from both directions	True or False?
B	There was a solid white edge line	True or False?
C	Road ahead curves to right	True or False?
D	The 35 mph sign is regulatory	True or False?

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1230 (July 1999).

Chapter 13. Classroom Unit III—Traffic Law Observance and Enforcement

§1301. Introduction

A. As HTS users, we quite rightly should demand the security and convenience that go with safety and orderliness on our highways. But without good traffic laws and their enforcement, the safe and efficient movement of traffic on our highways would not be possible. In a democratic society, people must want to obey the laws they help make. Therefore, the observance and enforcement of traffic laws are dependent upon public understanding and support. Traffic laws are of little value if they are not understood and voluntarily followed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1231 (July 1999).

§1303. Unit Objective

A. To determine a person's shared legal and moral responsibilities when using the HTS. Recognition and support of the need for a system of just traffic law enforcement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1232 (July 1999).

§1305. Nature of Traffic Laws and Enforcement

A. Instructional Objectives

1. Students can identify the type of crime or civil offense committed. They can state the reasons for having traffic laws and their enforcement for given traffic law violations.

B. Content Outline

1. Nature and Importance of Traffic Laws

a. Concepts of rights and privileges, freedom and responsibilities, reasonable and prudent driving, legal and moral responsibilities.

b. Orderly Flow of Traffic and Prevention of Collisions

- i. Provide rules for driving behavior.
- ii. Help drivers predict what others will do.
- iii. Set acceptable standards to follow.

c. Authority of State and Local Governments

i. Regulations enacted by legislature.
ii. Result of experience and research.
iii. Based on beliefs and standards of a majority of citizens.

iv. Guide to police and courts.

2. Types of Laws

a. Tort. A civil wrongs for which the injured party is entitled to compensation. After a collision, the injured party (*plaintiff*) sues the other person (referred to as *defendant*).

b. Crime. Offenses or wrongful acts against the state. A criminal case involves a suit between the state (the people) and an individual who has been charged with a violation of a law.

c. Felony. A grave or serious crime such as murder, manslaughter, burglary, arson, and forgery. Persons convicted of a felony lose their citizenship and may be sent to a state prison for one year or more. Auto theft is a felony.

d. Misdemeanor. A minor crime such as disturbing the peace, illegal weighing of goods, theft, and most traffic law violations. Most punishment is by fine. Jail sentences are less than one year and for some place other than a state prison.

3. Seriousness of Traffic Law Violations

- a. Reckless homicide.
- b. Reckless driving.
- c. Driving under the influence of alcohol or drugs.
- d. Driving without a license.
- e. Parties to a crime.

4. Problems of Obedience and Enforcement

- a. Purposes of Enforcement
 - i. Encourage accepted behavior.
 - ii. Create voluntary compliance.
 - iii. Deter from future violations.
 - iv. Punish those who violate laws.
 - v. Prevent collisions.
- b. Reasons for Obeying Laws
- c. Reasons for Violating Laws

C. Suggested Activities

1. Have students look up the terms tort, crime, felony, and misdemeanor. Write and explain the difference between these concepts. Give reasons for and against traffic laws being classed as crimes.

2. Survey of parents and friends as to their views toward traffic laws and the need for strict enforcement. Discuss how laws can be protective as well as restrictive and which is most important for traffic laws.

3. Discuss the pros and cons of the following statements.

a. Legal authorization to drive a vehicle is a privilege, not a right.

b. In most vehicle collisions, we can expect that a traffic law was violated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1232 (July 1999).

§1307. Traffic Law Enforcement by Police

A. Instructional Objectives

1. Students can identify and discuss the law violation actions a law enforcement officer should take for different traffic law violations.

B. Content Outline

1. Role of Police in Traffic Law Enforcement

a. Authority to Stop Cars

- i. Reason to believe law violated.
- ii. Check auto registration or operator's license.
- iii. Check for defective equipment.

b. Detection and Identification

- i. Observes Law Violation.
- ii. Has warrant when not observed.
- iii. Identifies self.

c. Apprehension and Arrest

- i. Explains violation.
- ii. Physical touching or control.
- iii. Submission of person.

d. Other Duties

- i. Direct traffic and give information.
- ii. Investigate collisions.
- iii. Aid in prosecution.
- iv. Collect and analyze records.

2. Citizen Rights if Arrested

a. Right to be taken before judge without undue delay.

b. Right to counsel, especially during questioning.

c. Right to be informed of charges.

d. Right to remain silent.

e. Right to be warned that anything said by person can be used against that person.

3. Law Enforcement Actions

a. Warnings. Verbal or written statements about driver's behavior for education purposes.

b. Citation (traffic ticket). A summons to appear in court. To assure appearance, the driver must post bail by:

- i. giving up driver's license;
- ii. cash at nearest police station;
- iii. bond issued by an approved agency;

c. Arrest. Involves taking the person to nearest police station where confinement takes place unless bail is granted.

4. Citizen Responses to Enforcement Action
 - a. Undesirable actions make situation worse.
 - b. Save defenses for court.
 - c. Request information as to choices that are available.
 5. Effectiveness of Law Enforcement Actions
 - a. Law enforcement officers represent and serve citizens.
 - b. Authority and power dependent upon public support and understanding.
 - c. Expectations of well-trained law enforcement officers.
 - d. Problem situations.
- C. Suggested Activities
1. Discuss the difference between warnings, citations, and arrests. Prepare a list of traffic law violations and have students indicate what actions they would recommend that a law enforcement officer may take.
 2. Prepare a list of reasons why law enforcement officers should strictly enforce traffic laws. Have students indicate whether they agree or disagree. Summarize and discuss.
 3. Invite a law enforcement officer to your class for a discussion of traffic law enforcement problems and experiences. Have the officer describe the various standard procedures followed when making arrests or taking other actions.
 4. Conduct *role play* exercises for
 - a. an arrest;
 - b. a warning; and
 - c. a citation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1232 (July 1999).

§1309. Traffic Law Enforcement by Courts

- A. Instructional Objectives
1. Students can identify and discuss the actions of court officials in cases involving violations of traffic laws.
- B. Content Outline
1. Basic Rights of Citizens in Courts
 - a. To plead guilty.
 - b. To a jury trial.
 - c. To ask the judge to explain charge.
 - d. To act as one's own attorney (not advised).
 - e. To make a statement of circumstances after pleading guilty.
 - f. To force or compel witnesses to appear in court.
 - g. To a reasonable amount of time to prepare a defense.
 2. Role of Courts in Traffic Law Enforcement
 - a. Prosecution. Evidence gathered and presented by state's attorney.
 - b. Adjudication. Determination of guilt or innocence.
 - c. Penalization. Taking of corrective action.
 3. Court Situations for Handling Traffic Cases
 - a. Traffic Violations Bureau. For persons who plead guilty and do not wish a hearing. A schedule of standard fines are set up for the less serious violations.
 - b. Justice of the Peace. A simple hearing before a justice (usually elected, with or without legal training).

Without a jury or attorney the justice collects money and keeps own records.

c. Magistrate Without a Jury. A formal courtroom setting with a prosecuting attorney and defense counsel.

d. Jury Trials. A large courtroom equipped with witness stand, jury box and seats for spectators. A court reporter makes a permanent record of what is said and done. There are usually several witnesses who are examined and cross examined.

4. Problems and Applications

- a. Educational versus Punitive Measures
 - i. Driver improvement schools.
 - ii. Rehabilitation clinics.
- b. Plea Bargaining and Out of Court Settlements
- c. Loss of Driving Privileges
 - i. Suspensions.
 - ii. Revocations.
 - iii. Cancellations.
- d. Mandatory Jail Sentences and Probation
- e. Chemical Tests and Drinking-Driving Conviction

Problems

C. Suggested Activities

1. Students are to identify the duties of these officials or persons:
 - a. state's attorney;
 - b. judge or magistrate;
 - c. defendant;
 - d. plaintiff;
 - e. witness;
 - f. jury.

Define the terms acquittal, bail, complaint, conviction, forfeiture, plea bargaining, probation, sentence, subpoena, summons, suspended sentence, and warrant. Give examples and discuss definitions of the above terms with classmates.

2. Ask students to collect descriptions of traffic law violations and accidents reported in the paper. Have them decide how the court should handle such judgments. Make comparisons with the final dispositions of cases.

3. Provide separate lists of traffic law violations and penalties for convictions of traffic offenses. Have students to match the penalty with correct violation. Discuss the consequences of these convictions.

D. Definition of Terms

Acquittal—a judgment, issued by courts, declaring a person innocent of legal charges.

Arrest—the act of taking a person into custody for the purpose of holding him to answer a charge.

Bail a sum of money deposited with the court to guarantee a person will appear in court at the set time and date.

Breath Test—a chemical test to measure the percentage of alcohol in a person's blood.

Cancellation the termination of a driver's license because the person is no longer eligible. The application for a new license may be made at any time after such cancellation.

Citation a traffic ticket which is a summons to appear before a court of law at a certain time to determine the guilt or innocence of the person charged with violating a traffic law.

Complaint—an official paper which charges a person with some offense.

Conviction the finding by the court that a person is guilty of violating a law as charged.

Crime a violation of laws of the state.

Custody the physical control over a person.

Defendant—a person charged or accused of committing a wrongful act or offense.

Felony a major crime for which a person can be sentenced to a state prison for one or more years.

Forfeiture—procedure which allows the court to keep the bail instead of appearing in court.

Hit and Run Driving the intentional failure of the driver of a vehicle involved in or causing any accident, to stop such vehicle at the scene of the accident, to give his identity and to render reasonable aid.

Magistrate a judge limited to cases that involve small sums.

Misdemeanor a minor crime for which a person cannot be sentenced to more than twelve months or held in a state prison.

Parties to Crime every person who commits, attempts to commit, conspires to commit, or aids, or abets in the commission of any act declared to be a crime, whether individually or in connection with one or more other persons or as principal, agent, or accessory, shall be guilty of such offense, and every person who falsely, fraudulently, forcibly, or willfully induces, coerces, requires, permits, or directs another to violate any such provision of this act is likewise guilty of such offense.

Plaintiff—a person who charges another person with the violation of one's civil rights.

Probation—the procedure whereby the judge releases the convicted person into the custody of a probation officer.

Prosecutor an attorney or lawyer who is an official of the court. Such an attorney represents the state and presents the facts to the judge relating to offense.

Reckless Homicide—the operation of any motor vehicle, aircraft, vessel, or other means of conveyance in a criminally negligent or reckless manner.

Revocation the termination of a driver's license by the Secretary of State due to certain traffic law violations. The person must wait at least one year after date of revocation before becoming eligible to apply for a new license.

Sentence—the punishment ordered by the court for a violation of a law.

Subpoena an official order to a witness to appear in court and testify.

Summons a written notice or request for a person (defendant) to appear in court to answer to a charge of a law violation. The order is for a specific time.

Suspended Sentence a sentence that is not put into effect if certain conditions are met.

Suspension—the temporary withdrawal of a person's privilege to drive for a specific period of time. The license will be returned by the Secretary of State at end of period.

Warrant—a legal order issued by a judge which commands a police officer to arrest a certain person on a specified complaint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1233 (July 1999).

§1311. General Approaches for Unit III

A. The general approach is through the use of situational case studies. Situations are provided in which drivers come in contact with public officials who have duties relating to licensing, enforcement, and legislation. Students are asked to assume roles of police officers, judges, and other law enforcement officials. In this way they learn the requirements of the laws as well as the problems of legislation and enforcement. Hopefully, students will gain a better understanding and respect for the operation of our judicial, legislative, and executive branches of government.

B. The case studies can be utilized for demonstration and small group discussion purposes. They can be assigned as homework or self-testing exercises. Teachers and students can add to these with those described in local newspapers or from personal experience. Teachers should become well acquainted with judges and police officers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1234 (July 1999).

Chapter 15. Classroom Unit IV—Motor Vehicle Capabilities and Limitations

§1501. Introduction

A. What can a motor vehicle do or not in a given situation? In a complex HTS, drivers are constantly faced with such a problem. The more drivers know about a car's maneuvering and performance capabilities, the better they can handle emergencies. Drivers will also be better prepared to predict the probable actions of other drivers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1234 (July 1999).

§1503. Unit Objective

A. Identify the capabilities and limitations of motor vehicles under various conditions that are found in the HTS. Compare the range of performance and control capabilities of the different types of motor vehicles used in the HTS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1234 (July 1999).

§1505. Basic Performance Capabilities

A. Instructional Objectives

1. Students can explain why the control of motor vehicles requires space, traction, and time.

2. The students can estimate a car's acceleration and speed capabilities in terms of space and time for given situations.

3. The students can estimate a car's directional control and cornering capabilities in terms of space and time.

4. The students can estimate the deceleration and braking capabilities in terms of space and time.

5. The student can predict loss of traction and control, for given situations.

B. Content Outline

1. Role of Traction in Vehicle Movement and Control
 - a. Nature and importance of traction.
 - b. Tire adhesion and *foot prints*.

- c. Effect of sliding and spinning wheels on traction.
 - d. Measurement of friction.
2. Role of Space and Time in Vehicle Performance
 - a. Space for movement and maneuvers.
 - b. Time for acceleration, deceleration, and vehicle control responses.
 3. Acceleration and Speed
 - a. Static and dynamic acceleration concepts.
 - b. Effect on handling characteristics.
 - c. Techniques for increased power and acceleration.
 - d. How to estimate time and speed, requirement for crossing and joining at various intersections.
 - e. Acceleration and passing capabilities according to the owner's manual.
 4. Directional Control and Cornering
 - a. Concepts of directional control, steering response, and cornering.
 - b. Oversteering and understeering tendencies of vehicles.
 - c. Time and space requirements for cornering and lane changing.
 - d. Tracking during cornering in relation to degree of steering actions.
 - e. Vehicle body overhang and space requirements.
 - f. *Road feel* or feedback phenomena for power and standard steering systems.
 5. Deceleration and Braking
 - a. Concepts of deceleration, downshifting, weight transfer, locked wheels stops, engine drag, braking distance, reaction time, distance, and sight distance.
 - b. Comparison of antilock braking system (ABS), power brakes and standard actions.
 - c. Various types of braking actions.
 - d. Time-distance stopping zones for various speeds and road conditions.
 - e. How to establish the two second and four second stopping zones.
- C. Suggested Activities
1. Develop a list of questions related to concepts and principles. Have students use dictionary, encyclopedia, and texts to find and write answers in a notebook.
 2. Prepare transparencies illustrating the various concepts and rules. Discuss these rules and ideas related to each of the vehicle performance capabilities. Ask students to give examples of each.
 3. Prepare a list or set of diagrams of various roadway situations. Have students make drawings of the proper pathway a car should follow when completing prescribed maneuvers. Have tire tracks shown.
 4. Have students develop or complete a time-distance stopping zone chart for various speed. Require students to make own computations.
 5. Make a list of vehicle performance capabilities that can be found in car owner manuals. Have students use the list to collect data on their family or friend's car. Compare and discuss the results.
 6. Prepare an instruction sheet for a speed survey. Assign students to make a survey of car speeds along given stretches of roadway. Have students try to estimate speed and then check on these estimates. Make a summary of results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1234 (July 1999).

§1507. Factors and Forces that Affect Vehicle Control Capabilities

A. Instructional Objectives

1. The students can identify factors and forces that could have an adverse effect on an automobile's performance capabilities in given HTS situations.
2. The students can predict the probable effect on the automobile performance capabilities and control for different factors and forces.
3. The students can identify the proper driver actions for preventing any adverse effects and forces from loss of control.

B. Content Outline

1. Roadway Conditions that Affect Vehicle Performance Capabilities
 - a. Design features such as flat, crowned and banked surfaces, and various curbing.
 - b. Areas of reduced space such as obstructed lanes, merging lanes or vehicles.
 - c. Types of roadway substance such as brick, blacktop, and gravel.
 - d. Presence of surface materials such as oil, water, leaves, gravel, ice and snow.
 - e. Surface conditions and obstacles such as chuckholes, manhole covers, railroad tracks and bumps.
2. Vehicle Conditions That Affect Vehicle Performance Capabilities
 - a. Tire type, tread wear, and inflation.
 - b. Front wheel alignment and suspension system.
 - c. Type of brakes and their adjustment.
 - d. Gear ratio and transmission maintenance.
 - e. Size and proper functioning of engine.
 - f. Weight and center of gravity.
 - g. Amount and distribution of loads.
 - h. Car overloaded with power accessories or equipment.
3. Driver Actions that Affect Vehicle Performance Capabilities
 - a. Amount of speed—control capabilities of fast moving car compared to slow moving.
 - b. Sudden changes of direction or speed under various roadway conditions.
 - c. Steering techniques and feedback responses.
 - d. Acceleration applications.
 - e. Brake applications.
 - f. Proper use of gear ratios.
4. Natural Forces that Affect Vehicle Performance Capabilities
 - a. Gravity and kinetic energy.
 - b. Centrifugal effect and force of inertia.
 - c. Cross winds and tail winds.
 - d. Air turbulence from large vehicles.
5. Loss of Control Consequences
 - a. Sliding skids.
 - b. Spinning skids.
 - c. Hydroplaning.

C. Suggested Activities

1. a. Collect videos, pictures and slides of HTS situations and classify by category:

- i. roadway;
- ii. vehicle;
- iii. driver activity; and
- iv. natural forces.

b. Then have students in small group identify the various factors by listing them in accordance with their effect on the three control capabilities:

- i. acceleration;
- ii. braking; and
- iii. steering.

2. Prepare demonstrations using models and diagrams, which show the effect of the natural forces for various roadway conditions such as flat, crowned, and banked roadway curves.

3. Make lists of factors and vehicle capabilities in various combinations. Assign students to create diagrams, written descriptions or models for illustrating probable effects.

4. Have students collect newspaper accounts of accidents involving loss of control by drivers. Analyze, summarize, and chart the findings.

5. Discuss the types of skids and the conditions which bring them about. Ask students to formulate a set of principles or rules for preventing such loss of traction.

6. Develop a set of demonstrating exercises using bicycles that can be performed on the school parking lot using bicycles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1235 (July 1999).

§1509. Performance Capabilities for Various Motor Vehicles

A. Instructional Objectives

1. The students can identify and classify into similar groups those motor vehicles that have reduced or increased performance capabilities when compared to the standard passenger car.

2. The students can state the type and performance capability of various classes of motor vehicles and their differences from the standard passenger car.

B. Content Outline

1. Passenger Cars with Trailers

- a. Two wheel trailers.
- b. Four or more wheel trailers.

2. Recreation Vehicles

- a. Vans.
- b. Pickups with camper unit.
- c. Motor homes.

3. Small Passenger Cars

- a. Economy sub-compact.
- b. High performance sports car or sedan.

4. Trucks

- a. Pickups and vans.
- b. Standard one unit.
- c. Semi-trailer.

5. Buses

- a. Commercial carriers.
- b. School and church buses.

6. Motorcycles

- a. Standard size.
- b. Motor-scooter or motor driven cycles.

7. Slow moving vehicles

- a. Farm tractors.
- b. Maintenance machinery.

C. Suggested Activities

1. Have students collect car dealer brochures and magazines that provide motor vehicle performance tests. Develop a chart of various types of vehicles with similar performance characteristics.

2. Assign students to develop a set of questions for interviews with experienced truck drivers, recreational vehicle drivers, and others. Invite them to class for presentations and discussion.

3. Ask students to visit rental agencies for copies of brochures relating to use of trailer and trucks.

4. Conduct a survey of high school students whose parents have recreational vehicles. Have students interview drivers of these vehicles for an account of experiences and problems faced.

D. Definition of Terms

Acceleration—the ability of a car to increase from a standing position or a certain speed to a greater speed in a given amount of time.

Braking Distance the distance a car travels from the moment the service brakes are first applied to the moment the car has stopped moving.

Cornering—the ability of a car to be steered around a sharp turn in the roadway without leaving the intended pathway.

Deceleration the ability of a car to decrease from one speed to a lower speed during a given period of time, with or without the use of brakes.

Downshifting—the changing of the gear positions in the transmission to a lower or more powerful gear ratio. It can be used for increased acceleration or deceleration.

Feedback—the return of information to the driver about the results of his vehicle control actions.

Four Second Stopping Zone that part of the intended path of travel which extends for a distance of four seconds in front of the car.

Gap (in traffic) the distance or time between the front end of one car and the back end of the next car in line.

Interval the time or distance between the front of one car and rear of the car ahead. It is the same as following distance.

Maneuver a series of planned and skillfully performed vehicle movements which changes the position of the vehicle to a more desired or better position.

Overhang that part of the motor vehicle body which extends beyond the wheels to the front, rear, or sides.

Oversteer (vehicle) the tendency of a car's front end to move to the inside of the pathway being steered toward.

Path of Travel—that strip of roadway that extends in front or back of the car and is wide.

Sight Distance—the distance the driver can see along his intended path of travel.

Speed the rate of distance a vehicle travels during a given period of time. Speed equals distance divided by time.

RULE

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

**Comprehensive Toxic Air Pollutant Emission Control
Program (LAC 33:III.5112) (AQ181)**

(Editor's Note: Due to reengineering at the Department of Environmental Quality effective July 1, 1999, the Office and Division names have been changed in the Notice of Intent heading and in the Historical Note for each section in this rule. The contents of the Notice and the rule have not changed.)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality regulations, LAC 33:III.5112 (Log Number AQ181).

This rule updates the ambient air standards (AASs) of 12 toxic air pollutants (taps) listed in Table 51.2 in LAC 33:III.5112. This rule decreases the AASs of the following taps: acetaldehyde, acetonitrile, biphenyl, carbon disulfide, chloroethane, cresol (all isomers), 1,4-dichlorobenzene, 2,4-dinitrotoluene, 2,6-dinitrotoluene, ethylene glycol, and manganese. These decreases will be effective January 1, 2002. The rule increases the AAS of 1,1,1-trichloroethane. Also, the rule corrects the Cas number of Glycol Ethers in Table 51.3. The basis and rationale for this rule are to comply with LAC 33:III.5109.B.5, which requires the administrative authority to periodically, but no later than 12 months after December 20, 1991 and every 12 months thereafter, review and update the ambient air standards listed for each toxic air pollutant in Table 51.2. Changes in the data used to calculate ambient air standards indicate that 12 of the standards in Table 51.2 need to be updated to reflect more recently published values.

This rule meets the exceptions listed in R.S. 30:2019 (D) (3) and R.S.49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

**Chapter 51. Comprehensive Toxic Air Pollutant
Emission Control Program**

**Subchapter A. Applicability, Definitions, and General
Provisions**

§5112. Tables

* * *

[See Prior Text in Table 51.1 Minimum Emission Rates Toxic Air
Pollutants-EXPLANATORY NOTE 11]

Stopping Distance (Zone)—the distance the car travels from the moment the driver sees a situation and decides to stop, to the moment the car stops moving.

Two Second Following Distance—that part of the path of travel behind the ongoing car which extends for a distance of two seconds in front of the car following.

Understeer (Vehicle) the tendency of a car's front end to move straight ahead instead of along the pathway being steered toward.

Vehicle Capabilities—those things or abilities that a vehicle can be made to do such as stopping, cornering, and accelerating.

Vehicle Performance—the vehicle's actual doing of those things that a vehicle is supposed to be able to do. Some people use vehicle performance as applying only to engine capability. We shall use vehicle performance as the sum total of all capabilities.

Weight Transfer—the shifting of part of the car's weight from one end to the other.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1236 (July 1999).

§1511. General Approaches For Unit IV

A. This unit is a beginning for building a file of stored information about vehicle dynamics. Such information can be utilized in the development of basic control skills. Therefore, these learning experiences should be closely coordinated with the beginning on-street lab lessons when practical and psychologically sound. With additional information and experience, the learner can become proficient in monitoring his own vehicle and the highway environment for the competent operation and control of his car. The driver should not put himself into a situation where either he or the car is incapable of the desired response.

B. Please note that the two second stopping zone (or following distance) works for all speeds when following a moving car ahead. However, the four second stopping zone must be used for fixed objects or objects moving across your path. In order to eliminate confusion and allow for a margin of safety, the four second rule is recommended for all speeds.

C. Actually, for urban areas, with limits of 30 mph, the two second zone would be adequate for cross traffic. The illustration below may help clarify the various speed—braking—distance relationships in terms of time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE Promulgated by the Board of Elementary and Secondary Education, LR 25:1237 (July 1999).

Weegie Peabody
Executive Director

9907#020

Table 51.2 Louisiana Toxic Air Pollutant Ambient Air Standards

Compounds	Cas Number	Class	Ambient Air Standard	
			(µg/m ³ *) (8 Hour Avg.)	(µg/m ³ **) (Annual Avg.)
Acetaldehyde	75-07-0	II	4,290.00[13]	
Acetaldehyde	75-07-0	II		45.50[14]
Acetonitrile	75-05-8	II	940.00[13]	
Acetonitrile	75-05-8	II	810.00[14]	
* * *				
[See Prior Text in Acrolein-Beryllium [1]]				
Biphenyl	92-52-4	II	31.00[13]	
Biphenyl	92-52-4	II	23.80[14]	
* * *				
[See Prior Text in Bis (2-Chloroethyl) Ether-Cadmium (and compounds)[1]]				
Carbon Disulfide	75-15-0	II	86.00[13]	
Carbon Disulfide	75-15-0	II	71.40[14]	
* * *				
[See Prior Text in Carbon Tetrachloride-Chlorobenzene]				
Chloroethane	75-00-3	II	62,900.00[13]	
Chloroethane	75-00-3	II	6,290.00[14]	
* * *				
[See Prior Text in Chloroform-Copper (and compounds)[1]]				
Cresol [4]	1319-77-3	III	276.00[13]	
Cresol [4]	1319-77-3	III	238.00[14]	
* * *				
[See Prior Text in Cumene-Dibutyl Phthalate]				
1,4-Dichlorobenzene	106-46-7	II	10,700.00[13]	
1,4-Dichlorobenzene	106-46-7	II	1,430.00[14]	
* * *				
[See Prior Text in 1,2-Dichloroethane-1,3-Dichloropropylene]				
2,4-Dinitrotoluene [5]	121-14-2	II	35.70[13]	
2,4-Dinitrotoluene [5]	121-14-2	II	4.76[14]	
2,6-Dinitrotoluene [5]	606-20-2	II	35.70[13]	
2,6-Dinitrotoluene [5]	606-20-2	II	4.76[14]	
* * *				
[See Prior Text in 1,4-Dioxane-Ethyl Benzene]				
Ethylene Glycol	107-21-1	III	3,020.00[13]	
Ethylene Glycol	107-21-1	III	2,380.00[14]	
* * *				
[See Prior Text in Ethylene Oxide-Maleic Anhydride]				
Manganese (and compounds) [1]	7439-96-5	II	27.60[13]	
Manganese (and compounds) [1]	7439-96-5	II	4.76[14]	
* * *				
[See Prior Text in Mercury (and compounds) [1]-Toulene-2,6-diisocyanate [8]]				
1,1,1-Trichloroethane	71-55-6	III	45,200.00	
* * *				
[See Prior Text in 1,1,2-Trichloroethane-Zinc (and compounds)[1][10]]				

Explanatory Notes:

[See Prior Text in EXPLANATORY NOTES *- [12]]

[13] Effective until January 1, 2002.

[14] Effective starting date is January 1, 2002. Compliance with the revised ambient air standards is to be addressed in the permitting process after the effective date.

Table 51.3 Louisiana Toxic Air Pollutants Supplemental List*			
Compounds	Cas Number	Class	Synonyms
*** [See Prior Text in Acetamide-Fine Mineral Fibers [2]]			
Glycol Ethers [3]	112-35-6	II	
*** [See Prior Text in Heptachlor-Vinyl Bromide]			

[See Prior Text in EXPLANATORY NOTE *- [4]]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1331 (December 1995), amended LR 22:278 (April 1996), LR 24:1277 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1237 (July 1999).

James H. Brent, Ph.D.
Assistant Secretary

9907#014

RULE

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

Incorporation by Reference, 40 CFR Part 60—Emission Guidelines for MSW Landfills and Hospital/Medical/Waste Incinerators (LAC 33:III.3003)(AQ191*)

(Editor's Note: Due to reengineering at the Department of Environmental Quality effective July 1, 1999, the Office and Division names have been changed in the Notice of Intent heading and in the Historical Note for each section in this rule. The contents of the Notice and the rule have not changed.)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality regulations, LAC 33:III.3003 (Log #AQ191*).

This rule is identical to a federal regulation found in 40 CFR Part 60, July 1, 1998, which is applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rule incorporates by reference Title 40 *Code of Federal Regulations* (CFR) Part 60 as revised July 1, 1998, into LAC 33:III.Chapter 30. Louisiana receives delegation authority from the U.S. Environmental Protection Agency (EPA) for 40 CFR Part 60, Standards of Performance for New Stationary Sources (NSPS), by incorporating the federal regulations into the LAC. EPA's 105 Grant Objectives require incorporation by reference of new and revised NSPS regulations to be made annually. This rulemaking meets that requirement. 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)(3) and R.S.49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33
ENVIRONMENTAL QUALITY**

Part III. Air

Chapter 30. Standards of Performance for New Stationary Sources (NSPS)

Subchapter A. Incorporation by Reference (IBR)

§3003. IBR 40 Code of Federal Regulations (CFR) Part 60

A. Except as modified in this Section, regulations at 40 CFR part 60 as revised July 1, 1998, and specified below in Tables 1 and 1.A are hereby incorporated by reference as they apply to the State of Louisiana.

Table 1. 40 CFR Part 60	
40 CFR Part 60 Subpart	Subpart Heading
*** [See Prior Text in A-C]	
Ca	Reserved
Cb	Emission Guidelines and Compliance Times for Large Municipal Waste Combustors That Are Constructed on or Before September 20, 1994
*** [See Prior Text in Cc-Cd]	
Ce	Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators

* * *	
[See Prior Text in D-Ea]	
Eb	Standards of Performance for Municipal Waste Combustors for which Construction is Commenced after September 20, 1994, or for Which Modification or Reconstruction Is Commenced After June 19, 1996
Ec	Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced after June 20, 1996
* * *	
[See Prior Text in F-WWW]	

* * *

[See Prior Text in Table 1.A]

B. Reserved.

* * *

[See Prior Text in C-D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1239 (July 1999).

James H. Brent, Ph.D.
Assistant Secretary

9907#019

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Organic Solvents (LAC 33:III.2123)(AQ189)

(Editor's Note: Due to reengineering at the Department of Environmental Quality effective July 1, 1999, the Office and Division names have been changed in the Notice of Intent heading and in the Historical Note for each section in this rule. The contents of the Notice and the rule have not changed.)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality regulations, LAC 33:III.2123 (Log Number AQ189).

This rule will clarify the wording of LAC 33:III.2123.B.1. LAC 33:III.2123.D.6 provides exemptions on emissions of VOCs for surface coating facilities in attainment and nonattainment areas of Louisiana and refers to LAC 33:III.2123.C.1-10 to determine emission limitations. This citation is corrected to include Paragraph 11, also. The basis and rationale for this rule are to make a grammatical clarification and correct a reference oversight.

This rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Louisiana Register Vol. 25, No. 7 July 20, 1999

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 21. Control of Emission of Organic Compounds

Subchapter B. Organic Solvents

§2123. Organic Solvents

* * *

[See Prior Text in A-B]

1. For the purposes of this Subsection, a photochemically reactive solvent is any solvent with an aggregate of more than 20 percent of its total volume composed of the chemical compounds classified below or which exceeds any of the following individual percentage composition limitations, referred to the total volume of solvent:

* * *

[See Prior Text in B.1.a-D.5]

6. Surface coating facilities on any property in Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge parishes which when controlled have a potential to emit at maximum production a combined weight (total from the property) of volatile organic compounds less than 10 tons in any consecutive 12 calendar months are exempt from the provisions of Subsection C.1-11 of this Section. Surface coating facilities on any property in parishes other than Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge which when uncontrolled have a potential to emit a combined weight of volatile organic compounds less than 100 pounds (45 kilograms) in any consecutive 24-hour period are exempt from the provisions of Subsection C.1-11 of this Section.

* * *

[See Prior Text in D.7-G]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:119 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:654 (July 1991), LR 18:1122 (October 1992), LR 22:340 (May 1996), LR 22:1212 (December 1996), LR 23:1678 (December 1997), LR 24:23 (January 1998), LR 24:1285 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1240 (July 1999).

James H. Brent, Ph.D.
Assistant Secretary

9907#018

RULE

Department of Health and Hospitals Board of Certification for Substance Abuse Counselors

Certification for Substance Abuse Counselors
(LAC 46:LXXX.101, 105, 301, 701, 703, 707, 711, 901,
905, 1101, 1103, 1105, 1303, 1505, 1509, 1511, 1701)

Under the Authority of R.S. 37:3372-3384, the Louisiana State Board of Certification for Substance Abuse Counselors

hereby adopts rules and regulations relative to certification and regulating certified substance abuse counselors, certified compulsive gambling counselors, and certified prevention counselors.

Chapter 1. General Provisions

§101. Scope

The rules of LAC 46:LXXX are relative to and govern the Louisiana State Board of Certification for Substance Abuse Counselors (the board) within the Department of Health and Hospitals, the certification for substance abuse counselors, compulsive gambling counselors, prevention counselors and the practice of substance abuse counseling, compulsive gambling counseling and prevention counseling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December 1989), amended LR 19:627 (May 1993), LR 25:1241 (July 1999).

§105. Definitions

* * *

Compulsive Gambling the persistent and recurrent maladaptive gambling behavior that disrupts personal, family, community, or vocational pursuits.

Compulsive Gambling Counselor any substance abuse counselor who, by means of his special knowledge acquired through formal education and practical experience is qualified to provide gambling addictive behavior counseling to compulsive gamblers who have gambling addictive behaviors and other gambling problems behavior and who is certified as such by the board. The board shall consider any person providing such services as purporting to be a compulsive gambling counselor.

* * *

Counselor in Training any person who has not yet met the qualifications to become certified in a particular field but has made an application to be certified in a particular field and is registered as such by the board.

Performance Domains for prevention counseling are: program coordination, education and training, community organization, public policy, planning and education, and professional responsibility.

Prevention Counselor any person who, by means of his special knowledge acquired through formal education and practical experience, is qualified to provide prevention intervention services and is certified as such by the board. The board shall consider any person providing such services as purporting to be a prevention counselor.

Prevention Intervention Services the provision of prevention services and intervention to those at risk of abuse of alcohol, tobacco, and other drugs.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December 1989), amended LR 19:628 (May 1993), LR 25:1241 (July 1999).

Chapter 3. Practice

§301. Scope of Practice

A. The practice of substance abuse counseling within the meaning and intent of these rules and regulations shall

consist of the rendering of professional guidance to abusers of drugs or alcohol to assist them in gaining an understanding of the nature of their disorder and maintaining a responsible lifestyle free of substance abuse. The scope of practice shall include making appropriate referrals to qualified professionals, providing counseling to family members when appropriate, and utilizing the core functions of substance abuse counseling.

B. The practice of compulsive gambling counseling within the meaning and intent of these rules and regulations shall consist of the rendering of professional guidance to compulsive gamblers to assist them in gaining an understanding of the nature of their disorder and developing and maintaining a responsible lifestyle free of compulsive gambling. The scope of the practice shall include making appropriate referrals to qualified professionals, providing counseling to family members when appropriate, and utilizing the core functions of counseling.

C. The practice of prevention counseling within the meaning and intent of these rules and regulations shall consist of the rendering of professional guidance to those at risk of alcohol, tobacco and other drugs and to assist them in gaining an understanding of the nature of their disorder and developing and maintaining a responsible lifestyle free of abuse and no longer in need of prevention intervention services. The scope of the practice shall include making appropriate referrals to qualified professionals, providing counseling to family members when appropriate, and utilizing the performance domains of prevention counseling.

D. Nothing in these rules and regulations shall be construed to authorize a substance abuse counselor, compulsive gambling counselor, or prevention counselor to practice medicine, social work, or psychology, or to provide counseling for disorders other than substance abuse, gambling or prevention. A substance abuse counselor, compulsive gambling counselor or prevention counselor shall not order, administer, or interpret psychological tests or utilize psychometric procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December 1989), amended LR 19:628 (May 1993), LR 25:1241 (July 1999).

Chapter 7. Certification

§701. Requirements

A. ...

1. - 5. ...

6. provides evidence of having earned educational credit sufficient to satisfy the requirements for counselor certification which include:

a. ...

b. possess a bachelor's degree from an accredited institution of higher education in one of the following areas:

i. social work;

ii. social welfare;

iii. sociology;

iv. substance abuse;

v. psychology;

vi. mental health counseling;

vii. education counseling, or

viii. family, child, and consumer science;

7. provides evidence of having successfully completed the experiential requirements for substance abuse counselor certification which include:

a. two years of full-time clinical training in board approved institutions in the actual performance of each of the core functions with clients while under the supervision of a qualified professional, with a minimum of one contact hour per week;

b. - c. ...

8. - 12. ...

13. holds a valid and current certificate as a substance abuse counselor issued by the Louisiana Association of Substance Abuse Counselors and Trainers, Inc. prior to August 31, 1999, and seeks certification as a substance abuse counselor.

B. - C. ...

D. Initial Certification

1. The board shall issue a certification as a Board Certified Compulsive Gambling Counselor to each candidate who:

a. is at least 21 years of age and has earned a High School diploma or its equivalent;

b. is a citizen of the United States;

c. is not in violation of any ethical standards subscribed to by the board;

d. is not and has not been an abuser of alcohol or other drugs and not a compulsive gambler during the previous two year;

e. has not been convicted of a felony. However, the board in its discretion may waive this requirement upon review of the individuals' circumstance;

f. possess and maintain a board certification for substance abuse counseling;

g. holds a valid and current certificate as a gambling counselor issued by the Louisiana Association of Substance Abuse Counselors and Trainers, Inc. prior to August 31, 1999;

h. successfully completes thirty clock hours of gambling addiction courses from a board-certified education program;

i. demonstrates professional competency in gambling counseling by passing a written and oral examination prescribed by the board;

j. makes application and pays the fees prescribed by the board;

k. it is the candidate's responsibility to assure himself that his educational preparation has provided comprehensive coverage of the subjects and topics necessary to allow him to develop a sufficient knowledge base and to adequately prepare him to be able to demonstrate professional competency in compulsive gambling counseling;

l. it is the candidate's responsibility to assure himself that his clinical experience has provided comprehensive training sufficient to adequately prepare him to be able to demonstrate professional competency in gambling counseling;

m. credit received for practicum, internship, or other experiential education may be claimed for education or experience, but not both.

E. Certification by Transition from LASACT, Inc.

1. The board shall issue a certificate to any person who:

a. submits an application and pays the fees equivalent to those required for the initial application and examination;

b. meet the requirements in §701.A.1, 2, 3, 4, 5, and 7;

c. holds a valid and current certificate as a compulsive gambling counselor issued by the Louisiana Association of Substance Abuse Counselors and Trainers (LASACT), Inc.

F. Certification by Reciprocity from Other States

1. The board may issue a certificate, without examination in this state, to any person who:

a. submits an application and pays the fees equivalent to those required for the initial application and examination;

b. possesses a valid certificate to practice as compulsive gambling counselor in any other state of the United States;

c. can satisfy the board that the certificate from the other state is based upon an examination and other requirements substantially equivalent to the requirements of §701.D.

G. Initial Certification

1. The board shall issue a certification as a Board Certified Prevention Counselor to each candidate who:

a. is at least 21 years of age and has earned a High School diploma or its equivalent;

b. is a citizen of the United States;

c. is not in violation of any ethical standards subscribed to by the board;

d. is not and has not been an abuser of alcohol or other drugs and not a compulsive gamblers during the previous two years;

e. has not been convicted of a felony. However, the board in its discretion may waive this requirement upon review of the individuals' circumstance;

f. holds a valid and current certificate as a prevention counselor issued by the Louisiana Association of Substance Abuse Counselors and Trainers, Inc. prior to August 31, 1999;

g. successfully completes thirty semester hours of prevention related courses approved by the board. Equivalency may be met by board-approved educational programs at the rate of fifteen contact hours per one semester hour;

h. posses a bachelor's degree from an accredited institution of higher education in one of the following areas:

i. social work;

ii. social welfare;

iii. sociology;

iv. substance abuse;

v. psychology;

vi. mental health counseling;

vii. education;

viii. education counseling; or

ix. family, child and consumer science;

i. complete experiential requirements prescribed by the board, including the following:

i. two years of full-time prevention experience in board-approved institutions related to alcohol, tobacco and other drugs;

ii. one hundred twenty-clock hours in the performance domains, with a minimum of ten hours in each performance domain while under the supervision of a qualified professional, with a minimum of one contact hour per week. The performance domains are:

- (a). program coordination;
- (b). education and training;
- (c). community organization;
- (d). public policy;
- (e). planning and evaluation; and
- (f). professional responsibility;

j. demonstrates professional competency in prevention counseling by passing a written and oral examination prescribed by the board;

k. makes application and pays the fees prescribed by the board;

l. it is the candidate's responsibility to assure himself that his educational preparation has provided comprehensive coverage of the subjects and topics necessary to allow him to develop a sufficient knowledge base and to adequately prepare him to be able to demonstrate professional competency in prevention counseling;

m. it is the candidate's responsibility to assure himself that his clinical experience has provided comprehensive training sufficient to adequately prepare him to be able to demonstrate professional competency in prevention counseling;

n. credit received for practicum, internship, or other experiential education may be claimed for education or experience, but not both.

G. Certification by Transition from LASACT, Inc.

1. The board shall issue a certificate to any person who:

a. submits an application and pays the fees equivalent to those required for the initial application and examination;

b. meet the requirements in §701.A.1, 2, 3, 4, and 5;

c. holds a valid and current certificate as a prevention counselor issued by the Louisiana Association of Substance Abuse Counselors and Trainers (LASACT), Inc.

H. Certification by Reciprocity from Other States

1. The board may issue a certificate, without examination in this state, to any person who:

a. submits an application and pays the fees equivalent to those required for the initial application examination;

b. possess a valid certificate to practice as a prevention counselor in any other state of the United States;

c. can satisfy the board that the certificate from the other state is based upon an examination and other requirements substantially equivalent to the requirements of §701.F.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December 1989), amended LR 19:631(May 1993), LR 25:1241 (July 1999).

§703. Application and Examination

A. Request for Application

1. Persons desiring information regarding certification as a Board Certified Substance Abuse Counselor, Board Certified Compulsive Gambling Counselor or Board Certified Prevention Counselor shall be sent an information brochure and a request for application for.

2. - 4. ...

B. - D. ...

E. Approval and Issue

1. ...

2. Upon receipt of the certification fee, the board shall examine the application and recommendations from the Certification Committee. The board shall issue certification as a BCSAC, BCCGC, or BCPC to the candidate upon a formal affirmative vote of the majority of the board present and voting provided there is a quorum present.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December 1989), amended LR 19:632 (May 1993), LR 25:1243 (July 1999).

§707. Continuing Professional Education

A. Within the two years prior to application for certification renewal, all board certified substance abuse counselors, board certified compulsive gambling counselors, and board certified prevention counselors must have completed at least 48 clock hours of education directly applicable to substance abuse counseling, gambling counseling or prevention counseling whichever is applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December 1989), amended LR 19:633 (May 1993), LR 25:1243 (July 1999).

§711. Lapsed Certificate; Reinstatement; Surrender

A. - B. ...

C. Non-Payment of Fees; Surrender of Certificate

1. A former board certified substance abuse counselor, board certified compulsive gambling counselor or board certified prevention counselor who does not renew his certificate shall surrender the certificate by returning it to the office of the LSBACSAC.

2. A former board certified substance abuse counselor, board certified compulsive gambling counselor, or board certified prevention counselor who desires to exercise the option of the Grace Period to reactivate the certificate or to apply for reinstatement within one year may retain the certificate provided an acknowledgment is made, in writing, that the certificate is not valid during the period in which it is inactive or lapsed.

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December 1989), amended LR 19:634 (May 1993), LR 25:1243 (July 1999).

Chapter 9. Denial, Suspension, Revocation of Certification: Appeal

§901. Authority

A. The board shall have the power to deny, revoke, or suspend its certification of any person upon proof that such person:

1. - 4. ...

5. is impaired in delivery of professional services because of alcohol or drug abuse, compulsive gambling, or because of medical or psychiatric disability;

6. ...

7. allows his certificate to be used by another person to illegally represent himself as a certified substance abuse counselor, certified compulsive gambling counselor or certified prevention counselor;

8. - 13. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December 1989), amended LR 19:634 (May 1993), LR 25:1244 (July 1999).

§905. Suspension of Certification

A. The board shall suspend the certification of any BCSAC, BCCGC, or BCPC who voluntarily surrenders his certificate. The suspension shall be for a defined period of time or until specific conditions required by the board are satisfied.

B. The board shall suspend the certification of any BCSAC, BCCGC, or BCPC against whom there is a complaint containing allegations which reasonably suggest that a violation of the act or rules and regulations of the board of a most serious nature may have occurred pending an outcome of investigation and/or a formal hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December 1989), amended LR 19:635 (May 1993), LR 25:1244 (July 1999).

Chapter 11. Complaints

§1101. Complaint Procedure

A. The board shall develop policies and procedures to receive, review, investigate, and act upon complaints.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December 1989), amended LR 19:635 (May 1993), LR 25:1244 (July 1999).

§1103. Filing a Complaint

A. Any person desiring to report a complaint or alleged violation against a board certified substance abuse counselor, board certified compulsive gambling counselor, or board certified prevention counselor or other person shall notify the LSBCSAC office. This initial contact notification of a complaint may be in person, by phone, or in writing. The person reporting the complaint or alleged violation may request a complaint form directly or may request that a member of the Ethics Committee contact him.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December 1989), amended LR 19:635 (May 1993), LR 25:1244 (July 1999).

§1105. Investigation

A. If the allegations in the complaint reasonably suggest a violation of the act or rules and regulations of the board, the Ethics Committee shall initiate an investigation. The Ethics Committee shall notify the subject that a complaint has been filed and provide a copy of the official complaint form. The board certified substance abuse counselor, board certified compulsive gambling counselor, or board certified prevention counselor or other person who is the subject of the complaint shall be required to provide a signed and notarized response within 15 days of being notified of the complaint.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December 1989), amended LR 19:636 (May 1993), LR 25:1244 (July 1999).

Chapter 13. Impaired Counselors

§1303. Identification

A. - B. ...

C. The board may appoint or designate an examining committee of board certified substance abuse counselors, board certified compulsive gambling counselors, board certified prevention counselors, physicians, and/or other health care professionals to conduct a physical and/or mental examination, including requiring a urine drug screen, blood, breath, and other tests as deemed appropriate and allowed by law; and to otherwise inquire into a counselor's fitness and ability to practice this profession with reasonable skill and safety to clients.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December 1989), amended LR 19:636 (May 1993), LR 25:1244 (July 1999).

Chapter 15. Code of Ethics

§1505. Counselors and the Board

A. Irrespective of any training other than training in counseling which a person may have completed, or any other certification which a person may possess, or any other professional title or label which a person may claim, any person certified as a substance abuse counselor, compulsive gambling counselor or prevention counselor is bound by the provisions of the Substance Abuse Counselor Certification Act and the rules and regulations of the board in rendering counseling services.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December 1989), amended LR 19:637 (May 1993), LR 25:1244 (July 1999).

§1509. Affirmation

A. Every BCSAC, BCCGC and BCPC must agree to affirm:

1. - 12. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December 1989), amended LR 19:638 (May 1993), LR 25:1245 (July 1999).

§1511. Confidentiality

A. No substance abuse counselor, gambling counselor or prevention counselor may disclose any information he may have acquired from persons consulting him in his professional capacity that was necessary to enable him to render services to those persons except:

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December 1989), amended LR 19:638 (May 1993), LR 25:1245 (July 1999).

Chapter 17. Registrations and Board Approved Programs

§1701. Counselor in Training

A. - C.3....

4. a signed statement is supplied attesting to the registrant's intention to seek certification as a board certified substance abuse counselor, board certified compulsive gambling counselor, or board certified prevention counselor. This statement shall also attest to the registrant accepting responsibility for all actions, holding the LSBCSAC harmless, and agreeing to comply with the requirements of the LSBCSAC.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December 1989), amended LR 19:638 (May 1993), LR 25:1245 (July 1999).

Michael Hollingsworth
Chairman

9907#039

RULE

**Department of Health and Hospitals
Board of Nursing
and
Board of Medical Examiners**

Authorized Practice
(LAC 46:XLVII.4513)

Notice is hereby given, that the Louisiana State Board of Nursing (herein referred to as Board) and the Louisiana State Board of Medical Examiners, pursuant to the authority

vested in the Board by R.S. 37:918(K), and 37:1031-1035 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., has amended the Advanced Practice Registered Nurse Demonstration Projects, LAC 46:XLVII.4513.C to read as LAC 46:XLVII.4513.C, Limited Prescriptive and Distributing Authority for Advanced Practice Registered Nurses, and standardized the process and requirements for application for prescriptive privileges as a nurse practitioner, certified nurse midwife, and clinical nurse specialist in Louisiana. The rules are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 45. Advanced Practice Registered Nurses

§4513. Authorized Practice

A. - B.8. ...

C. Limited Prescriptive and Distributing Authority. An Advanced Practice Registered Nurse (APRN) shall practice in a manner consistent with the definition of advanced practice set forth in R.S. 37:913(3) and the provisions of R.S. 37:1031-1035.

1. The 1997 Louisiana legislature authorized the creation of the Joint Administration Committee on Prescriptive Authority for Advanced Practice Registered Nurses, under the joint jurisdiction of the Board and the Louisiana State Board of Medical Examiners, to develop and promulgate rules and regulations governing the APRN's limited prescriptive authority.

2. The application requesting that an APRN be granted limited prescriptive authority to prescribe assessment studies, drugs, and therapeutic devices, and to distribute free drug samples and other gratuitous medications supplied by drug manufacturers may be made with initial APRN licensure application or by separate application as set forth in LAC 46:XLVII.3341.

3. Definitions as used in this Part:

Act Acts 1997, Number 720, R.S. 37:1031-1034.

Assessment Studies diagnostic studies including, but not limited to laboratory testing, radiologic studies, electrocardiograms, and pulmonary function tests.

Board the Louisiana State Board of Nursing.

Contact Hour a unit of measurement that describes 50 minutes of participation in an educational activity which meets the Board's continuing education criteria. Ten contact hours equal one continuing education unit (C.E.U.).

Collaborating Physician—a physician in active practice with whom the APRN has developed and signed a collaborative practice agreement for limited prescriptive and distributing authority and who holds a current, unencumbered, unrestricted and valid medical license issued or recognized by the Louisiana State Board of Medical Examiners with no pending disciplinary proceedings, and practices in accordance with rules of the Louisiana State Board of Medical Examiners.

Distribute, Distribution or Distributed—the issuing of free samples and other gratuitous medications supplied by drug manufacturers, as defined by clinical practice guidelines contained in a collaborative practice agreement for limited prescriptive authority.

Gratuitous Medications the medications provided by the manufacturer to be distributed to indigent populations and/or HIV and STD patients free of charge.

Joint Administration Committee or Committee the joint Committee comprised of three members designated by the Board and three members designated by the Louisiana State Board of Medical Examiners, and two nonvoting members, one APRN appointed by the Louisiana State Nurses Association and one physician, appointed by the Louisiana State Medical Society.

Medical (Therapeutic) Device or Appliance any piece of equipment used as an aid to living by a patient including, but not limited to, a wheelchair, crutches, or hospital bed. Medical device or appliance shall not be construed to mean any diagnostic tool or test or any item or equipment of a therapeutic or corrective nature which is outside the scope of practice of advanced nursing. Clinical practice guidelines will indicate appropriate medical devices or appliances to be prescribed by an APRN.

National Professional Accrediting Organization an organization that provides accreditation for educational activity offered by a nursing, medical, or pharmacy association or other educational entities and is approved by the Board and Committee relative to pharmacotherapeutics.

Prescribe to direct, order, or designate the preparation, use of or manner of using by spoken or written words.

Prescription an order for a drug, chemical, or medicine, or combination thereof, either written or given orally to a registered pharmacist by a licensed physician, dentist, optometrist, advanced practice registered nurse, or veterinarian, to be filled, compounded, or dispensed by a registered pharmacist in a registered pharmacy, and to be preserved on file as required in R.S. 37:1198.

Samples a unit of prescription drug which is not intended to be sold and is intended to promote the sale of the drug.

Under Physician Direction the limited prescriptive authority as approved by the Joint Administration Committee and demonstrated in the collaborative practice agreement as provided for in R.S. 37:913(9). Physician direction of the APRN is essential and implies that there is informed concurrence of the limited prescriptive authority actions of the APRN, in accordance with written clinical practice guidelines in existence between the collaborating physician and the APRN. Although physician direction shall not be construed in every case to require the physical presence of the collaborating physician, he shall be within a reasonable distance to provide timely response to medical emergencies and he and the APRN must have the capability to be in contact with each other by telephone or other telecommunications devices.

4. The applicant shall:

- a. hold a current, unencumbered, unrestricted and valid registered nurse license in Louisiana with no pending disciplinary proceedings as stated in R.S. 37:921;
- b. hold a current, unencumbered, unrestricted and valid APRN license;
- c. submit a notarized application on a form provided by the Board with a non-refundable fee as set forth in LAC 46:XLVII.3341;
- d. provide evidence of:
 - i. 500 hours of clinical practice within the last six months in the clinical specialty for which the applicant was

educationally prepared as an APRN immediately prior to applying for limited prescriptive and distributing authority;

- ii. successful completion of a minimum of 36 contact hours of education in advanced pharmacotherapeutics obtained as a component of a formal educational program preparing registered nurses for advanced practice or continuing education programs for advanced practice, approved by the Board, within the four-year time period immediately prior to the date of initial application for prescriptive and distributing authority with at least 12 hours having been obtained within two years prior to application. The APRN shall submit the continuing education advanced pharmacotherapeutics curriculum to the Board for review and approval. The APRN shall obtain at least two-thirds of the required pharmacotherapeutic hours by attending continuing education programs and may obtain one-third of the required pharmacotherapeutic hours by non-lecture programs, such as computer assisted instruction and/or self-study accredited by a national professional accrediting organization approved by the Board. In order for the continuing education course to be approved by the Board, the course shall include:

- (a). content relevant to advanced practice nursing;
- (b). knowledge of pharmacotherapeutic principles and their clinical application;
- (c). the use of pharmacological agents in the prevention of illness, and the restoration and maintenance of health;

- iii. successful completion of a minimum of 12 contact hours in physiology/pathophysiology at an advanced practice level;

- iv. any deviation from 4.d.ii shall be submitted to the Board and Committee for review and approval;

- v. a collaborative practice agreement with one or more licensed collaborating physicians which shall acknowledge that the applicant for prescriptive authority shall only act as or engage in the prescriptive functions of an APRN under physician direction, and which shall include, but not be limited to:

- (a). a plan of accountability among the parties that:

- (i). defines the limited prescriptive authority of the APRN and the responsibilities of the collaborating physician or physicians;
- (ii). delineates a plan for possible hospital admissions and privileges;
- (iii). delineates mechanisms and arrangements for diagnostic and laboratory requests for testing;

- (iv). delineates a plan for documentation of medical records and the frequency of collaborating physician review of patient charts;

- (v). delineates a plan to accommodate immediate consultation with the collaborating physician regarding complications or problems not addressed by clinical practice guidelines;

- (vi). contains a disclosure statement regarding the status of professional liability insurance;

- (b.) clinical practice guidelines as required by R.S. 37:913(9)(b) shall contain documentation of the types or categories or schedules of drugs available and generic

substitution for prescription that complements the APRN's licensed category and area of specialization as delineated in the collaborative practice agreement and be:

- (i). mutually agreed upon by the APRN and collaborating physician;
- (ii). specific to the practice setting;
- (iii). maintained on site;
- (iv). reviewed and signed at least annually by the APRN and physician to reflect current practice;

(c). documentation of the availability of the collaborating physician when the physician is not physically present in the practice setting. Availability shall be adequate if the collaborating physician:

(i). is available by telephone or direct telecommunications for consultation, assistance with medical emergencies, or patient referral;

(ii). visits the practice setting at least every week during regular clinic/office hours and provides consultation to include, but not be limited to:

(aa). reviewing with the APRN histories of patients with problems or complications encountered;

(bb). personally diagnosing or treating patients requiring physician follow-up;

(cc). verifying that treatment and acts of limited prescriptive authority are provided in accordance with agreed upon clinical practice guidelines;

(d). documentation shall be shown that patients are informed about how to access care when both the APRN and collaborating physicians are absent from the practice setting or otherwise unavailable;

(e). an acknowledgment of the mutual obligation and responsibility of the APRN and collaborating physician to insure that all acts of limited prescriptive authority of the APRN are properly documented in written form by the APRN and that each such entry is reviewed and countersigned by the collaborating physician within 24 hours with respect to inpatients in an acute care setting and patients in a hospital emergency department;

vi. the Committee shall develop guidelines extending or modifying the requirements of "under physician direction", as defined in §4513.C.3, as well as the requirements of §4513.C.4.d.v.(c), for an APRN who is employed by or who contracts with the Louisiana Department of Health and Hospitals' Office of Public Health to specifically provide family planning, Human Immunodeficiency Virus ("HIV") infection or sexually transmitted disease treatment or services and Rural Health Clinics;

vii. any written complaint regarding deviation from 4.d.v. shall be investigated by the Committee or its agents and referred to the Louisiana State Board of Medical Examiners, the Louisiana State Board of Nursing, or both boards, as appropriate, for review and action, if any, and either or both boards' action shall be reported to the Committee.

e. submit a copy of the current renewal card of the collaborating physician(s) issued by the Louisiana State Board of Medical Examiners.

5. Limited Prescriptive Authority

a. The Committee shall review the application, reapplication or renewal, the collaborative practice

agreement for limited prescriptive authority and all related materials and shall approve, modify, or deny the application, reapplication or renewal for prescriptive authority. An APRN with limited prescriptive authority approved by the Committee may prescribe drugs and therapeutic devices as indicated by clinical practice guidelines and the parameters of the collaborative practice agreement.

b. Prior to granting an APRN limited prescriptive authority the collaborating physician or physicians shall be approved by the Louisiana State Board of Medical Examiners.

c. An APRN who is granted limited prescriptive authority shall not prescribe or distribute any controlled substance as defined, enumerated or included in federal or state statutes or regulations, 21 C.F.R. §1308.11-15, R.S. 40:964, or any substance which may hereafter be designated a controlled substance by amendment or supplementation of the cited regulations and statute. The Committee may develop guidelines specifically authorizing an APRN with limited prescriptive authority to prescribe or distribute controlled substances on an individual practice basis. An APRN who is so authorized shall provide their Drug Enforcement Administration registration number on all written prescriptions and be furnished on all oral prescriptions and shall comply with all scheduled drug prescription requirements in accordance with LAC 46:LVIII.3531, Schedule Drug Prescription Requirements.

d. An APRN granted limited prescriptive and distributing authority shall comply with all applicable federal and state laws and rules in prescribing, distributing and administering drugs. Each order for a prescription, whether oral or written, shall include the following information:

i. the name, office address and telephone number, RN designation and specialty area of the APRN and the identification number assigned to the APRN by the Board;

ii. the collaborating physician's name and primary office address;

iii. the date the prescription is ordered and the patient's name;

iv. shall indicate if generic substitution is acceptable to the APRN and physician. If this information is not provided, substitution, where legally allowable, may occur if the patient accepts the generic product.

e. Each year an APRN with limited prescriptive authority shall obtain six contact hours of continuing education in pharmacotherapeutics in their category and area of specialization. Documentation of completion of the continuing education contact hours required for prescriptive authority shall be submitted at the time of the APRN's license renewal. In order for the continuing education program to be approved by the Board, the program shall:

i. be provided by a Board approved national certifying organization;

ii. include content relevant to advanced practice nursing and the use of pharmacological agents in the prevention of illness, and the restoration and maintenance of health.

f. APRN limited prescriptive authority may be renewed after review and approval by the Board and Committee.

g. Prior to changes with the collaborating physician, or physicians or coverage physician, when applicable, or practice site, the APRN shall notify the Board in writing requesting approval of such changes.

h. The Board shall be responsible for maintaining a current up-to-date public list of APRNs who have limited authority to prescribe in the state. An updated list of APRNs with limited prescriptive authority shall be sent by the Board to the Louisiana State Board of Pharmacy. The Board shall notify the Louisiana State Board of Pharmacy when changes occur in the APRN's limited authority: modified, restricted, or loss.

i. The Board shall supply whatever data are needed by the Office of Narcotics and Dangerous Drugs of the Department of Health and Hospitals.

j. An APRN shall demonstrate compliance with the Board's rules relating to authorized practice, section LAC 46:XLVII.4513.C.2.

k. A physician may enter into collaborative practice agreements for the exercise of limited prescriptive authority with not more than two (2) APRNs, except as may otherwise expressly approved by the Joint Administration Committee in accordance with guidelines developed by the Committee. The Committee shall develop guidelines specifically authorizing a physician to enter into collaborative practice agreements for the exercise of limited prescriptive authority for more than two (2) APRNs. Until such guidelines are developed, the Committee may approve a physician's collaborative practice agreements with more than two (2) APRNs on a case by case basis.

6. Limited Distribution of Free Drug Samples and other Gratuitous Medications Supplied by Drug Manufacturers:

a. Distribution of free drug samples and other gratuitous medications supplied by drug manufacturers, other than controlled substances, shall:

i. be consistent with, and not beyond the parameters of, the APRN scope of practice and collaborative practice agreement;

ii. be recorded in the patient record; and

iii. be in accordance with other state and federal statutes and regulations.

b. Free drug samples distributed by an APRN shall be in the manufacturers' original packaging.

7. Limitation

a. An APRN's limited prescriptive and distributing authority is personal to that individual APRN and is not delegable. An APRN shall not enter into any agreement, arrangement or contract with another health care provider, practitioner, person or individual which in any manner transfers any of the prescribing or distributing authority that the APRN derives as a result of approval by the Board and Committee pursuant to the provisions of Act 720 of 1997 and these rules.

b. Only registered practitioners of medicine, dentistry, or veterinary medicine are authorized to compound and dispense drugs in accord with R.S.37:1204.

8. Exclusion. Nothing herein shall require a CRNA to have prescriptive authority to provide anesthesia care, including the administration of drugs or medicine necessary for anesthesia care.

9. Exception. The Committee may make an exception to the said rules when reviewing the request of each individual APRN for limited prescriptive authority.

10. Continuance. Those APRNs who have previously been granted limited prescriptive and distributing authority by the Committee shall continue under these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and R.S. 37:1031-1034.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:283 (April 1996), amended by the Department of Health and Hospitals, Board of Nursing and Board of Medical Examiners, LR 22:981 (October 1996), LR 25:1245 (July 1999).

Barbara Morvant, MN, RN
Executive Director, LSBN

Delmar Rorison
Executive Director, LSBME

9907#049

RULE

Department of Health and Hospitals Board of Medical Examiners

Dispensing of Medications—Prohibitions,
Sanctions, and Registration
(LAC 46:XLV.6507 and 6513)

Notice is hereby given, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., that the Louisiana State Board of Medical Examiners (Board), pursuant to the authority vested in the Board by R.S. 37:1261-1292 and R.S. 37:1204, has amended LAC 46:XLV.6507 and 6513 of its existing rules governing action against and eligibility for registration as a dispensing physician. The rule amendments are set forth hereinafter.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Profession

Subpart 3. Practice

Chapter 65. Dispensation of Medications

Subchapter B. Prohibitions and Sanctions

§6507. Action Against Medical License

Violation of the prohibitions set forth in §6505 shall be deemed to constitute just cause for the suspension, revocation, refusal to issue, or the imposition of probationary or other restrictions on any license or permit to practice medicine in the state of Louisiana held or applied for by a physician culpable of such violation, or for other administrative action as the Board may in its discretion determine to be necessary or appropriate, under R.S. 37:1285(A)(6) and R.S. 1285(A)(30).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, R.S. 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 13:570 (October 1987), amended LR 25:1248 (July 1999).

Subchapter C. Registration

§6513. Eligibility for Registration as a Dispensing Physician

A. ...

B. A physician shall be deemed ineligible for registration as a dispensing physician who:

1. has been convicted, whether upon verdict, judgment, or plea of guilty or nolo contendere, of any crime constituting a felony under the laws of the United States or of any state, or who has entered into a diversion program, a deferred prosecution or other agreement in lieu of the institution of criminal charges or prosecution for such crime;

2. has been convicted, whether upon verdict, judgment, or plea of guilty or nolo contendere, of any crime an element of which is the manufacture, production, possession, use, distribution, sale or exchange of any controlled substance or who has entered into a diversion program, a deferred prosecution or other agreement in lieu of the institution of criminal charges or prosecution for such crime;

3. ...

4. has voluntarily surrendered or had suspended, revoked or restricted, his narcotics controlled substance license, permit or registration (state or federal);

5. has had his professional license suspended, revoked or placed on probation or restriction in any manner by the board or by any licensing authority, or who has agreed not to seek re-licensure, voluntarily surrendered, or entered into an agreement with the board or with any licensing authority in lieu of the institution of disciplinary charges or action against such license;

6. has had an application for professional examination or license rejected or denied;

7. has been denied, had suspended, revoked, restricted, or voluntarily relinquished, staff or clinical privileges in any hospital or other health care institution or organization;

8. has been, or is currently in the process of being, denied, terminated, suspended, refused, limited, placed on probation or under other disciplinary action with respect to his participation in any private, state, or federal health insurance program; or

9. has had any court determine that he is currently in violation of a court's judgment or order for the support of dependent children.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, R.S. 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 13:570 (October 1987), amended LR 25:1249 (July 1999).

Delmar Rorison
Executive Director

9907#010

RULE

**Department of Health and Hospitals
Board of Veterinary Medicine**

Prescribing and Dispensing Drugs; Business Names
(LAC 46:LXXXV.705 and 1053)

The Board of Veterinary Medicine hereby amends LAC 46:LXXXV.705 and 1053 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, La. R.S. 37:1518 et seq.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXXXV. Veterinarians

Chapter 7. Veterinary Practice

§705. Prescribing and Dispensing Drugs

A. Prohibited Activities

1. - 2. ...

3. Any drug, medicine, chemical or controlled substance prescribed, dispensed, administered, delivered or ordered pursuant to this rule must be intended for the use of the patient and shall not be prescribed, dispensed, administered, delivered or ordered for the use of the client or any other human.

B. - G.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 6:71 (February 1980), amended LR 16:226 (March 1990), LR 19:1329 (October 1993), LR 20:1381 (December 1994), LR 23:1686 (December 1997), LR 24:1932 (October 1998) and LR 25:1249 (July 1999).

Chapter 10. Rules of Professional Conduct

§1053. Business Names

A. Business names used by veterinary facilities and licensed veterinarians should provide the general public and other practitioners with a clear understanding of the kind and extent of veterinary services being offered. The following provisions shall govern the selection and use of business names in the veterinary profession.

1. The business name of a hospital or clinic as defined and classified in §§700 and 711 of this Part:

a. shall include a combination of words, animal or veterinary, in connection with the words, hospital or clinic ; or

b. if a business name of a hospital or clinic as defined and classified in §§700 and 711 of this Part does not comply with §1053.A.1.a, there shall be a legible sign at the business entrance clearly identifying the facility as either a veterinary or animal hospital or clinic. The designation chosen shall be based on the standards set forth in §711 of this Part.

2. The business name of a mobile clinic as defined and classified in §§700 and 711 of this Part:

a. shall include a combination of words, animal or veterinary in connection with the words, mobile clinic ; or

b. if the business name does not comply with §1053.2.a, a legible sign shall be placed at the business entrance of the mobile clinic identifying it as a veterinary or animal mobile clinic.

3. Any other business name used by a licensed veterinarian who does not operate a veterinary or animal hospital, clinic, or mobile clinic as defined and classified in §§700 and 711 of this part must clearly indicate the kind and extent of veterinary medical services which are being offered to the public.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:231 (March 1990), amended LR 25:1249 (July 1999).

Charles B. Mann
Executive Director

9907#001

RULE

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Durable Medical Equipment—Mucus Clearance (Flutter) Device

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule as authorized by LA. R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing expands Medicaid coverage under the Durable Medical Equipment Program to include mucus clearance (flutter) devices used in the treatment of lung diseases or conditions producing retained secretions. Small hand held mucus clearance (flutter) devices shall be subject to prior authorization when prescribed by a physician for recipients with lung diseases or conditions producing retained secretions.

David W. Hood
Secretary

9907#036

RULE

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Durable Medical Equipment—Peak Flow Meters

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule as authorized by LA. R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing expands coverage under the Durable Medical Equipment Program to include the portable manual peak flow meter used for the treatment of asthma. Portable manual peak flow meters shall be subject to prior authorization when prescribed by a physician for the measurement of lung function as part of an effective asthma management program.

David W. Hood
Secretary

9907#037

RULE

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Facility Need Review—Relocation of Hospital Service District Beds (LAC 48:I.12501)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule as authorized by R.S. 40:2116 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act.

The Department of Health and Hospitals, Bureau of Health Services Financing amends §12501 entitled Introduction as follows:

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 5. Health Planning

Chapter 125. Facility Need Review

§12501. Introduction

A. ...

B. Definitions. When used in this rule the following terms and phrases shall have the following meanings unless the context requires otherwise:

* * *

Hospital Service District—a political subdivision of the State of Louisiana created or authorized pursuant to R.S. 46:1051 et seq.

* * *

F.1. - 7. ...

8. A nursing facility's approved beds may be relocated only under the following conditions.

a. The approved beds cannot be relocated to a different service area.

b. Subject to the exception provided in Subparagraph c, all of the approved beds must be relocated to a single new location, and the approval of any beds not relocated to that new location shall be revoked.

c. Notwithstanding the requirements of Subparagraph b, a partial relocation of approved beds may be effected if the following conditions are met:

i. the approved beds are in a nursing facility owned by a hospital service district as of the date of adoption of this Rule and at the time of the partial relocation;

ii. the partial relocation meets the requirements of subparagraph a;

iii. the approved beds are relocated to the site of a currently operational hospital owned by the same or a different hospital service district. If the new location is owned by a different hospital service district, the ownership of the approval of the relocated beds must be transferred to the hospital service district to which the beds are relocated;

iv. no more than 25% of the nursing facility's approved beds are relocated.

d. If, within five years after a partial relocation to a hospital site pursuant to Subparagraph c, the hospital located at that site ceases operations, the relocated beds shall revert to the original facility from which they were relocated. This provision shall not apply to relocations which require a transfer of ownership of the approval of the relocated beds.

e. A hospital service district may relocate or transfer the ownership of the approval of approved beds pursuant to Subparagraph c only once.

f. Subparagraphs c, d, and e are not intended to prohibit or restrict the relocation of all of the approved beds in a nursing facility by a hospital service district in accordance with Subparagraphs a and b.

* * *

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

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, LR 21:806 (August 1995), amended LR 25:1250 (July 1999).

David W. Hood
Secretary

9907#038

RULE

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Targeted Case Management Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the Administrative Procedure Act R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Bureau of Health Services Financing repeals the June 20, 1997 rule and adopts the following rule governing the provision of case management services to targeted population groups and certain home and community based services waiver groups. The number of case management agencies that may be enrolled to provide services to recipients in the Mentally Retarded/ Developmentally Disabled (MR/DD) Waiver Program shall be limited to those agencies who have been awarded a contract by the Department. The participation of case management agencies providing service to other targeted and waiver populations will also be limited contingent on the approval of a 1915(b)(4) waiver by the Health Care Financing Administration (HCFA). In addition, all case management agencies shall be required to incorporate personal outcome measures in the development of comprehensive plans of care and to implement procedures for self-evaluation of the agency. All case management agencies must comply with the policies contained in this rule and the Medicaid Case Management Services Provider Manual issued March 1, 1999 and all subsequent changes.

I. General Provisions

A. Case Management Agency Responsibilities. Case Management is defined as services provided to individuals to assist them in gaining access to the full range of needed services including medical, social, educational, and other support services. The Department utilizes a broker model of case management in which recipients are referred to other agencies for the specific services they need. These services are determined by individualized planning with the recipient's family, and other persons/professionals deemed appropriate. Services are provided in accordance with a written comprehensive plan of care which includes measurable person-centered outcomes. All Medicaid enrolled case management agencies are required to perform the following core elements of case management services.

1. Case Management Intake. The purpose of intake is to serve as an entry point for case management services and to gather baseline information to determine the recipient's need, appropriateness, eligibility and desire for case management.

2. Case Management Assessment. Assessment is the process of gathering and integrating formal and informal information regarding a recipient's goals, strengths, and needs to assist in the development of a person centered comprehensive plan of care. The purpose of the assessment is to establish a contract between the case manager and recipient for the provision of service. The assessment shall be performed in the recipient's home.

3. Comprehensive Plan of Care Development. The comprehensive plan of care (CPOC) is a written plan based upon assessment data (which may be multidisciplinary), observations and other sources of information which reflect the recipient's needs, capacities and priorities. The purpose of the CPOC is to identify the services required and the resources available to meet these needs.

a. The CPOC must be developed through a collaborative process involving the recipient, family, case manager, other support systems, appropriate professionals and service providers. It shall be developed in the presence of the recipient; therefore, it cannot be completed prior to a meeting with the recipient. The recipient, family, case manager, support system and appropriate professional personnel must be directly involved and agree to assume specific functions and responsibilities.

b. The CPOC must be completed and submitted for approval within 35 calendar days of the referral for case management services.

4. Case Management Linkage. Linkage is the arranging of services agreed upon with the recipient and identified in the CPOC. Upon the request of the recipient or responsible party, attempts must be made to meet service needs with informal resources as much as possible.

5. Case Management Follow-Up/Monitoring. Follow-up/monitoring is the mechanism used by the case manager to assure the appropriateness of the CPOC. The purpose of follow-up/monitoring contacts is to determine if the services are being delivered as planned; are effective and adequate to meet the recipient's needs; and whether the recipient is satisfied with the services. Through follow-up/monitoring activity, the case manager not only determines the effectiveness of the CPOC in meeting the recipient's needs, but identifies when changes in the recipient's status necessitate a revision in the CPOC.

6. Case Management Reassessment. Reassessment is the process by which the baseline assessment is reviewed and information is gathered for evaluating and revising the overall CPOC. At least every quarter, a complete review of the CPOC must be performed to assure that the goals and services are appropriate to the recipient's needs as identified in the assessment/reassessment process. A reassessment is also required when a major change occurs in the status of the recipient and/or his family.

7. Case Management Transition/Closure. Discharge from a case management agency must occur when the recipient no longer requires services, desires to terminate services, becomes ineligible for services, or chooses to transfer to another case management agency; provided that

the recipient has satisfied the requirements of linkage under Section B below. The closure process must ease the transition to other services or care systems. The agency shall not retaliate in any way against the recipient for terminating services or transferring to another agency for case management services.

8. Maintenance of Records. All agency records must be maintained in an accessible, standardized order and format at the DHH enrolled office site. The agency must have sufficient space, facilities and supplies to ensure effective record keeping.

a. Administrative and recipient records must be maintained in a manner to ensure confidentiality and security against loss, tampering, destruction or unauthorized use.

b. The case management agency must retain its records for the longer of the following time frames:

(1) Five years from the date of the last payment; or

(2) Until the records are audited and all audit questions are answered.

c. Agency records must be available for review by the appropriate state and federal personnel at all reasonable times.

B. Monitoring Provision. The Department of Health and Hospitals and the Department of Health and Human Services have the authority to monitor and audit all case management agencies in order to determine continued compliance with the rules, regulations, policies, and procedures governing case management services.

C. Agency Caseload Limitations. Under the terms of the contractual agreement, case management agencies have a restriction on the total number of recipients it may serve. In a region where there are two agencies providing services, the maximum number of recipients that any one agency may serve is sixty percent (60 percent) of the available recipient population. In a region where there are three agencies providing services, the maximum number of recipients that any one agency may serve is forty percent (40 percent) of the available recipient population.

D. Recipient Freedom of Choice. Selection of Case Management Agency. Recipients have the right to select the provider of their case management services from among those available agencies enrolled to participate in the Program. Recipients are requested to indicate a first and second choice of a provider from among those available providers in the region. If the recipient fails to respond or fails to indicate a second choice of provider and their first choice is full, the Department will automatically assign them to an available provider. Recipients who are auto-assigned may change once, after 30 days but before 45 days of auto assignment, to an available provider.

Recipients must be linked to a case management agency for a six-month period before they can transfer to another agency unless there is good cause for the transfer. Good cause is determined to exist under the following circumstances: 1) the recipient moves to another DHH Region or 2) there are irreconcilable differences between the agency and the recipient. Approval of good cause shall be made by the DHH Case Management Administrator.

Recipients who are being transitioned from a developmental center into the MD/DD Waiver Program shall receive their case management services through the

Office for Citizens with Developmental Disabilities (OCDD).

Recipients who are under the age of 21 and require ventilator assisted care may receive case management services through the Children's Hospital Ventilator Assisted Care Program.

II. Standards of Participation

A. In order to participate as a case management services provider in the Medicaid Program, an agency must comply with licensure and certification requirements, provider enrollment requirements, the case management manual, and the specific terms of individual contractual agreements.

B. Provider Enrollment Requirements. A separate PE-50 and Disclosure of Ownership form is required for each targeted or waiver population and DHH designated region that the agency plans to serve, as well as for each office site it plans to operate. The agency shall provide services only in the parishes of the DHH administrative region for which approval has been granted. The following enrollment requirements are applicable to all case management agencies, regardless of the targeted or waiver group served and failure to comply with these requirements may result in sanctions and/or recoupment and disenrollment.

To serve the MR/DD waiver recipients the agency must have a contract with Medicaid and comply with the terms of the contract.

1. demonstrate direct experience in successfully serving the target population and have demonstrated knowledge of available community services and methods for accessing them including the following:

a. maintain a current file of community resources available to the target population and have established linkages with those resources;

b. demonstrate knowledge of the eligibility requirements and application procedures for federal, state, and local government assistance programs which are applicable to the target population served;

c. employ a sufficient number of case manager and supervisory staff to comply with the staff coverage, staffing qualifications and maximum caseload size requirements described in Section III.A, B, and D;

2. demonstrate administrative capacity and financial resources to provide all core elements of case management services and ensure effective service delivery in accordance with DHH licensing and programmatic requirements;

3. submit a yearly audit of case management costs only and have no outstanding or unresolved audit disclaimer(s) with DHH;

4. assure that all agency staff is employed in accordance with Internal Revenue Service (IRS) and Department of Labor regulations. The subcontracting of individual case managers and/or supervisors is prohibited. However, those agencies who have been awarded Medicaid contracts for case management services may subcontract with another licensed case management agency for case manager and/or supervisory staff if prior approval has been obtained from the Department;

5. assure that all new staff satisfactorily completes an orientation and training program in the first 90 days of employment. All case managers must attend all training mandated by the Department. Each case manager and supervisor must satisfactorily complete case management

related training annually to meet the minimum training requirements;

6. implement and maintain an ongoing quality assurance plan and a self-evaluation plan evidenced by written documentation approved by the Department to determine program compliance and effectiveness;

7. document and maintain recipient records in accordance with federal and state regulations governing confidentiality and licensing requirements;

8. assure the recipient's right to elect to receive or terminate case management services (except for recipients in the MR/DD or Elderly and Disabled Adult Waiver Programs). Assure that each recipient has freedom of choice in the selection of an available case management agency (every six months), a qualified case manager, or other service providers and the right to change providers or case managers; all the above are subject to the recipient's freedom of choice requirements contained in Section I.B. of this rule;

9. assure that the agency and case managers will not provide case management and Medicaid reimbursed direct services to the same recipient(s) unless by an affiliate agency with a separate board of directors;

10. with the recipient's permission, agree to maintain regular contact, share relevant information and coordinate medical services with the recipient's attending physician;

11. demonstrate the capacity to participate in the department's electronic data gathering system(s). All requirements for data submittal must be followed and participation is required for all enrolled case management agencies. The software is the property of the department;

12. complete management reports as described in the provider manual.

C. Agencies serving certain specific target groups must meet the following additional participation requirements:

1. Case management agencies serving high risk pregnant women must also demonstrate successful experience with the coordination and/or delivery of services for pregnant women; have a working relationship with a local obstetrical provider and acute care hospital that provides deliveries for 24-hour medical consultation; and have a multidisciplinary team which consists, at a minimum, of the following professionals: a physician, primary nurse associate or certified nurse manager, registered nurse, social worker, and nutritionist. The team members must meet the licensure and perinatal experience requirements applicable for services to high-risk pregnant women; and

2. Case managers serving HIV-infected individuals must also satisfactorily complete a one-day training approved by the Department's HIV Program Office.

III. Standards for Payment. In order to be reimbursed by the Medicaid Program, an enrolled provider of targeted or waiver case management service must comply with all of the requirements listed below.

A. Staff Coverage

1. Case management agencies must maintain sufficient staff to serve recipients within the mandated caseload size of 35 with a supervisor to staff ratio of no more than eight case managers per supervisor. All case managers must be employed by the agency at least 40 hours per week and work at least 50 percent of the time during normal business hours (8:00 a.m. to 5:00 p.m., Monday through Friday). Case management supervisors must be full time

employees and must be continuously available to case managers by telephone or beeper at all other times when not on site when case management services are being provided. All exceptions to the maximum caseload size or full time employment of staff requirements must be prior authorized by the Bureau. The agency must have a written policy to ensure service coverage for all recipients during the normal absences of case managers and supervisors or prior to the filling of vacated staff positions.

2. The agency must maintain a toll-free telephone number to ensure that recipients have access to case management services 24 hours a day, seven days a week. Recipients must be able to reach an actual person in case of an emergency, not a recording.

B. Staff Qualifications. Each Medicaid-enrolled agency must ensure that all staff providing case management services meet the following qualifications, skills and training requirements prior to assuming any full caseload responsibilities.

1. Education and Experience for Case Managers. All case managers must meet one of the following minimum education and experience qualifications.

a. a bachelor's degree in a human-service-related field such as psychology, education, rehabilitation counseling, or counseling from an accredited college or university and one year of paid experience in a human-service-related field providing direct services or case management services; or

b. a licensed registered nurse with one year of paid experience as a registered nurse in public health or a human-service-related field providing direct services or case management services; or

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

The above-referenced minimum qualifications for case managers are applicable for all targeted and waiver groups. Thirty hours of graduate level course credit in a human-service-related field may be substituted for the one year of required paid experience.

In addition, case managers serving High-Risk Pregnant Women must demonstrate knowledge about perinatal care and meet either one of the qualifications cited above or the following qualification:

d. a registered dietician with one year of paid experience in providing nutrition services to pregnant women.

2. Education and Experience for Case Management Supervisors. All case management supervisors must meet one of the following education and experience requirements. Supervisors of case managers for High-Risk Pregnant Women must demonstrate knowledge about perinatal care in addition to meeting one of these qualifications:

a. a master's degree in social work, psychology, nursing, counseling, rehabilitation counseling, education (with special education certification), occupational therapy, speech therapy or physical therapy from an accredited college or university and two years of paid post-master's degree experience in a human-service related field providing direct services or case management services. One year of this experience must be in providing direct services to the target population 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-bachelor's degree experience in a human-service related field providing direct services or case management services. One year of this experience must be in providing direct services to the target population served; or

c. a licensed registered nurse with three years of paid post-licensure experience as a registered nurse in public health or a human service-related field providing direct services or case management services. Two years of this experience must be in providing direct services to the target population served; or

d. a bachelor's degree in a human-service-related field such as psychology, education, rehabilitation counseling, or counseling from an accredited college or university and four years of paid post-bachelor's degree experience in a human service related field providing direct services or case management services. Two years of this experience must be in providing direct services to the target population served.

The above minimum qualifications for case management supervisors are applicable for all targeted and waiver groups.

Thirty hours of graduate level course credit in a human-service-related field may be substituted for one year of the required paid experience.

3. Training. Training for case managers and supervisors must be provided or arranged for by the case management agency at its own expense. Agencies must send the appropriate staff to all training mandated by DHH.

a. Training for New Staff. A minimum of sixteen (16) hours of orientation must be provided to all staff, volunteers, and students within one week of employment. A minimum of eight hours of the orientation training must address the target population including, but not limited to, specific service needs, available resources and other topics. In addition to the required 16 hours of orientation, all new employees who have no documentation of previous training must receive a minimum of 16 hours of training during the first 90 calendar days of employment related to the target population and the skills and techniques needed to provide case management to that population.

b. Annual Training. Case managers and supervisors must satisfactorily complete a minimum of forty (40) hours of case-management related training annually which may include updates on subjects covered in orientation and initial training. The 16 hours of orientation training required for new employees are not included in the annual training requirement of at least 40 hours.

c. Documentation. All training required in a. and b. above must be evidenced by written documentation and provided to the Department upon request.

C. Supervisory Responsibilities. Each case management supervisor shall be responsible for assessing staff performance, reviewing individual cases, providing feedback, and assisting staff to develop problem solving skills using two or more of the following methods:

1. individual, face-to-face sessions with staff;

2. group face-to-face sessions with all case management staff; or

3. sessions in which the supervisor accompanies a case manager to meet with recipients.

IV. Reimbursement. The reimbursement methodology for optional targeted and waiver case management services is a fixed monthly rate for the provision of the core elements of case management services as described in Section I. A. and in acceptance with the terms of contract with the Bureau. The primary objective of case management is the attainment of the personal outcomes identified in the recipient's comprehensive plan of care.

In addition to the provision of the core elements, a minimum of one home visit per quarter is required for all recipients of optional targeted and waiver case management services. The agency shall ensure that more frequent home visits are performed if indicated in the recipient's CPOC. The purpose of the home visit is to assess the effectiveness of support strategies and to assist the individual to address problems, maximize opportunities and/or revise support strategies or personal outcomes if it is determined necessary.

The case management agency shall also be responsible for monitoring service providers quarterly through telephone monitoring, on-site observation of service visits and review of the service providers' records. The agency must also ensure that the service provider and recipient are given a copy of the recipient's most current CPOC and any subsequent updates.

A technical amendment (Public Law 100-617) in 1988 specifies that the Medicaid Program is not required to pay for case management services that are furnished to consumers without charge. This is in keeping with Medicaid's longstanding position as the payer of last resort. With the statutory exceptions of case management services included in the Individualized Education Programs (IEP'S) or Individualized Family Service Plans (IFSP's) and services furnished through Title V public health agencies, reimbursement by Medicaid payment for case management services cannot be made when another third party payer is liable, nor may payments be made for services for which no payment liability is incurred.

David W. Hood
Secretary

9907#035

RULE

Department of Insurance Office of the Commissioner

Regulation 33—Medicare Supplement Insurance Minimum Standards (LAC 37:XIII.Chapter 5)

(Editor's Note: The opening paragraph of the following rules, which appeared on pages 1100 through 1142 of the June 20, 1999 *Louisiana Register*, is being republished to clarify the intent to repeal and repromulgate the rules in their entirety.)

Pursuant to the provisions of R.S. 49:951 et seq. and R.S. 22:224, the Commissioner of Insurance gives notice of his intent to repeal and repromulgate Regulation 33. This action is necessary to bring the Medicare Supplement Insurance Minimum Standards Regulation in line with the

requirements of the Social Security Act, mandated by the Balanced Budget Act of 1997.

James H. "Jim" Brown
Commissioner

9907#016

RULE

Department of Insurance Office of the Commissioner

Regulation 69—Year 2000 Exclusions (LAC 37:XIII.Chapter 87)

In accordance with the provisions of LRS 49:950 et seq. the Administrative Procedure Act, the Commissioner of Insurance hereby adopts Regulation 69 governing the use of Year 2000 endorsements by insurers doing business in Louisiana. This regulation will replace the emergency regulation published in the March, 1999 edition of the *Louisiana Register*.

Preamble

It is a given that come January 1, 2000, and perhaps sooner for some systems, computers which have not been made Y2K compliant will read the wrong date. What is not a given is what results may follow from a computer's miscalculation of the year. It may be that very little will happen but, it is more likely that problems will arise, some of which may be severe in nature.

Most losses from Y2K will be economic losses arising from the cost of replacing or upgrading computer systems and embedded chips and the loss of income if there is a system failure which shuts down business operations. The average cost to upgrade software is \$1.00 to \$2.00 per line. Billions will be spent by private industry and government to make their systems Y2K compliant. The expense of becoming Y2K compliant will be compounded by the shortage of trained personnel, especially those who are trained in the older computer languages such as COBOL and FORTRAN.

As a general rule, insurance policies do not cover economic losses. That is, they do not respond to suits in contract, i.e. for breach of warranty and/or failure to perform or for the consequential damages arising from the breach of contract. However, faced with the possibility of a catastrophic event, the industry has developed exclusions to preclude, or at least minimize, the shifting of the economic costs posed by the Year 2000 problem to it. Most of the Y2K exclusions filed by the industry contain very broad language.

The rationale provided by insurers for approval of the Y2K exclusions includes the potential risk that the cost of repairing, upgrading or replacing non-Y2K compliant computer systems, including systems which employ embedded chips, will be shifted to the insurance industry. There is concern that lawsuits which involve first party disputes which are outside of the scope of coverage provided under liability policies might be recast as "liability" claims. Another area of concern is the possibility that "data and

media" may be re-categorized as "tangible property" to satisfy the predicate for "property damage" under property and liability policies. And there may be an increase in suits against software vendors and providers under expanded theories of negligence or professional "tradesperson" liability which may trigger coverage where previously none has existed. The industry says that the Y2K endorsements are necessary to clarify that losses arising from the Y2K problem are not covered losses.

Due in large part to the regulatory problems arising from the use of pollution exclusions in underwriting and claims handling, the LDOI was not inclined to approve the Y2K exclusions. A sub-committee was formed to study the issue. Eventually the decision was made to approve Y2K exclusions, in order to avoid a disruption in the market, but the approval was conditioned upon industry compliance with Bulletin LIRC 98-04 and with this Regulation.

In adopting Regulation 69 the Department is guided by the following principles taken from the Louisiana Insurance Code.

1. "Insurance is a business affected with the public interest and it is the purpose of this code to regulate that business in all its phases." LSA-R.S. 22:2.

2. Insurers owe to their insureds a duty of good faith and fair dealing and have an affirmative duty to insureds and claimants alike to adjust claims fairly. LRS 22:1220.

3. Liability policies are issued for the benefit of injured persons and for the protection of insureds. LSA-R.S. 22:655.

4. The Commissioner is obligated to protect the public and policyholders from the risk of insurer insolvency. LSA-R.S. 22:2 et seq.

5. The Commissioner is charged with the duty of insuring that insurance policies promote the public interest and safety. LSA-R.S. 22:620.

Additional guidance is derived from traditional civilian principles found in the Civil Code. Of particular applicability is the principle that insurance contracts are contracts of adhesion. See Civil Code Article 2056 and the Comments thereunder. See also 15 Civil Law Treatise §3.

It is intended that this regulation be read in conjunction with Bulletin LIRC 98-04. If there are any inconsistencies between Regulation 69 and Bulletin LIRC 98-04, the provisions of the Regulation govern. This regulation does not restrict the authority of the LDOI, and other regulatory action, as warranted, may be taken in accordance with law.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 87. Year 2000 Exclusions

§8701. Authority

This regulation is adopted pursuant to LRS 22:2 which charges the Commissioner of Insurance with the duty to enforce and administer all of the provisions of the Insurance Code, the purpose of which is to regulate the business of insurance in all of its phases in the public interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1256 (July 1999).

§8703. Purpose

The purpose of this regulation is to set parameters on the use of Y2K exclusions and endorsements in order to protect the public interest and to assure the continued viability of the insurance market in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1256 (July 1999).

§8705. Scope and Applicability

A. Admitted Insurers. This regulation applies to all admitted property and casualty insurance companies engaged in the business of insurance in this state and governs the use of all Y2K exclusions whether issued before, on or after its effective date.

B. Reinsurers and Surplus Lines. This regulation only applies to reinsurers and the surplus lines insurance industry where specifically referenced. Nothing in this subsection is intended to exempt such insurers from compliance with the obligations imposed under Part XXVI of the Insurance Code.

C. This regulation governs all Y2K exclusions affecting contracts of insurance delivered or issued for delivery in this state which cover property risks or liability risks located in this state, or are to be performed in Louisiana regardless of where made or delivered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3., R.S. 22:941, R.S. 22:1262 and R.S. 22:1262.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner LR 25:1256 (July 1999).

§8707. Severability

If any section or provision of this regulation is held invalid, such invalidity shall not affect other sections of provisions which can be given effect without the invalid section or provision, and for this purpose the sections and provisions of this regulation are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1256 (July 1999).

§8709. Definitions

A. For the purposes of this regulation the following terms shall have the meaning ascribed herein:

Economic Loss—means losses arising out of business transactions.

File and Use—means the filing of forms which may then be used by the insurer without receiving prior approval, subject to the LDOI's right of review and right to disallow continued use of the forms.

LDOI—means the Louisiana Department of Insurance and/or the Commissioner of Insurance.

LIRC—means the Louisiana Insurance Rating Commission.

Y2K—means the year 2000 anno domini.

Y2K Exclusion—means all exclusions and endorsements developed by the insurance industry, including but not limited to the ISO forms, to address coverage issues raised by the Y2K problem whether they are captioned Y2K or use terminology such as *date recognition*, *computer related*, *electronic data*.

Y2K Problem—means the inability of computers and other electronic systems including embedded chips to accurately process, provide and/or receive date data from, into, and

between the twentieth and twenty first centuries due to a programming design which causes the system to read "00" as 1900 not 2000. The term *Y2K problem* also includes problems resulting from the leap year calculation, date recognition problems attributed to the Global Positioning System arising on or after August 22, 1999 and the programming of 9/9/99 to read end of field or to delete data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1256 (July 1999).

§8711. Forms Approval

Y2K exclusions are hereby exempted from the requirement that they be approved prior to use. Such exclusions may be submitted on a "file and use" basis if the filing complies with §8713 of this regulation. Pending filings must be reviewed by the filer to determine compliance. If the original filing does not comply with this regulation the filing must be corrected and resubmitted. Authorization to issue Y2K exclusions expires on January 1, 2002. This section applies only to insurers required by law to file forms with the Commissioner. This exemption applies only to forms. Rate and rule filings must be made with the LIRC as required by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:620E.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1257 (July 1999).

§8713. Underwriting Standards

A. Except as provided herein, Y2K exclusions may not be used on a blanket basis. This standard applies to both property and liability coverage. Exclusions should not be used where the insured makes or has made a good faith effort to resolve any Y2K problems on its property or where the insured has demonstrated compliance with Y2K criteria established by the insurer.

1. Personal Lines. Y2K exclusions are not approved for use in personal lines, including homeowner policies, farm owner policies and personal umbrella policies, except for business pursuits coverage. A Y2K exclusion may be used in connection with a personal lines policy's business coverage only if the company can document that there is a realistic risk of exposure which warrants the use of a Y2K exclusion. The underwriting documentation must be maintained in the insured's file for a period of five (5) years from the date of issuance of the exclusion. If a Y2K exclusion is attached to the business pursuits portion of a personal line policy it must provide coverage for ensuing perils otherwise covered by the policy and it must have an exception for on premises bodily injury.

2. Commercial Lines (including but not limited to Commercial Property, Boiler & Machinery, Commercial Auto, General Liability, Professional Liability, Directors & Officers and Business Owners).

a. Property Coverage. ISO's IL 09 35, FP 10 21 and BP 10 04 may be used on a mandatory basis as filed and approved. Y2K exclusions with substantially similar language and which provide coverage for ensuing perils (notwithstanding language in the policy which could be interpreted to the contrary such as "indirectly, concurrently caused, or regardless of other causes") may also be used in the same manner as ISO exclusions. But, because potential Y2K property exposures are definable and measurable

hazards a filing which substantially deviates from the ISO exclusions referenced above must justify the conclusion that there is no impact on premium or specify the premium reduction to be given insureds in exchange for attaching the exclusion.

b. Y2K exclusions which do not contain language stating that ensuing perils are covered may not be used in Louisiana. If approval was granted to a Y2K exclusion in conflict with this provision, the approval is hereby withdrawn.

3. Liability Coverage. Use of Y2K exclusions with liability coverage is strongly discouraged and should be limited to those insureds which have failed to take adequate steps to correct their Y2K problem or which have excessive exposure to outside contamination. "Total" Y2K exclusions, such as ISO's CG 21 60, should be limited to high risk insureds. For other classes, Y2K exclusions which have an exception for bodily injury or which provide for the scheduling of risks and perils, such as ISO's CG 21 63 and CG 21 64, should be used.

a. And, except as provided below, Y2K exclusions may not be used for the following classes of risks: mercantile and restaurants, lodging and habitational, or institutional, such as churches and schools.

b. Y2K exclusions which provide for the scheduling of risks and perils, such as ISO's CG 21 63 and CG 21 64, may be used with a subclasses of the classes stated in the above paragraph if the insurer identifies and justifies the exposure to be excluded or limited in the specific subclass. An insurer attaching a Y2K exclusion to an individual risk within such a subclass must maintain documentation in the underwriting file of each individual risk that identifies and justifies the exposure presented by that particular risk; and, maintain documentation that the insurer has provided loss control information to the insured. This documentation must be maintained in the insured's file for a period of five (5) years from the date of issuance of the exclusion.

B. Surplus Lines. Use of Y2K exclusions by the surplus lines insurance industry should comply with this section. Failure to do so without justification may constitute grounds for removal from the list of approved unauthorized insurers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3, R.S. 22:1211 et seq., R.S. 22:941, R.S. 22:1262 and R.S. 22:1262.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1257 (July 1999).

§8715. Monitoring of Market Conduct

A. Each admitted insurer must file with the LIRC a list identifying the classes it has determined warrant the use of Y2K exclusion. The filing must contain the criteria used in determining that a particular class of business should be included on the list and identify the type of exclusion which it may use with each class. If an insurer issues a "total" Y2K exclusion (such as ISO's CG 21 60) to a risk within the filed classes it must be able to provide documentation upon request which identifies and justifies the exposure presented by that particular risk. If the list filed with the LIRC contains a subclass of any of the following classes, the insurer must still comply with the requirements imposed by §8713: mercantile and restaurants, lodging and habitational, or institutional, such as churches and schools.

B. Any insurer including a surplus lines insurer which denies coverage or issues a reservation of rights letter to an

insured based in toto or in part upon a Y2K exclusion in the policy must notify the LDOI. The notice must be provided to the LDOI within fifteen (15) days of the denial of coverage or issuance of the reservation of rights letter. A copy of the denial of coverage letter or reservations of rights letter is sufficient notice.

C. The LDOI will closely monitor the use of Y2K exclusions to make certain that they are not used inappropriately in underwriting or claims handling, by admitted insurers, the surplus lines insurance industry or reinsurers. Examples of inappropriate activity are: blanket use of Y2K exclusions; failure to individually underwrite except when authorized by this Regulation; denial of claims inconsistent with underwriting standards; canceling or non-renewing coverage or refusing reinsurance as a general business practice; widespread unavailability of buy back coverage; and, unsupported blanket denial of claims based upon lack of fortuity, or the known risk and/or expected or intended exclusions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3, R.S. 22:1211 et seq., R.S. 22:941, R.S. 22:1215, R.S. 22:1262, R.S. 22:1262.1, R.S. 22:1301 and R.S. 22:1404.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1257 (July 1999).

§8717. Representations and Warranties

No representation or warranty may defeat coverage or be used to deny a claim by an admitted insurer, reinsurer or surplus lines insurer unless the representation or warranty is (a) material, (b) false, and (c) made with the intent to deceive. Questionnaires used to assess Y2K exposure are subject to this standard. Any denial of coverage on the grounds that an answer in a questionnaire is erroneous or inadequate, in the absence of fraud, will result in disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, R.S. 22:619 and R.S. 22:1262.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1258 (July 1999).

§8719. Notice

A. No policy including a surplus lines insurance policy, may be issued or renewed with a Y2K exclusion unless the insured is provided with a copy of the Y2K Notice prepared by the LDOI. (The text of the notice can be found in §8719.C.

B. Notice for renewals must be provided not less than sixty (60) days in advance to the insured and the agent of record; however, the requirement imposed by this Subsection is not applicable to surplus lines insurers.

C. Appendix A

1. Below is the Y2K Notice required by §8719. Issuance of this notice is mandatory. However, insurers are not precluded from issuing their own notices in conjunction with this notice.

2. Formatting instructions. The caption must be in large type and in bold. The text of the notice should be formatted as shown below and should be in a font of not less than 12 point type.

IMPORTANT NOTICE FROM (COMPANY) AND THE LOUISIANA DEPARTMENT OF INSURANCE

PLEASE READ IT!

A NEW ENDORSEMENT HAS BEEN ATTACHED TO YOUR POLICY. THE NEW ENDORSEMENT DEALS WITH THE "Y2K" PROBLEM.

USE OF THIS ENDORSEMENT IS GOVERNED BY LOUISIANA DEPARTMENT OF INSURANCE REGULATION 69.

IF YOU HAVE ANY QUESTIONS ABOUT THE ENDORSEMENT OR THE REGULATION YOU MAY CONTACT THE LOUISIANA DEPARTMENT OF INSURANCE AT THE ADDRESS LISTED BELOW:

COMMISSIONER JAMES H. "JIM" BROWN
LOUISIANA INSURANCE BUILDING
950 NORTH FIFTH STREET
BATON ROUGE, LA 70802

OR BY TELEPHONE

342-5900, 342-0895, OR 342-0896
1-800-259-5300 OR 1-800-359-5301

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3, and R.S. 22:1262.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1258 (July 1999).

§8721. Exemptions

A. Lines of Coverage. If the commissioner finds that the application of this regulation unduly hinders the availability of coverage for a particular line of insurance he may, by written order, grant an exemption for so long as he deems proper.

B. Individual Insureds. An exemption may be granted upon written notification to the LDOI by an insurer including a surplus lines insurer, regarding an individual policyholder which poses an extraordinary risk due to its failure to take any steps to remedy its Y2K problem. Documentation that demonstrates the necessity for the exemption must be maintained in the insureds file for a period of five (5) years from the date of issuance of the exclusion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3, and R.S. 22:1262.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1258 (July 1999).

§8723. Penalties for Failure to Comply

Noncompliance with this regulation by any insurer subject to its provisions may result in the imposition of such penalties as are authorized by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3, R.S. 22:1211 et seq., R.S. 22:941, R.S. 22:1115, R.S. 22:1262.1, and R.S. 22:1457.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1258 (July 1999).

§8725. Effective Date

This regulation shall take effect on July 20, 1999, upon publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1258 (July 1999).

James H. "Jim" Brown
Commissioner of Insurance

9907#044

RULE

Department of Justice Office of the Attorney General

Ombudsman Certification and Training (LAC 48:IX.1301-1311)

The Office of the Attorney General adopts the following rules and regulations for the certification and training program of ombudsman.

La. R.S. 28:395 established the ombudsman program in the office of the attorney general for the purpose of monitoring care received by persons with mental retardation or developmental disabilities residing in state-licensed facilities for persons with developmental disabilities funded through the Department of Health and Hospitals excluding state-operated residential care facilities.

The Louisiana Attorney General's office adopts the following rules and regulations governing the certification and training program for the establishment of the ombudsman program as follows:

Title 48

PUBLIC HEALTH

Part IX. Mental Retardation Services and Developmental Disability Services

Chapter 13. Ombudsman Certification and Training

§1301. Minimum Ombudsman Qualifications

- A. a high school diploma or GED; and
- B. one of the following:
 1. two years of college with a human services major and at least one year work experience; or
 2. three years of work experience paid or unpaid in a human services area;
- C. an ability to communicate and work with a diverse group of people;
- D. an ability to read and write the English language;
- E. no financial interest in or family members who are residents in a community living facility that will be served by the ombudsman;
- F. no felony convictions, or history of abuse or violent behavior; Ombudsman candidates shall permit the Community Living Ombudsman program to conduct background checks with all necessary federal and state law enforcement organizations
- G. an ability to travel to and from the assigned facilities.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 28:395.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 25:1259 (July 1999).

§1303. Certification Training

- A. In order to be certified, the Ombudsman shall complete a training program consisting of the following:
 1. a training course consisting of 30 hours.

B. The training course for ombudsman certification shall consist of the following:

1. the history of the treatment of the developmentally disabled;
2. effective communication techniques with the developmentally disabled;
3. techniques for working families of the developmentally disabled;
4. the components of the service system, particularly the regulations governing the Department of Health and Hospitals, Office of Citizens with Developmental Disabilities and agency interaction with private service agencies;
5. knowledge of assistive technology;
6. health standards and safety standards;
7. negotiation strategies and creative problem solving.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 28:395.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 25:1259 (July 1999).

§1305. Written Exam; Role Playing

Upon completion of the training program, the program director shall administer a written exam and a role playing exercise.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 28:395.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 25:1259 (July 1999).

§1307. Certification

The program director shall forward the names of the successful candidates to the Department of Justice, consumer protection section for certification. The Department shall maintain a record of the certified ombudsman.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 28:395.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 25:1259 (July 1999).

§1309. Renewal of Certification

Ombudsman certification may be renewed after one year if the ombudsman demonstrates satisfactory performance and participates in required in service training.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 28:395.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 25:1259 (July 1999).

§1311. Revocation of Certification

The program director may recommend withdrawal of an ombudsman's certification for the following reasons:

1. a conflict of interest develops or becomes known;
2. unsatisfactory job performance; or
3. unethical conduct related in any way to an ombudsman's work.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 28:395.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 25:1259 (July 1999).

Richard P. Ieyoub
Attorney General

9907#017

RULE
Department of Natural Resources
Office of Conservation

Statewide Order No. 29—Casing Program
(LAC 43:XIX.109)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Natural Resources, Office of Conservation hereby amends Statewide Order No. 29-B.

Title 43
NATURAL RESOURCES

Part XIX. Office of Conservation: General Operations
Subpart 1. Statewide Order No. 29-B

Chapter 1. General Provisions

§109. Casing Program

A. Conductor Pipe. Conductor pipe is that pipe ordinarily used for the purpose of supporting unconsolidated surface deposits. The use and removal of conductor pipe during the drilling of any oil and gas well shall be at the option of the operator.

* * *

E. Tubing and Completion

1. A valve, or its equivalent, tested to a pressure of not less than the calculated bottomhole pressure of the well, shall be installed below any and all tubing outlet connections.

2. When a well develops a casing pressure, upon completion, equivalent to more than three-quarters of the internal pressure that will develop the minimum yield point of the casing, such well shall be required by the district manager to be killed, and a tubing packer to be set so as to keep such excessive pressure of the casing.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Conservation (August 1943), amended (February 1951), (August 1958), amended by the Department of Natural Resources, Office of Conservation, LR 25:1260 (July 1999).

Philip N. Asprodites
Commissioner

9907#050

RULE
Department of Public Safety and Corrections
Corrections Services

Public Information Program and Media Access
(LAC 22:I.339)

In accordance with the Administrative Procedure Act, La. R.S. 49:953(B), the Department of Public Safety and Corrections, Corrections Services hereby adopts rules and regulations dealing with the Public Information Program and Media Access.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND
LAW ENFORCEMENT
Part I. Corrections

Chapter 3. General

§339. Public Information Program and Media Access

A. Purpose. To state the Secretary's policy regarding methods that will be used within the Department to maintain informative relationships with the public, the media and other agencies.

B. Applicability. Undersecretary, Assistant Secretaries, all Wardens, the Director of Probation and Parole, the Director of Youth Services, and the Director of Prison Enterprises. Each Unit Head shall develop procedures to facilitate interaction with the public, the media, and other agencies and shall ensure that necessary information and instructions are furnished to affected employees and inmates.

C. Policy. It is the Secretary's policy to maintain positive, informative relationships with the public, the media and other agencies, consistent with the security and privacy interests of the Department, its staff, and inmates. All legitimate news media organizations shall be allowed reasonable access to the state's correctional facilities unless security considerations dictate otherwise.

D. Definitions. For the purpose of this regulation, the following definitions shall apply.

Commercial Productions—freelance photographers, writers and film makers who intend to sell their work product for profit to other companies.

News Media—properly credentialed and identifiable news coverage organizations. This includes representatives of general circulation newspapers, periodical magazines of national circulation sold through newsstands and/or mail subscriptions to the general public, local/national/international news services, and radio/television stations holding a Federal Communications Commission license.

Unit Head—refers to the head of an operational unit, such as Wardens, the Director of Probation and Parole, the Director of Youth Services, or the Director of Prison Enterprises.

E. Media Procedures

1. Unit procedures should address emergency and non-emergency responses to the news media and include, at a minimum, the following:

- a. the identification of areas in the facility that are accessible to news media representatives;
- b. the contact person for routine requests for information;
- c. identification of data and information protected by federal or state privacy laws, or federal and state freedom of information laws;
- d. special events coverage;
- e. news release policy;
- f. the designation of staff authorized to speak with the news media.

2. All media interested in making inquiries, conducting interviews, or seeking approval to visit a correctional facility shall first contact the Unit Head or his

media relations designee. All requests must be approved by the Unit Head or his designee and requests must be made within a reasonable time frame, considering the scope of the story and the unit's ability to adequately prepare for the visit. The Unit Head will give notice to the Secretary and appropriate Assistant Secretary of any significant or potentially controversial event.

3. All media visitors will be provided with an escorting staff member for the duration of the visit.

4. Only those persons authorized by the Secretary or Unit Head shall release information to the media regarding official matters. Authorized spokespersons shall be knowledgeable of issues and Departmental policy and shall ensure the accuracy of information before releasing it.

5. In the event of an institutional emergency, all public and media access to the institution may be limited. The Warden or his media relations designee will periodically brief all media on the situation. A media briefing center may be established at a remote location.

6. All on-site media contacts with inmates are at the sole discretion of the Unit Head.

7. Written permission should be obtained from an inmate prior to interviewing, photographing, and/or audio or video recording of the inmate. With reference to juvenile offenders, written permission must be obtained from the juvenile's parent, guardian, or attorney, (except when the juvenile is not identifiable). Death Row inmates must also have their attorney's written approval prior to an interview, photograph, and/or audio or video recording. No remuneration will be provided to any inmate.

8. Interviews with inmates housed in maximum custody areas for behavioral problems and/or poor conduct records are discouraged.

9. Access to inmates should also be restricted or disallowed to prevent them from profiting from their crimes, either materially or through enhanced status as a result of media coverage.

F. Procedures for Commercial Productions

1. All commercial productions are required to make a written request to the Unit Head for access. Written requests will include, at a minimum, the following basic information, as applicable:

- a. name, job title and employer of person requesting visit, (if free-lance—who they represent);
- b. topic of story, where it will be used, what purpose;
- c. name of individual(s) to be interviewed;
- d. date and time of arrival, anticipated duration;
- e. name of all persons accompanying requestor;
- f. if applicable, a hold harmless clause: "I recognize a visit to a correctional facility may present certain risks/hazards. I agree to assume all ordinary and/or usual risks to my personal safety inherent in a visit to an institution of this type."

2. All commercial productions are required to read, understand and sign a Location Agreement Form upon their arrival at the unit. The Location Agreement will specifically outline the scope of the work to be performed. The Unit Head (or designee) may require review of the material prior to distribution solely to insure that it comports with the Location Agreement Form.

G. Public Information Procedures

1. All staff shall be responsive to inquiries from the public and local, state and federal agencies by providing prompt, complete responses to all correspondence and other requests.

2. Inquiries from legislative and executive bodies may be referred to authorized staff as designated by the Secretary or Unit Head.

H. Location Agreement Form

I, _____, am aware and agree that upon my entrance to the grounds of _____, I have been authorized by the Unit Head to interview, photograph, and/or audio or video record specific material as follows:

I understand that inmates and visitors have the right not to be interviewed, photographed, and/or audio or video recorded. A release must be signed by inmates and visitors who agree to be interviewed, photographed, and/or audio or video recorded.

I also understand that I am not authorized to interview, photograph and/or audio or video record outside the above stated parameters for security reasons.

Name: _____

Signature _____ Print _____

Affiliation _____

Witnessed on this ____ day of _____, 19____, at _____, LA by:

Witness

Title

I. Inmate Media Release Form

I, _____, an inmate confined at _____, hereby voluntarily agree to be interviewed, photographed, and/or audio or video recorded by _____. I also voluntarily agree to have the interview, photograph, and/or audio or video recording broadcast or published by _____.

I do this of my own free will without coercion, threats of punishment or promise of reward from the Louisiana Department of Public Safety and Corrections and _____, their agents and employees. I hereby relieve and release the Louisiana Department of Public Safety and Corrections and _____, their agents and employees, of any responsibility and/or liability which may occur directly or

indirectly as a result of my participation in, and the subsequent publication and/or broadcast of the interview, photograph, and/or audio or video recording.

Inmate Name & Number

Witnessed on this ____ day of _____, 19____, at _____, LA by:

Witness

Title

J. Visitor Media Release Form

I, _____, a visitor at _____, hereby voluntarily agree to be interviewed, photographed, and/or audio or video recorded by members of _____. I also voluntarily agree to have the interview, photograph, and/or audio or video recording broadcast or published by _____.

I do this of my own free will without coercion, threats of punishment or promise of reward from the Louisiana Department of Public Safety and Corrections and _____, their agents and employees. I hereby relieve and release the Louisiana Department of Public Safety and Corrections and _____, their agents and employees, of any responsibility and/or liability which may occur directly or indirectly as a result of my participation in, and the subsequent publication and/or broadcast of the interview, photograph, and/or audio or video recording.

Visitor's Signature
Witnessed on this _____ day of _____,
19____, at _____, LA by:

Witness

Title

AUTHORITY NOTE: Promulgated in accordance with American Correctional Association (ACA) Standards 2-CO-1A-25 through 27-1 (Administration of Correctional Agencies) 3-4020 through 3-4022 (Adult Correctional Institutions).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 25:1260 (July 1999).

Richard L. Stalder
Secretary

9907#012

RULE

**Department of Public Safety and Corrections
Liquefied Petroleum Gas Commission**

New Dealer Applications and Requirements;
Maximum Cylinder Limit
(LAC 55:IX.105, 107, 181)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 40:1846 relative to the authority of the Liquefied Petroleum Gas Commission to make and enforce reasonable rules and regulations governing the storage, sale, and transportation of liquefied petroleum gases, notice is hereby given that the Commission amends its rules.

**Title 55
PUBLIC SAFETY**

Part IX. Liquefied Petroleum Gas

Chapter 1. General Requirements

Subchapter A. New Dealers

§105. Applications

Any person, firm, or corporation desiring to enter the liquefied petroleum gas business in the state of Louisiana must file formal application with the Liquefied Petroleum Gas Commission. In the case of Class VI and Class VIII a

formal application must be filed for each location. Other classes of permits and registrations require only one formal application to be filed. Formal application(s) must be filed for Class I, 90 days, and for Classes II, III, IV, V, VI, VII, VIII and IX, 30 days prior to the date of the commission meeting which the application is to be heard. Application for Classes VI-X, VII-E, and R-1, R-2 registrations have no delay prior to the granting of a permit. These permits will be granted by the office of the Director, upon complying with all Commission requirements, and ratified by the Liquefied Petroleum Gas Commission at the first subsequent Commission meeting. Presence of applicant or his authorized representative is required at the commission meeting when the application is heard, except in the cases of Class VI-X, VII-E, and R-1, R-2 registrations where appearance is waived. In no cases will the applicant's supplier be the authorized representative. Only with special approval of the commission, under extenuating circumstances, will the commission allow the applicant to be represented by another party, other than a principal officer, director, manager, or attorney. The formal application form(s) will be furnished by the commission upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 24:460 (March 1998), LR 25:1262 (July 1999).

§107. Requirements

A. - A.1....

2. Application must have been approved by the Liquefied Petroleum Gas Commission except in the cases of Classes VI-X, VII-E and R-1, R-2 registrations then only after they have been ratified by the Liquefied Petroleum Gas Commission.

3. - 5.b....

6. Applicant must have paid a permit fee in the amount of \$75, except for Class VII-E, which shall be \$100, and R-1, R-2 registrations, which shall be \$37.50 and Class VI-X shall be in the amount of \$75 for the first location, plus \$50 for each 2 - 11 locations, plus \$25 for each 12 - infinity locations. For succeeding years the permit fee shall be .2250 of 1 percent of annual gross sales of liquefied petroleum gases with a minimum of \$75, except in the case of Class VI-X which the minimum permit fee shall be \$75 for the first location, plus \$50 for each 2 - 11 locations, plus \$25 for each 12 - infinity locations; or .2250 of 1 percent of annual gross sales of liquefied petroleum gases of all locations whichever is greater. For Classes not selling liquefied petroleum gases in succeeding years the permit fee shall be \$75, except registrations shall be \$37.50 per year.

6. - 13. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 1:315 (July 1975), LR 4:86 (March 1978), LR 7:633 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 15:854 (October 1989), LR 16:1063 (December 1990), LR 20:1400 (December 1994), LR

24:461 (March 1998), LR 24: 2311 (December 1998), LR 25:1262 (July 1999).

Subchapter I. Adoption of Standards

§181. National Fire Protection Association Pamphlet Numbers 54 and 58

A. - E.7. ...

8. With regard to §4-4.3.1, NFPA 58-1995—The maximum permitted filling limit for any container, where practical, shall be determined by weight. DOT specification cylinders of 100 lbs. propane capacity or less that are in commerce or transportation shall be filled by weight only. Exceptions:

a. DOT cylinders filled from bobtails at customer facilities if equipped for filling by volume and are not transported over the highways of the State of Louisiana. An example would be forklift cylinders filled by bobtails and used on premises and not placed in transportation over the highways of the State of Louisiana.

b. DOT cylinders filled by customers from customer tank facilities, if equipped for filling by volume and are not transported over the highways of the State of Louisiana. An example would be forklift cylinders filled by customers from their tanks and used on their premises and not placed in transportation over the highways.

c. DOT cylinders that are permanently affixed if equipped for filling by volume. An example would be motor fuel tanks or DOT cylinders permanently affixed to recreational vehicles.

9. With regard to §4-4.3.2, NFPA 58-1995—§4-4.3.2.a shall not be applicable in Louisiana. §4-4.3.2.b DOT specification cylinders of 100 lbs. propane capacity or more. (See DOT regulations requiring spot weight checks.)

10. With regard to §2-2.1.4.b, NFPA 58-1995—DOT cylinders of 100 lbs. or less shall not be refilled, continued in service, or transported unless they are properly qualified or requalified for L. P. Gas service, if they are in commerce or transportation. DOT cylinders of 100 lbs. or more shall not be refilled, continued in service or transported unless they are properly qualified or requalified for L. P. Gas service in accordance with DOT regulations, meaning in commerce and transportation. Qualification or requalification must be in accordance with C-3.2 of Appendix C, NFPA 58-1995.

11. Adding NFPA 58-1998, §2-3.1.5 as a supplement to NFPA 58-1995—In Louisiana all new cylinders from 4 lbs. through 40 lbs. propane capacity fabricated after August 1, 1999 shall be equipped with a listed overfilling prevention device (OPD) and a fixed maximum liquid level gauge. All DOT cylinders now in use must be retrofitted with the overfilling prevention device (OPD) either when the cylinders are requalified under Louisiana regulations or by April 1, 2002. No cylinder shall be filled in Louisiana after April 1, 2002 unless equipped with an overfill prevention device (OPD). Lift truck cylinders and cylinders identified and used for welding and cutting gases are exempt from these provisions.

12. With regard to §6-2.2.7, NFPA 58 - 1995 edition—Containers having an individual water capacity not exceeding 108 lb (49kg) [nominal 45 lb (20 kg) LP-Gas] capacity transported in open vehicles and containers having an individual water capacity not exceeding 10 lb (4.5 kg) [nominal 4.2 lb (2 kg) LP-Gas] capacity transported in enclosed spaces of the vehicle shall be permitted to be

transported in other than the upright position, however may not be transported in the upside down position or resting on their protective ring or protective collar. Containers having an individual water capacity exceeding 108 lb (49 kg) [nominal 45 lb (20 kg) LP-Gas] capacity transported in open vehicles and containers having an individual water capacity exceeding 10 lb (45 kg) [nominal 4.2 lb (1.9 kg) LP-Gas] capacity transported in enclosed spaces shall be transported with the relief device in direct communication with the vapor space.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1404 (December 1994), amended LR 24:470 (March 1998), LR 25:1263 (July 1999).

The effective date of these rule changes is August 1, 1999.

Charles M. Fuller
Director

9907#047

RULE

Department of Social Services Office of Rehabilitation Services

Vocational Rehabilitation Policy Manual (LAC 67:VII.Chapter 1)

In accordance with the provisions of R.S. 49:953(B), the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS) revised its Vocational Rehabilitation Policy Manual. These revisions were made in order to comply with H.R. 1385, Workforce Investment Act of 1998, Title IV Rehabilitation Act Amendments of 1998.

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 1. Vocational Rehabilitation Policy Manual §101. Agency Profile

A. Mission. To assist persons with disabilities in their desire to obtain or maintain employment and/or to achieve independence in their community by providing rehabilitation services and by working cooperatively with business and other community services.

B. Program Administration. Louisiana Rehabilitation Services, hereafter referred to as LRS, will secure appropriate resources and support in administering the various programs under the responsibility of the agency. These programs include, but are not limited to:

1. Vocational Rehabilitation Program;
2. Title VII Part B Independent Living Program;
3. Louisiana Commission for the Deaf;
4. Title VI Supported Employment Program;
5. Randolph-Sheppard Blind Vending Facility Program;
6. Personal Care Attendant Program;
7. Community and Family Support Program;
8. Traumatic Head and Spinal Cord Injury Trust Fund (THSCI).

C. **The Manual's Function.** This manual sets forth the policies of LRS in carrying out the agency's mission, specifically as this mission relates to the Vocational Rehabilitation Program.

D. **Exceptions.** The director or designee shall have the sole responsibility for any exceptions to this policy manual.

E. **Nondiscrimination.** All programs administered by and all services provided by LRS shall be rendered on a nondiscrimination basis without regard to handicap, race, creed, color, sex, religion, age, national origin, duration of residence in Louisiana, or status with regard to public assistance in compliance with all appropriate state and federal laws and regulations to include Title VI of the Civil Rights Act of 1964.

F. **Compliance with State Laws, Federal Laws and Regulations, and Departmental Policies and Procedures.** Staff shall comply with all state and federal laws, agency and civil service rules and regulations, Title I of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act (ADA) of 1990 (Public Law 101-336).

G. **Cost-Effective Service Provision.** Services shall be provided in a cost-effective manner.

H. **Records**

1. A record must be maintained for each applicant/client and shall contain documentation to support a counselor's decision regarding eligibility, Order of Selection, and subsequent decisions to provide, deny, or amend services.

I. **Data Collection.** Staff shall ensure the provision of client and financial data necessary for the operation of the agency's information and financial system as well as the Blind Registry.

J. **Expeditious Service Delivery.** All referrals, applications and provision of services will be handled expeditiously and equitably.

K. **Client Assistance Program.** All programs, including community rehabilitation programs, and projects that provide services to individuals with disabilities under this Act shall advise such individuals, or the parents, family members, guardians, advocates, or authorized representatives of the individuals, of the availability and purposes of the client assistance program, including information on means of seeking assistance under such program.

L. **Equal Employment Opportunities**

1. LRS will comply with Title VII of the Civil Rights Act of 1964 as amended, and Title V of the Rehabilitation Act of 1973 as amended.

2. In addition, all community rehabilitation programs supported by grants or funding from the Rehabilitation Services Administration, must be operated in compliance with these laws.

M. **Affirmative Action Plan.** LRS will take affirmative action to ensure that the following will be implemented at all levels of administration: recruit, hire, place, train and promote in all job classifications without regard to non-merit factors such as race, color, age, religion, sex, national origin, disability or veteran status, except where sex is a bona fide occupational qualification.

N. **Comprehensive System of Personnel Development.** LRS will provide a comprehensive system of personnel

development in accordance with the Rehabilitation Act Amendments of 1998.

O. **Applicant/Client**—For purposes of representation, the term *applicant/client* refers to an individual who has applied for vocational rehabilitation services or in certain cases, a parent, or family member, or guardian, an advocate, or any other authorized representative of the individual.

P. **Cooperative Agreements.** LRS will use services provided under a cooperative agreement as comparable services and benefits.

Q. **Services to American Indians with Disabilities.** LRS will provide vocational rehabilitation services to American Indians with disabilities to the same extent that these services are provided to other individuals with disabilities which will include, as appropriate, services traditionally available to Indian tribes on reservations.

R. **Misrepresentation, Fraud, Collusion, or Criminal Conduct**

1. Individuals who obtain access to the services provided by LRS through means of misrepresentation, fraud, collusion, or criminal conduct shall be held responsible for the return of funds expended by LRS on the individual's behalf. Further, such actions shall result in the closure of the individual's vocational rehabilitation case record. Failure on the individual's part to make reparation of funds to the agency may result in legal action being taken by LRS.

2. In cases in which LRS is in possession of clear evidence of misrepresentation, fraud, collusion, or criminal conduct on the part of the individual for the purpose of obtaining services for which the individual would not otherwise be eligible, the individual's case will be referred to the Department of Social Services, Bureau of General Counsel for consultation and/ or investigation. If Department of Social Services, Bureau of General Counsel concurs or determines that the individual has obtained services through misrepresentation, fraud, collusion, or criminal conduct, a certified letter will be directed to the individual by the LRS Counselor demanding payment in full of funds which have been expended by the agency on the individual's behalf. The failure of the individual to comply with the demand for reparation may result in legal action being taken on behalf of LRS.

S. **Informed Choice.** LRS shall provide information and support services to assist applicants and eligible individuals in exercising informed choice throughout the rehabilitation process, consistent with the following:

1. to inform each applicant and eligible individual through appropriate modes of communication;

2. to assist applicants and eligible individuals in exercising informed choice in decisions related to the provision of assessment services;

3. to maintain flexible procurement guidelines and methods that facilitate the provision of services;

4. to provide or assist eligible individuals in acquiring information necessary to develop the components of the Individualized Employment Plan.

T. **Construction.** Nothing in this Policy Manual shall be construed to create an entitlement to any vocational rehabilitation service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 25:1263 (July 1999).

§103. Enabling Legislation

A. The Rehabilitation act Amendments of 1998, as contained in H.R. 1385, Workforce Investment Act of 1998.

B. Code of Federal Regulations. Volume 34, Sections 361, 363, 365, and 370.

C. Louisiana Revised Statutes

1. R.S. 49:664, Section 6B (1)(b) (Legislative Act that created the Department of Health and Hospitals), R.S. 36:477(c) (Legislative Act that created the Department of Social Services).

2. R.S. 46:331-335 mandates that a register be maintained of all persons known to be legally blind in the state. (Louisiana Rehabilitation Services maintains and regularly updates the Blind Registry.)

3. Act 19 of 1988 effected the merger of the Division of Rehabilitation Services with the Division of Blind Services to form Louisiana Rehabilitation Services.

4. Act 109 of 1984, R.S. 39:1595.3, and Act 291 of 1986, R.S. 39:1594(I), enacted and authorized the State Use Law.

5. Act 10 of 1994, R.S. 18:59(I)(2), 61(A)(1), 62(A), 103(A), enacted and authorized to provide for the implementation of the National Voter Registration Act of 1993.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 21:473 (May 1995), LR 25:1265 (July 1999).

§105. Confidentiality

A. General Statement. All client information is confidential. All personal information in the possession of the state agency shall be used only for purposes directly connected with the administration of the program.

B. Notification to Clients. Individuals asked to supply the agency with information concerning themselves shall be informed of the agency's need to collect confidential information and the policies governing its use, release, and access including:

1. the Consent to Release Case Record Information form contained in case files which must document that individuals have been advised of the confidentiality of information pertinent to their case;

2. the principal purpose for which the agency intends to use or release the requested data;

3. whether the individuals may refuse, or are legally required to supply the requested data;

4. any known consequence arising from not providing the requested information;

5. the identity of other agencies to which information is routinely released.

C. Release of Confidential Information

1. The case file must contain documentation concerning any information released with the individual's written consent. Informed written consent is not needed for the release of personal records to the following:

a. public assistance agencies or programs from which the client has requested services or to which the client

is being referred for services under the circumstances for which the client's consent may be presumed;

b. the Louisiana Department of Labor and military services of the United States government;

c. doctors, hospitals, clinics and rehabilitation centers providing services to clients as authorized by Louisiana Rehabilitation Services;

d. schools or training centers, when LRS has authorized the service or is considering authorizing such services, and the information is required for the client's success in the program, for the safety of the client, or is otherwise in the client's best interest.

2.a. Confidential information will be released to an organization or an individual engaged in research, audit, or evaluation only for purposes directly connected with the administration of the state program (including research for the development of new knowledge or techniques which would be useful in the administration of the program).

b. Such information will be released only if the organization or individual furnishes satisfactory assurance that:

i. the information will be used only for the purpose for which it is provided;

ii. that it will not be released to persons not connected with the study under consideration; and

iii. that the final product of the research will not reveal any information that may serve to identify any person about whom information has been obtained through the state agency without written consent of such person and the state agency.

c. Information for research, audit, or evaluation will be issued only on the approval of the director.

d. The client must be advised of these conditions.

6. LRS may also release personal information to protect the individual or others when the individual poses a threat to his/her safety or to the safety of others.

D. Client Access to Data. When requested in writing by the involved individual or an authorized representative, clients or applicants have the right to see and obtain in a timely manner copies of any information that the agency maintains on them, including information in their case files, except:

1. medical and/or psychological information, when the service provider states in writing that disclosure to the individual would be detrimental to the individual's physical or mental health;

2. medical, psychological, or other information which the counselor determines harmful to the individual;

NOTE: Such information may not be released directly to the individual, but must be released, with the individual's informed consent, to the individual's representative, or a physician or a licensed or certified psychologist.

3. personal information that has been obtained from another agency or organization. Such information may be released only by or under the conditions established by the other agency or organization.

E. Informed Consent. Informed consent means that the individual has signed an authorization to release information and such authorization is as follows:

1. in a language that the individual understands;

2. dated;

3. specific as to the nature of the information which may be released;
4. specifically designates the parties to whom the information may be released;
5. specific as to the purpose(s) for which the released information may be used;
6. specific as to the expiration date of the informed consent which must not exceed one year.

F. Confidentiality—HIV Diagnosis. Each time confidential information is released on applicants or clients who have been diagnosed as HIV positive, a specific informed written consent form must be obtained.

G. Court Orders, Warrants and Subpoenas. Subpoenaed case records and depositions are to be handled in the following manner:

1. with the written informed consent of the client, after compliance with the waiver requirements (signed informed consent of client or guardian), the subpoena will be honored and/or the court will be given full cooperation;

2. without the written informed consent of the client, when an employee is subpoenaed for a deposition or receives any other request for information regarding a client, the employee will:

- a. inform the regional manager or designee of the request;

- b. contact the attorney, or other person making the request, and explain the confidentiality of the case record information; and request that such attorney or other person obtain a signed informed consent to release information from the client or guardian;

- c. inform the regional manager or designee if the above steps do not resolve the situation. In this case, the regional manager or designee will then turn the matter over to the Department of Social Services' legal counsel.

3. when an employee is subpoenaed to testify in court or to present case record information in court concerning a client, the employee is to do the following:

- a. notify the regional manager or designee;
- b. honor the subpoena;

- c. take subpoenaed case record or case material to the place of the hearing at the time and date specified on the subpoena;

- d. if called upon to testify or to present the case record information, inform the court of the following:

- i. that the case record information or testimony is confidential information under the provisions of the 1973 Rehabilitation Act and amendments;

- ii. the subpoenaed case record information is in agency possession;

- iii. agency personnel will testify and/or release the case record information only if ordered to do so by the court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 22:993 (October 1996), repromulgated LR 25:1265 (July 1999).

§107. Applicant/Client Appeal Rights

A. Administrative Review

1. The administrative review is a process which may be used by applicants/clients (or as appropriate the applicant's/client's representative) for a timely resolution of disagreements. However, this process may not be used as a

means to delay a fair hearing conducted by an Impartial Hearing Officer. The administrative review will allow the applicant/client an opportunity for a face to face meeting in which a thorough discussion with the regional manager or designee can take place regarding the issue(s) of concern. All administrative reviews render a final decision expeditiously after receipt of the initial written request from the applicant/client.

2. All applicants/clients must be provided adequate notification of appeal rights at the time of application, development of the Individualized Plan for Employment, and upon reduction, suspension, or cessation of vocational rehabilitation services. Services will continue during the administrative review appeal process unless the services being provided under the current Individualized Plan for Employment were obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the client.

3. In order to insure that an applicant/client is afforded the option of availing themselves of the opportunity to appeal agency decisions impacting their vocational rehabilitation case, adequate notification by the counselor must include:

- a. the agency's decision;

- b. the basis for, and effective date of the decision;

- c. the specific means for appealing the decision;

- d. the applicant's/client's right to submit additional evidence and information, including the client's right to representation;

- e. advise the applicant/client of the Client Assistance Program and how they can access the program, including the telephone number; and

- f. the name and address of the regional manager who should be contacted in order to schedule an administrative review, mediation session, or fair hearing.

NOTE: All administrative reviews must be conducted in a manner which insures that the proceedings are understood by the applicant/client.

B. Mediation

1. The mediation process will provide the applicant/client, (or as appropriate the applicant's/client's representative) an opportunity for dispute resolution proceedings which are fair, effective, and expeditious. This process may be used by applicants/clients for a timely resolution of disputed findings of an Administrative Review; or as a direct avenue of appeal bypassing the Administrative Review option, but must occur prior to the Fair Hearing option.

2. The mediation process will also be offered to an applicant/client as an option at the time a formal request for a fair hearing is made. However, this process may not be used as a means to delay or supplant a Fair Hearing conducted by an Impartial Hearing Officer.

3. The mediation process will be conducted by a qualified and Impartial Mediator as expeditiously as possible upon receipt of the initial written request from the applicant/client. A list of qualified Impartial Mediators will be maintained by Louisiana Rehabilitation Services.

4. The mediation process must be entered into voluntarily by all parties. Discussions that occur during the mediation session will be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding. The parties involved in the mediation session will be required to sign a confidentiality pledge prior to the

commencement of such process. The Impartial Mediator must ensure that if an agreement is reached by the parties in dispute, this agreement is set forth in a written mediation agreement prior to the conclusion of the session. This written agreement is the only information from the mediation session that may be presented at any subsequent due process hearing or civil proceeding.

5. All applicants/clients must be provided adequate notification of appeal rights at the time of application, development of the Individualized Plan for Employment, and upon reduction, suspension, or cessation of vocational rehabilitation services. Services will continue during the Mediation process unless the services being provided under the current Individualized Plan for Employment were obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the client.

6. In order to insure that an applicant/client is afforded the option of availing themselves the opportunity to appeal agency decisions impacting their vocational rehabilitation case, adequate notification by the Counselor and/or Regional Manager must include:

- a. the agency's decision (inclusive of an Administrative Review, if conducted);
- b. the basis for, and effective date of the decision;
- c. the specific means for appealing the decision;
- d. the applicant's/client's right to submit additional evidence and information, including the client's right to representation at the Mediation session or Fair Hearing;
- e. advise the applicant/client of the Client Assistance Program and how they can access the program, including the telephone number; and
- f. the name and address of the Regional Manager who should be contacted in order to schedule a mediation session or fair hearing.

NOTE: All mediation sessions must be conducted in a manner which insures that the proceedings are understood by the applicant/client.

C. Fair Hearing

1. The fair hearing is the final level of appeal within Louisiana Rehabilitation Services. Subsequent to a decision being reached as a result of the fair hearing, any further pursuit of the issue by the applicant/client (or, as appropriate, the applicant's/client's representative) must be through the public court system.

2. The fair hearing process may be requested by applicants/clients to appeal disputed findings of an administrative review; at any point after a mediation session; or as a direct avenue of appeal bypassing the administrative review or the mediation process option. The fair hearing will be conducted by an Impartial Hearing Officer after receipt of the initial written request. At the time the fair hearing is requested, the applicant/client shall be offered mediation as an option to resolve a dispute if mediation has not been exercised already.

3. An Impartial Hearing Officer shall be selected on a random basis to hear a particular case by agreement between the Louisiana Rehabilitation Services Director and the applicant/client. This officer shall be selected from among a pool of qualified persons identified jointly by Louisiana Rehabilitation Services and members of the Louisiana Rehabilitation Council. The Impartial Hearing Officer shall provide the decision reached in writing to the

applicant/client and to Louisiana Rehabilitation Services as expeditiously as possible.

4. All applicants/clients must be provided adequate notification of appeal rights at the time of application, development of the Individualized Plan for Employment, and upon reduction, suspension, or cessation of vocational rehabilitation services. Services will continue during the fair hearing process unless the services being provided under the current Individualized Plan for employment were obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the client.

5. In order to insure that the applicant/client is afforded the option of availing themselves the opportunity to pursue a fair hearing, adequate notification by the counselor and/or Regional Manager must include:

- a. the agency's decision (inclusive of an administrative review and/or mediation agreement, if conducted);
- b. the basis for, and effective date of, that decision;
- c. the specific means for appealing the decision;
- d. the applicant's/client's right to submit additional evidence and information, including the client's right to representation at the fair hearing;
- e. advise the applicant/client of the Client Assistance Program and how they can access the program, including the telephone number; and
- f. the means through which a fair hearing may be requested, including the name and address of the regional manager.

NOTE: All fair hearings must be conducted in a manner which insures that the proceedings are understood by the applicant/client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 21:189 (February 1995), LR 25:1266 (July 1999).

§109. Eligibility and Ineligibility

A. Criteria for Eligibility

1. An individual is eligible for vocational rehabilitation services, if the individual:

- a. has a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment; and
- b. requires vocational rehabilitation services to prepare for, secure, retain, or regain employment; and
- c. can benefit in terms of an employment outcome from vocational rehabilitation services.

B. Presumption of Benefit

1. An individual who meets the criteria in §109.A.1.a and b shall be presumed to be an individual who can benefit in terms of an employment outcome from vocational rehabilitation services, unless LRS can demonstrate by clear and convincing evidence that such individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual.

2. In making the demonstration of clear and convincing evidence, LRS shall explore the individual's abilities, capabilities, and capacity to perform in work situations, through the use of trial work experiences, except

under limited circumstances when an individual cannot take advantage of such experiences.

a. Such trial work experiences shall be of sufficient variety and over a sufficient period of time to determine the eligibility of the individual or to determine clear and convincing evidence that the individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services.

b. Trial work experiences shall also include appropriate supports and training.

C. Presumption of Eligibility

1. An individual who has a disability or who is blind as determined pursuant to Title II or Title XVI of the Social Security Act (42 U.S.C. 401 et seq. And 1381 et. seq.) shall be:

a. Considered to be an individual with either a significant disability or a most significant disability, such determination to be made by LRS; and

b. Presumed to be eligible for vocational rehabilitation services, provided that the individual intends to achieve an employment outcome.

2. LRS can find an SSDI or an SSI recipient ineligible for vocational rehabilitation services if LRS can demonstrate by clear and convincing evidence through the use of trial work experiences that the severity of the individual's disability prohibits the individual from benefiting from vocational rehabilitation services in terms of an employment outcome.

D. Determinations by Officials of other Agencies

1. To the extent appropriate and consistent with the requirements of this section, LRS will use determinations made by officials of other agencies, particularly Education Officials, regarding whether an individual satisfies one or more factors relating to whether an individual is an individual who has a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment.

E. Compliance Provisions

1. Nondiscrimination and Non-exclusion

a. Eligibility decisions must be made without regard to sex, race, age, creed, color or national origin of the individual applying for services.

b. No group of individuals is excluded or found ineligible solely on the basis of type of disability.

c. No upper or lower age limit is established which will, in and of itself, result in a finding of ineligibility for any individual with a disability who otherwise meets the basic eligibility requirements specified in this manual.

d. Louisiana Rehabilitation Services does not impose a residence requirement. Illegal aliens, however, cannot be served. Disabled aliens who have a legal, unexpired work visa, and who otherwise meet the eligibility criteria, can be served.

F. Determination of Ineligibility

1. A determination of ineligibility for vocational rehabilitation services is made:

a. when LRS is in possession of clear and convincing evidence that an individual has no physical and/or mental impairment which constitutes or results in a substantial impediment to employment; or

b. when LRS is in possession of clear and convincing evidence that an individual with a disability does not require vocational rehabilitation services to prepare for, secure, retain, or regain employment; or

c. when LRS is in possession of clear and convincing evidence that an individual is incapable of benefiting from vocational rehabilitation services, including available supported employment services in terms of an employment outcome.

2. If an individual who applies for vocational rehabilitation services is determined (based on the review of existing data and, to the extent necessary, the assessment of activities of a trial work period as described under the Presumption of Benefit) not eligible for services, or if an eligible individual receiving services under an Individualized Plan for Employment (IPE) is determined to be no longer eligible for services, LRS shall:

a. Provide an opportunity for full consultation with the individual or, as appropriate, the individual's representative; and

b. Inform the individual, or as appropriate, the individual's representative, in writing of:

i. The reason(s) for the ineligibility determination; and

ii. An explanation of the means by which the individual may express and seek a remedy for an dissatisfaction with the determination, including the procedures for review by an impartial hearing officer and the availability of services from the Client Assistance Program; and

iii. A referral to any other agencies or programs from whom the individual may be eligible to receive services, including other components of the statewide workforce investment system.

3. Any ineligibility determination that is based on a finding that the individual is incapable of benefiting in terms of an employment outcome shall be reviewed:

a. within 12 months; and

b. annually thereafter, if such a review is requested by the individual or the individual's representative.

G. Use of Existing Information

1. To the maximum extent appropriate and consistent with the requirement of this Section, for purposes of determining eligibility of an individual for vocational rehabilitation services, LRS shall use information that is existing and current (the current functioning of the individual), including information available from the individual, programs, and providers, particularly education officials and the Social Security Administration.

H. Time Frame for Making an Eligibility Determination

1. LRS shall determine whether an individual is eligible for vocational rehabilitation services within a reasonable period of time, not to exceed 60 days, after the individual has submitted an application for the services unless:

a. Exceptional and unforeseen circumstances beyond LRS' control preclude making an eligibility determination within 60 days and the individual agrees to an extension of time; or

b. LRS is exploring an individual's abilities, capabilities, and capacity to perform in trial work experiences.

I. Individual with a Significant Disability

1. Individuals eligible for vocational rehabilitation services are determined to be significantly disabled if the disabling condition and subsequent functional limitations fall into one of the following three categories:

a. the individual is a recipient of Social Security Disability Insurance (SSDI); or

b. the individual is a recipient of Supplemental Security Income (SSI) by reason of blindness or disability (SSI based on age alone does not automatically render an individual significantly disabled); or

c. the individual is one:

i. who has a severe physical or mental impairment which severely limits one or more functional capacities (mobility, motor skills, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome; and

ii. whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time (extended period of time means six months or longer); and

iii. who has one or more physical or mental impairments resulting from:

- (a). amputation;
- (b). arthritis;
- (c). autism;
- (d). blindness;
- (e). burn injury;
- (f). cancer;
- (g). cerebral palsy;
- (h). cystic fibrosis;
- (i). deafness;
- (j). head injury;
- (k). heart disease;
- (l). hemiplegia;
- (m). hemophilia;
- (n). respiratory or pulmonary dysfunction;
- (o). mental retardation;
- (p). mental illness;
- (q). multiple sclerosis;
- (r). muscular dystrophy;
- (s). musculoskeletal disorders;
- (t). neurological disorders (including stroke and

epilepsy);

(u). paraplegia, quadriplegia, other spinal cord conditions;

- (v). sickle cell anemia;
- (w). specific learning disability;
- (x). end-stage renal disease; or
- (y). another impairment or combination of

impairments determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitations.

J. Order of Selection

1. LRS follows an Order of Selection to ensure that individuals with the most significant disabilities receive priority for vocational rehabilitation services.

2. The following factors shall not be used either in determining the order of selection or in determining the placement category of eligible individuals:

a. any duration of residency requirement, provided the individual is present in the state;

b. type of disability;

c. age, gender, race, color, creed, or national origin;

d. source of referral;

e. type of expected employment outcome;

f. the need for specific services or anticipated cost of services required by an individual; or

g. the income level of an individual or an individual's family.

3. Prerequisite to Placement in the Order of Selection

a. Assignment to a selection group is made after a determination of both of the following:

i. eligibility for Vocational Rehabilitation Services; and

ii. significance of disability.

4. Selection Groups. In accordance with the criteria below, an individual is placed in one of the following:

a. Selection Group I—Most Significantly Disabled. An eligible individual is considered most significantly disabled if all of the following apply:

i. the individual has one or more physical or mental impairments resulting from any of the following:

- (a). amputation;
- (b). arthritis;
- (c). autism;
- (d). blindness;
- (e). burn injury;
- (f). cancer;
- (g). cerebral palsy;
- (h). cystic fibrosis;
- (i). deafness;
- (j). head injury;
- (k). heart disease;
- (l). hemiplegia;
- (m). hemophilia;
- (n). respiratory or pulmonary dysfunction;
- (o). mental retardation;
- (p). mental illness;
- (q). multiple sclerosis;
- (r). muscular dystrophy;
- (s). musculoskeletal disorders;
- (t). neurological disorders (including stroke and

epilepsy);

(u). paraplegia, quadriplegia, other spinal cord conditions;

- (v). sickle cell anemia;
- (w). specific learning disability;
- (x). end-stage renal disease; or
- (y). another impairment or combination of

impairments determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitations; and

ii. the individual's significant physical or mental impairment seriously limits four or more functional capacity areas; and

iii. the individual's vocational rehabilitation is expected to require multiple vocational rehabilitation services over an extended period of time;

b. Selection Group II—Significantly Disabled. An eligible individual is considered significantly disabled if all of the following apply:

i. an eligible individual has one or more physical or mental impairments resulting from any of the following:

- (a). amputation;
- (b). arthritis;
- (c). autism;
- (d). blindness;
- (e). burn injury;
- (f). cancer;
- (g). cerebral palsy;
- (h). cystic fibrosis;
- (i). deafness;
- (j). head injury;
- (k). heart disease;
- (l). hemiplegia;
- (m). hemophilia;
- (n). respiratory or pulmonary dysfunction;
- (o). mental retardation;
- (p). mental illness;
- (q). multiple sclerosis;
- (r). muscular dystrophy;
- (s). musculoskeletal disorders;
- (t) neurological disorders (including stroke and

epilepsy);

(u). paraplegia, quadriplegia, other spinal cord conditions;

- (v). sickle cell anemia;
- (w). specific learning disability;
- (x). end-stage renal disease; or
- (y). another impairment or combination of

impairments determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitations; and

ii. the individual's severe physical or mental impairment seriously limits three functional capacity areas; and

iii. the individual's vocational rehabilitation is expected to require multiple vocational rehabilitation services over an extended period of time;

c. Selection Group III—Non-Significantly Disabled. An eligible individual is considered non-significantly disabled if existing functional limitations do not meet the criteria of an individual with either a most significant disability or a significant disability;

d. Public Safety Officers. Priority shall be given in all selection groups to those individuals with disabilities whose disability arose from an impairment sustained in the line of duty while performing as a public safety officer and the immediate cause of that impairment was a criminal act, apparent criminal act, or a hazardous condition resulting from the officer's performance of duties in direct connection with the enforcement, execution, and administration of law or fire prevention, fire fighting, or related public safety activities;

e. Functional Capacity Areas. Functional capacity areas are identified as follows:

- i. mobility;
- ii. motor skills;
- iii. communication;
- iv. self-care;
- v. self-direction;
- vi. interpersonal skills;
- vii. work tolerance;
- viii. work skills;

f. Other Considerations

i. individuals shall be placed in the highest priority category for which they are eligible;

ii. upon placement into a priority category, individuals will be notified in writing of their category assignment and of their right to appeal their category assignment.

5. Scope of Services Available. LRS' order of selection shall not limit the scope of services available for eligible individuals within the selection group(s) being served.

6. Information and Referral. LRS will, as appropriate, refer those individuals in selection Groups(s) not being served to other components of the statewide workforce investment system that are best suited to address the specific employment needs of the individual with a disability.

7. Continuity of Services. LRS shall provide for continuity of services once an otherwise eligible individual is selected for and begins to receive services under an IPE, irrespective of the severity of the individual's disability.

8. Other Assurances

a. All individuals within a higher priority category for services shall be served before individuals in the next lowest priority category.

b. When it is impossible to serve all eligible individuals within a priority category, the individuals (in addition to referral to other components of the statewide workforce investment system) will be placed on a deferred services waiting list. Individuals on the deferred services waiting list will be served in chronological order based on the date of application.

c. If the order of selection is rescinded, individuals on deferred services waiting lists and in unserved categories will be contacted and served in chronological order based on the date of application.

9. Client Participation in the Cost of Services. All LRS policy relative to client participation in the cost of services shall apply to individuals receiving services under the order of selection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 19:891 (September 1991), amended LR 20:317 (March 1994), LR 21:191 (February 1995), LR 22:993 (October 1996), LR 23:994 (August 1997), LR 25:1267 (July 1999).

§110. Information and Referral Services

A. Purpose. The purpose of an expanded system of information and referral is as follows:

1. To ensure that individuals with disabilities who are not being served under LRS' Order of Selection receive accurate vocational rehabilitation information and guidance to assist such individuals in preparing for, securing, retaining, or regaining employment; and

2. To ensure that such individuals, as appropriate, are referred to other federal and state programs, including other components of the statewide workforce investment system.

B. Services

1. Information

a. As appropriate, to the extent that such services are not purchased by LRS, LRS will provide the following informational vocational rehabilitation services:

- i. individualized guidance and counseling;
- ii. individualized vocational exploration;
- iii. supervised job placement referrals to work force investment;
- iv. assistance in securing reasonable accommodations.

2. Referral

a. As appropriate, LRS will make a referral to the appropriate Federal or State program, including other components of the statewide workforce investment system, that is best suited to address the specific employment needs of the individual with a disability.

b. Information provided by LRS to the individual will contain:

- i. a copy of the notice of the referral by LRS to the other agency carrying out the program; and
- ii. information identifying a specific point of contact within the agency carrying out the program; and
- iii. information and advice regarding the most suitable services to assist the individual to prepare for, secure, retain, or regain employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 25:1270 (July 1999).

§111. Comprehensive Assessment

A. Purpose

1. To make a determination of the employment-related needs of the individual with a disability.

2. To make a determination of the objectives, nature, and scope of vocational rehabilitation services required for development of the Individualized Plan for Employment (IPE) of an eligible individual.

B. Scope

1. To the extent additional data is necessary, LRS shall conduct a comprehensive assessment to determine the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, of the eligible individual, including the need for supported employment.

2. The comprehensive assessment includes, to the degree needed, an assessment of the following:

- a. personality;
- b. interests;
- c. interpersonal skills;
- d. intelligence and related functional capacities;
- e. educational achievements;
- f. work experience;
- g. vocational aptitudes;
- h. personal and social adjustment;
- i. employment opportunities;

j. medical, psychiatric, and/or psychological factors;

k. other pertinent vocational and educational factors;

1. appraisal of patterns of work behavior;

m. services needed to acquire occupational skills, develop work attitudes, work habits, work tolerance, and social and behavior patterns necessary for successful job performance, including the use of work in real job situations to assess and develop the capacities of the individual to perform adequately in a work environment.

C. Additional Considerations

1. The comprehensive assessment is limited to information necessary to identify the rehabilitation needs of the eligible individual and to develop the Individualized Plan for Employment (IPE).

2. LRS will use as a primary source of information, to the maximum extent possible and appropriate, existing information obtained for the purpose of determining eligibility.

3. LRS will use, to the maximum extent possible and appropriate, information provided by the individual and/or the individual's family.

D. Trial Work Periods

1. As appropriate, LRS will use trial work periods to explore an individual's abilities, capabilities, and capacity to perform in work situations.

2. An assessment will be conducted as often as necessary and at least every 90 days.

3. As appropriate, LRS will provide a referral for the provision of rehabilitation technology services to assess and to develop the capacities of the individual to perform in a work environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 24:1271 (July 1999).

§113. Individualized Plan for Employment (IPE)

A. Purpose of the Individualized Plan for Employment (IPE). The Individualized Plan for Employment, hereafter referred to as IPE, and all subsequent amendments assure that each individual determined eligible for vocational rehabilitation services or determined appropriate for extended evaluation services shall have a formal plan, for services.

B. Client Choice and Client Participation

1. The format of the IPE, to the maximum extent possible, will be in the language or mode of communication understood by the individual. Each individual's IPE will assure that the plan was developed in a manner empowering the individual with the ability to make an informed choice relative to the selection of an employment goal, intermediate objectives, services and service providers.

2. The client (or where appropriate, the client's parent, guardian or other representative) must sign the IPE and must receive a copy of the original IPE and all subsequent amendments.

C. Options for Developing an IPE

1. After completion of the assessment for determining eligibility and vocational rehabilitation needs (comprehensive assessment), LRS shall provide the eligible individual, or the individual's representative, in writing, and

in an appropriate mode of communication, with information on the individual's options for developing an IPE including the following:

- a. Information on the availability of technical assistance, to the extent determined to be appropriate by the eligible individual, from a qualified vocational rehabilitation counselor in developing all or part of the IPE;
- b. A description of the full range of components that shall be included in an IPE;
- c. As appropriate, an explanation of agency guidelines and criteria associated with financial commitments concerning an IPE;
- d. As appropriate, additional information the eligible individual requests or LRS determines necessary; and
- e. As appropriate, information on the availability of assistance in completing designated LRS forms required in developing an IPE.

D. Mandatory Components of an IPE

1. Regardless of the approach selected by an eligible individual to develop an IPE, an IPE shall, at a minimum, contain components consisting of the following:

- a. the specific employment goal chosen by the eligible individual, consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the eligible individual resulting unemployment, and to the maximum extent appropriate, in an integrated setting;
- b. the specific vocational rehabilitation services (provided in the most integrated setting appropriate for the service and consistent with the individual's informed choice) needed to achieve the employment goal, including as appropriate, the provision of assistive technology devices and assistive technology services, and personal assistance services, including training and management of such services;
- c. the approximate dates for the initiation of each service and the anticipated date for the completion of each service;
- d. a time frame for the achievement of the employment goal;
- e. the entity chosen to provide the vocational rehabilitation service and the methods to procure such services;
- f. the criteria to evaluate the individual's progress towards achievement of the employment goal.
- g. the terms and conditions of the IPE, including, as appropriate, information describing:
 - i. responsibilities of LRS;
 - ii. responsibilities of the eligible individual including those responsibilities the individual will assume in relation to the employment goal;
 - iii. if applicable, the participation of the eligible individual in paying for the costs of the planned services;
 - iv. responsibility of the eligible individual with regard to applying for and securing comparable benefits;
 - v. if applicable, the responsibilities of any other entities as the result of arrangements made pursuant to comparable services and benefits.
- h. For an eligible individual with the most significant disabilities for whom an employment goal is in a supported employment setting, information identifying:

- i. the extended services needed;
- ii. the source of extended services, or to the extent that the source of extended services cannot be identified at the time of development of the IPE, a description of the basis for concluding that there is reasonable expectation that such source will become available.
 - i. a statement of the projected need for post-employment services.
 - j. The rights and remedies available to the individual through the Appeal Process and information regarding the availability of the Client Assistance Program.

E. Review and Amendment

1. The IPE shall be reviewed as least annually by a qualified vocational rehabilitation counselor and the eligible individual, or as appropriate, the individual's representative; and
2. Amended, as necessary, by the individual, or as appropriate, the individual's representative, in collaboration with a qualified vocational rehabilitation counselor, (if there are substantive changes in the employment goal; the vocational rehabilitation services to be provided; or the service providers of the services (which amendments shall not take effect until agreed to and signed by the eligible individual, or as appropriate, the individual's representative, and a qualified vocational rehabilitation counselor employed by LRS).

F. IPE Document

1. An IPE for employment shall be a written document prepared on forms provided by LRS.
2. An IPE shall be developed and implemented in a manner that afford eligible individuals the opportunity to exercise informed choice in selecting an employment outcome, the specific vocational rehabilitation services to be provided under the IPE, the entity that will provide the vocational rehabilitation services, and the methods used to procure the services consistent with Informed Choice as defined in LRS in Chapter 1 of this policy manual.
3. An IPE shall be agreed to, and signed by, such individual or, as appropriate, the individual's representative; and approved and signed by a qualified vocational rehabilitation counselor employed by LRS.
4. A copy of the IPE shall be provided to the individual or, as appropriate, the individual's representative, in writing; and if appropriate, in the native language or mode of communication of the individual.

G. Content of the IPE for Case Closure as "Ineligible"

1. The IPE and amendments relating to case closure based on the decision that the individual is no longer capable of achieving an employment goal, must document with clear and convincing evidence that the individual is incapable of benefiting from vocational rehabilitation services, to include available supported employment services. Such decisions shall be reviewed and reassessed twelve months from the date of closure.
2. IPE closure documents shall set forth the rights and remedies available to the individual through the Appeal Process and provide information regarding the availability of the Client Assistance Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 25:1271 (July 1999).

§115. Financial

A. Comparable Services and Similar Benefits

1. Determination of Availability

a. Prior to providing any vocational rehabilitation service to an eligible individual, except those services specified below in c.i.(a)-(f), LRS will determine whether comparable services and benefits are available under any other program (other than a program carried out under Title IV, Rehabilitation Act Amendments of 1998) unless such a determination would interrupt or delay:

i. the progress of the individual toward achieving the employment outcome identified in the IPE of the individual;

ii. an immediate job placement; or

iii. the provision of such service to any individual at extreme medical risk.

b. Awards and Scholarships. For purposes of the determination of availability in A.1. above, comparable benefits do not include awards and scholarships based on merit.

c. Exceptions to Use of Comparable Services and Benefits

i. The following vocational rehabilitation services can be provided without making a determination of the availability of comparable services and benefits:

(a). services provided through LRS' Information and Referral System;

(b). assessment for determining eligibility and vocational rehabilitation needs, including if appropriate, assessment by personnel skilled in rehabilitation technology;

(c). counseling and guidance, including information and support services to assist an individual in exercising informed choice;

(d). referral and other services needed to secure necessary services from other agencies through cooperative agreements, if such services are not available from LRS;

(e). job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services;

(f). rehabilitation technology, including telecommunications, sensory, and other technological aids and devices.

B. Individual's Participation in the Cost of Vocational Rehabilitation Services.

1. LRS will consider, through budgetary analysis of assets, income, monthly liabilities, and comparable services and similar benefits, the financial need of eligible individuals and individuals who are under extended evaluations for purposes of determining the extent of the individual's participation in the costs of certain vocational rehabilitation services.

a. Neither a financial needs test, nor a budgetary analysis, is applied and no financial participation is required as a condition for furnishing the following vocational rehabilitation services:

i. assessment for determining eligibility and priority for services, except those non-assessment services that are provided during an extended evaluation to explore the individual's abilities, capabilities, and capacity to perform in work situations (trial work periods);

ii. assessment for determining vocational rehabilitation needs;

iii. counseling, guidance, including information and support services to assist an individual in exercising informed choice;

iv. referral and other services to secure needed services from other agencies through cooperative agreements, if such services are not available from LRS;

v. job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services;

vi. rehabilitation technology assessments;

vii. vocational and other training services when the training program is related to the achievement of a direct job placement outcome, including supported employment, on-site training, and on-the-job training;

viii. personal assistance services directly related to a direct job placement outcome and provided simultaneously with any of the above-listed vocational rehabilitation services. (Examples include attendant, reader, scribe, interpreter, and adjustment/orientation and mobility training services.)

b. A financial needs test will be applied through budgetary analysis to determine the ability of the individual to financially contribute to the cost of the following vocational rehabilitation services:

i. physical restoration and/or mental restoration;

ii. maintenance;

iii. transportation;

iv. books and supplies;

v. occupational tools and equipment;

vi. telecommunication, sensory, and other technological aids and devices, including assistive technology devices;

vii. cost services to other family members;

viii. occupational licenses;

ix. discretionary training fees such as car registration fees, student health service fees, etc. not included in tuition;

x. home modifications for accessibility;

xi. vehicle modifications/renovations;

xii. adjustment/orientation and mobility, attendant, reader, scribe, and interpreter services not directly related to a direct job placement outcome;

xiii. vocational and other training services, such as college/university, vocational and proprietary school training, not related to an immediate direct job placement outcome;

xiv. other goods and services;

xv. post-employment services consisting of the services listed above.

c. The only exception to items §115.B.1.b.xii and xiii is as follows:

i. To preserve LRS' Continuity of Services provision in the Order of Selection, LRS exempted those eligible individuals who had an IWRP/IPE in effect prior to July 20, 1999, which is the date of the adoption of this rule change; therefore, items xii and xiii in b above will only apply to those individuals who had an IWRP/IPE developed after July 20, 1999.

d. The following services are exempt from the application of a budget surplus, if the Counselor determines that a surplus exists:

- i. adjustment/orientation and mobility services;
- ii. attendant services;
- iii. reader services;
- iv. scribe services, notetaker/braille services;
- v. interpreter services;
- vi. assistive technology services.

e. When it is determined by a counselor and an eligible client that self-employment, through establishment of a small business enterprise, is the best option for the client, the client must provide a minimum cash capital contribution of 20 percent of the total transaction. (Refer to LRS Policy on Small Business Enterprise.)

f. An individual's status for the budget analysis will be determined as follows:

i. the agency will perform the budget analysis on the basis of the resources of both the client and the spouse if the client is married;

ii. the agency will perform the budget analysis on the basis of the resources of the family unit for all single clients living in the family home as a family member. Temporary absences from the home, such as for vacations, school, or illness, count as time lived in the home.

iii. the agency will perform the budget analysis on an individual who has returned to the family unit on the basis of the resources of only that individual if the following conditions are met:

(a). the individual's disability has precluded their obtaining or maintaining employment; and

(b). the individual has a documented history of self-sufficiency that includes providing over one-half the costs of maintaining a residence for at least one year prior to their return to the family unit; and

(c). the individual's parent(s), legal guardian, or other head of household provides documentation that indicates such person(s) do not claim the individual as an exemption for federal and/or state income tax purposes.

(d). Family unit is defined as the client and the client's parents or the client and any significant other(s), such as aunts, uncles, friends, legal guardians, etc., who are living in the household and are providing support for the maintenance of the household in which the client lives. Adult siblings of the client can be excluded as a member of the family unit for income reporting; but, must also be excluded from the family unit in the determination of allowable monthly liabilities.

g. Individuals who do not provide LRS with necessary financial information to perform the budget analysis will be eligible only for those vocational rehabilitation services that are not conditioned upon an analysis to determine the extent of the individual's participation in the costs of such services.

h. Individuals who have defaulted on a student loan must make good faith efforts with the lender to clear the default or to defer payment before LRS will participate in the cost of the client's vocational rehabilitation program.

i. Simultaneously with the comprehensive assessment, at the annual review of the IPE, and at any time there is a change in the financial situation of either the client or the family, the counselor will perform a budget analysis

for each client requiring vocational rehabilitation services as listed above in §115.B.1.b.i-xv. The amount of client participation in the cost of their vocational rehabilitation program will be based upon the most recent budget analysis at the time the relevant IPE or amendment is developed.

2. State and Departmental Purchasing Procedures. All applicable state, departmental and agency purchasing policies and procedures must be followed.

a. LRS does not purchase vehicles or real estate.

b. Fee Schedule. Services and rates of payment must be authorized in accordance with LRS' Medical Fee Schedule and LRS' Technical Assistance and Guidance Manual, Section 500 which lists approved service providers.

c. Approval of Service Providers

i. Any service provider approved by the agency must agree not to make any additional charge to or accept any additional payment from the client or client's family for services authorized by the agency.

ii. Relatives of vocational rehabilitation clients will not be approved as a paid service provider unless such individuals are professionally and occupationally engaged in the delivery of such services by offering their services to the general public on a regular and consistent basis.

d. Prior Written Authorization and Encumbrance

i. Either before or at the same time as the initiation or delivery of goods or services, the agency must be in possession of the proper authorizing document. The only exception is in an emergency situation.

ii. If oral authorization of approved services is made in an emergency situation, there must be prompt documentation, and the authorization must be confirmed in writing and forwarded to the provider of the services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 21:837 (August 1995), LR 25:1273 (July 1999).

§117. Vocational Rehabilitation Services

A. Vocational Rehabilitation Services are any services described in an IPE necessary to assist an individual with a disability in preparing for, securing, retaining, or regaining an employment goal that is consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual, including:

1. an assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;

2. counseling and guidance, including information and support services to assist an individual in exercising informed choice;

3. referral and other services to secure needed services from other agencies through cooperative agreements developed, if such services are not available from LRS;

4. job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services;

5. vocational and other training services, including the provision of personal and vocational adjustment services, books, tools, and other training materials, except that no training services provided at an institution of higher education shall be paid for with funds under this Title unless

maximum efforts have been made by LRS and the individual to secure grant assistance in whole or in part, from other sources to pay for such training;

6. to the extent that financial support is not readily available from a source other than LRS (such as through health insurance of the individual or a comparable service and benefit consistent with LRS policy, Chapter 115 Financial, Comparable Services and Similar Benefits) diagnosis and treatment of physical and mental impairments, including:

a. corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition that constitutes a substantial impediment to employment, but is of such a nature that correction or modification may reasonably be expected to eliminate or reduce such impediment to employment within a reasonable length of time;

b. necessary hospitalization in connection with surgery or treatment;

c. prosthetic and orthotic devices;

d. eyeglasses and visual services as prescribed by qualified personnel who meet State license laws;

e. special services, artificial kidneys, and supplies necessary for the treatment of individuals with end-stage renal disease; and

f. diagnosis and treatment for mental and emotional disorders by qualified personnel who meet State license laws;

7. maintenance for additional costs incurred while participating in and assessment for determining eligibility and vocational rehabilitation needs or while receiving other services under an IPE and needed by the individual to achieve an employment goal;

8. transportation, including adequate training in the use of public transportation vehicles and systems, that is provided in connection with the provision of any other service under an IPE and needed by the individual to achieve an employment goal;

9. on-the-job or other related personal assistance services provided while an individual is receiving other services under an IPE and needed by the individual to achieve an employment goal;

10. interpreter services provided by qualified personnel for individuals who are deaf or hard of hearing, and reader services for individuals who are determined to be blind, after an examination by qualified personnel who meet State license law;

11. rehabilitation teaching services, and orientation and mobility services for individuals who are blind;

12. occupational licenses, tools, equipment, and initial stocks and supplies;

13. technical assistance and other consultation services to conduct market analyses, develop plans and otherwise provide resources to eligible individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment goal;

14. rehabilitation technology, including telecommunications, sensory, and other technological aids and devices;

15. transition services for students with disabilities that facilitate the achievement of the employment outcome identified in the IPE;

16. supported employment services;

17. services to the family of an individual with a disability necessary to assist the individual to achieve an employment outcome identified in the IPE;

18. specific post-employment services necessary to assist an individual with a disability to retain, regain, or advance in employment.

B. Scope of Services for Diagnosis and Treatment of Physical and Mental Impairments

1. LRS will not provide ongoing medical rehabilitation treatment services. After medical science has restored the individual to their maximum level of healthy functioning, LRS can provide vocational rehabilitation services to remediate residual deficits medical science could not restore, if such impairments impact the individual's ability to work. LRS can provide all necessary and appropriate vocational rehabilitation services if these services address these functional deficits and assist the individual in performing job functions and/or gaining knowledge or skills necessary to compete for and obtain employment.

2. LRS will not provide experimental services or supplies.

C. Scope of Services in Community Rehabilitation Programs (CRP)

1. Cost Effectiveness

a. In consideration of the cost-effective provision of services in Community Rehabilitation Programs, LRS shall first use publicly-supported Community Rehabilitation Programs to provide assessment services, both for diagnostic purposes and in the provision of trial work periods, before using either private or private-non profit Community Rehabilitation Programs.

b. The only exceptions shall be as follows:

i. the service in a publicly supported CRP is not available.

ii. provision of the service in a publicly supported CRP would create an extreme hardship for the client.

D. Scope of Establishment of Small Business Enterprise

1. The purpose of a self-employment goal for a client is to establish an individual with a disability in a small business enterprise that will provide sufficient income to support the individual and their family, thereby enabling the individual to meet ordinary daily living expenses and business costs. LRS desires to make self-employment an available option only when it is clearly demonstrated that self-employment is the best choice for the client.

2. When it is determined by a counselor and an eligible client that self-employment, through establishment of a small business enterprise, is the best option for the client, the following apply:

a. the client must present evidence of a record of success in the industry pertinent to the products and/or services the client plans to offer in this particular self-employment venture;

b. the client must attend at least one workshop on small business development designed to develop and raise the management skills of small business owners. Acceptable workshops include those operated by the small business development centers (SBDC), chambers of commerce (SCORE), Louisiana Department of Economic Development, and colleges and universities;

- c. the client must develop a business plan;
- d. the business plan must:
 - i. be thorough, realistic, and in writing;
- ii. include, but is not limited to:
 - (a). estimates of revenues and expenses;
 - (b). estimates of profit;
 - (c). a market analysis;
 - (d). client as the owner/proprietor of the business actually working in/managing the business;
 - (e). evidence to indicate the business venture has the potential to generate sufficient profits to provide client with gainful income to support client/family's daily living expenses and business costs;
- e. available Social Security work incentives, such as PASS and IRWE, must be investigated, applied for, and used for clients who are recipients of Social Security Benefits (SSI and SSDI);
- f. the client must:
 - i. submit the business plan to a small business development center for evaluation of the viability of the business venture in terms of competitive profitability;
 - ii. share with LRS the small business development center's evaluation of and comments regarding the business plan;
 - iii. if suggested by the small business development center, make modifications to the business plan, with the recommendations made by the small business development center; and
 - iv. resubmit such plan for re-review by the small business development center;
- g. LRS has defined the scope of the establishment of a small business enterprise as reasonable start-up costs not to exceed an aggregate assistance of \$20,000. The cost of any training/workshops relative to establishing the client in a small business and/or disability-related assistive technology devices is not included in the \$20,000 limit;
- h. commitment by the client to make a minimum cash capital contribution of 20 percent of the total transaction. Such funds can be from the client's personal resources, loans, etc.
- i. LRS will not assist a client in the establishment of multiple (more than one) small businesses. Once the initial business is set up, LRS will not provide funds for expansion or improvements to the business. If changes in the nature of the client's disability require disability-related modifications and/or assistive technology to enable the client to continue in this employment capacity, the individual must:
 - i. be an eligible client or eligible for post-employment services;
 - ii. complete an updated business plan;
 - iii. meet all other applicable policy/procedure regulations;
- j. LRS will not provide funding for:
 - i. businesses that are speculative in nature, such as investments in real estate, etc.;
 - ii. businesses organized as nonprofit;
 - iii. businesses organized as hobbies;
 - iv. construction and/or purchase of real estate;
 - v. purchase of land;
 - vi. refinancing of existing debt;
 - vii. purchase of vehicles;

k. all other applicable state, federal, and agency laws, policy and procedure must be followed, including state purchasing laws;

l. these policy provisions do not apply to the Randolph Sheppard Program;

m. ultimate approval of funding a small business enterprise for an eligible vocational rehabilitation client lies with Louisiana Rehabilitation Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 25:1274 (July 1999).

§119. Transition Process for Individuals in Secondary Education Programs

A. Louisiana Rehabilitation Services (LRS) will provide vocational rehabilitation transition services to eligible individuals in their exit year from the state secondary education system. Although the education system will be involved in education-related transition services prior to the exit year, LRS' first consultation with school personnel, students with disabilities, and family members of students with disabilities will be in the year prior to the exit year. This consultation in the year prior to the exit year will enable school personnel and LRS to identify those students who might be eligible for and interested in vocational rehabilitation services.

B. LRS' transition process is a coordinated set of vocational rehabilitation services planned for an eligible student with an official secondary education transition plan. Such vocational rehabilitation transition services are designed within an outcome-oriented process that promotes movement from school to post school activities, including post secondary education, vocational training and/or integrated employment (including supported employment).

C. LRS' vocational rehabilitation transition services shall be based upon the eligible student's individual needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, and the achievement of an employment outcome.

D. The coordination and collaboration between LRS and the state education system will assure continuity of services for eligible students.

E. The following provisions are the key points in LRS' transition process:

1. LRS will provide consultation (to the extent possible considering time and resources) the year prior to the individual's exit year with regard to students who have official transition plans within the state education system.

2. LRS will provide vocational rehabilitation transition services during the eligible individual's exit year to students who have official transition plans within the state education system. The provision of these vocational rehabilitation transition services will be assured through the completion of an eligible individual's IPE BEFORE the individual leaves the school system.

F. The LRS director or designee shall have the sole responsibility for any exceptions to this policy on transition services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), repromulgated LR 25:1276 (July 1999).

§121. Conditions for Case Closure

A. Options for Closure. An individual's case can be closed at any time in the vocational rehabilitation process when it has been determined that:

1. the individual is not available for services;
2. the individual is ineligible;
3. appropriate planned services, expenditures and reports have been completed, and additional services are either unnecessary or inappropriate, except as may be provided under post-employment services.

B. Closure as Successfully Rehabilitated. An individual is determined to have achieved an employment outcome if the following requirements are met:

1. the provision of services under the individual's IPE has contributed to the achievement of the employment outcome;
2. the employment outcome is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice;
3. the employment outcome is in the most integrated setting possible, consistent with the individual's informed choice;
4. the individual has maintained the employment outcome for a period of at least 90 days;
5. the individual and the rehabilitation counselor consider the employment outcome to be satisfactory and agree that the individual is performing well on the job.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 23:994 (August 1997), repromulgated LR 25:1277 (July 1999).

Gwendolyn P. Hamilton
Secretary

9907#043

RULE

**Office of Transportation and Development
Office of the General Counsel**

**Specific Services (LOGO) Signing
(LAC 70:I.105 and 107)**

In accordance with the applicable provisions of the Administrative Procedure Act, L.R.S. 49:950 et seq., the Louisiana Department of Transportation and Development hereby promulgates a rule which amends Subchapter A of Chapter 1 of Title 70 entitled "Outdoor Advertisement." This rule deals specifically with "Specific Services (LOGO) Signing." It is promulgated in accordance with the provisions of R.S. 48:461.

Title 70

TRANSPORTATION

Part I. Office of the General Counsel

Chapter 1. Outdoor Advertisement

Subchapter A. Outdoor Advertising Signs

§105. Location

A. - F. ...

G. Number of Signs Permitted. There shall be no more than one specific information sign for each type of service along an approach to an interchange or intersection. There shall be no more than nine business signs displayed on a specific information sign.

H. - I.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the General Counsel, LR 11:782 (August 1985), amended LR 18:785 (July 1992), LR 19:352 (March 1993), LR 22:224 (March 1996), LR 25:1277 (July 1999).

§107. Criteria for Specific Information Permitted

A. - C.4. ...

D. Specific Criteria for "FOOD"

1. Indoor seating for at least 16 persons.
2. Clean modern restroom facilities for each sex.
3. Year-round operation at least six (6) days per week and operating at least 12 continuous hours per day.

E. Specific Criteria for "LODGING"

1. Adequate sleeping accommodations consisting of a minimum of 20 units with private baths.
2. Off-street vehicle parking spaces for each lodging room for rent.
3. Year-round operation.
4. Bed and Breakfast facilities may be placed on the "Lodging" services sign provided that they meet the following criteria:
 - a. adequate off-street vehicle parking;
 - b. year-round operation at least five (5) continuous days per week;
 - c. adequate sleeping accommodations consisting of a minimum of three (3) units with private baths;
 - d. complimentary breakfast provided and included in the rate of the room;
 - e. member of the Louisiana Bed and Breakfast Association or in compliance with additional specific criteria established by the Department of Transportation and Development in lieu thereof.

F. ...

G. Specific Criteria for "ATTRACTIONS"

1. Fall under one of the following categories:
 - a. Arena/Stadium*;
 - b. Cultural Center*;
 - c. Historical Society*;
 - d. Historic District;
 - e. Historic Structure/Museum*;
 - f. Industrial Facility*;
 - g. Museum/Art Gallery;
 - h. Scenic/Natural Attraction (forest, garden, nature preserve, park, etc.);

- i. Tour Boat;
- j. Winery/Brewery*;
- k. Zoo/Aquarium.

*providing visitor tours

- 2. Adequate off-street vehicle parking.
- 3. Clean modern restroom facilities for each sex and drinking water suitable for public use.
- 4. Year-round operation at least five continuous days per week.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the General Counsel, LR 11:782 (August 1985), amended LR 18:785 (July 1992), LR 19:353 (March 1993), LR 22:225 (March 1996), LR 25:1277 (July 1999).

Kam K. Movassaghi, Ph.D., P.E.
Secretary

9907#009

RULE

Department of the Treasury Board of Trustees of the State Employees' Retirement System

Trustee Election (LAC 58:I.301, 303, 501, and 503)

Under the authority of LSA R.S. 11:515 and in accordance with LSA R.S. 49:951 et seq., the Department of the Treasury, Board of Trustees of the Louisiana State Employees Retirement System ("LASERS") hereby amends LAC 58:I.301, 303, 501 and 503. The proposed amendment to the rules changes the time period for the election of Trustees of the Board of Trustee of LASERS.

Title 58

RETIREMENT

Part I. State Employees' Retirement

Chapter 3. Election of Active Member Trustees

§301. General Schedule of Elections

* * *

- B. The schedule for elections shall be as follows:

* * *

4. fourth Friday in September: the final day that information on candidates and ballots may be mailed.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:997 (August 1997), LR 25:1278 (July 1999).

§303. Election Rules

* * *

D. Ballots or election brochures shall be distributed or mailed by the fourth Friday in September. Every active contributing member appearing on the June Monthly Retirement Reports shall receive a ballot or election brochure for voting. Participants in the DROP program shall vote in the active member's election and shall have ballots or election brochures mailed to their homes.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:997 (August 1997), LR 25:1278 (July 1999).

Chapter 5. Election of Retired Member Trustees

§501. General Schedule of Elections

* * *

- B. The schedule for elections shall be as follows:

* * *

4. Fourth Friday in September: the final day that information on candidates and ballots may be mailed.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 11: 511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:997 (August 1997), LR 25:1278 (July 1999).

§503. Election Rules

* * *

D. Ballots or election brochures shall be distributed to each retired member by the fourth Friday in September. Every retiree member appearing on the June Retiree Master List shall receive a ballot or election brochure for voting.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:997 (August 1997), LR 25:1278 (July 1999).

Glenda Chambers
Executive Director

9907#011

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Hunting Seasons, Wildlife Management,
and Game and Fish Preserves
(LAC 76: III.311-314, 327 and XIX.111)

In accordance with the Notice of Intent published in the March 1999 *Louisiana Register*, the Wildlife and Fisheries Commission, at its regular monthly meeting in July does hereby ratify rules and regulations governing the hunting of resident game birds and game quadrupeds.

Title 76

WILDLIFE AND FISHERIES

Part III. State Game and Fish Preserves and Sanctuaries

Chapter 3. Particular Game and Fish Preserves and Commissions

§311. Atchafalaya Delta Wildlife Management Area

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56.6 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 15:101 (February 1989), LR 25:1278 (July 1999).

§312. Point-au-Chien Wildlife Management Area

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56.6 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 15:102 (February 1989), LR 25:1279 (July 1999).

§313. Salvador Wildlife Management Area

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56.6 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 15:103 (February 1989), LR 25:1279 (July 1999).

§314. Pass-a-Loutre Wildlife Management Area

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56.6 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 15:104 (February 1989), LR 25:1279 (July 1999).

§327. Timken Wildlife Management Area

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56.6 et seq. and 56:109.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 22:860 (September 1996), LR 25:1279 (July 1999).

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Seasons

§111. General and Wildlife Management Area

Hunting Rules and Regulations

A. Hunting Seasons and Wildlife Management Area Regulations

1. The rules and regulations contained within this digest have been officially approved and adopted by the Wildlife and Fisheries Commission under authority vested by Sections 115 and 116 of Title 56 of the Louisiana Revised Statutes of 1950 and are in full force and effect in conjunction with all applicable statutory laws. The Secretary of the Department of Wildlife and Fisheries has the authority to close or alter seasons in emergency situations in order to protect fish and wildlife resources.

2. Pursuant to Section 40.1 of Title 56 of the Louisiana Revised Statutes of 1950, the Wildlife and Fisheries Commission has adopted monetary values which are assigned to all illegally taken, possessed, injured or destroyed fish, wild birds, wild quadrupeds and other wildlife and aquatic life. Anyone taking, possessing, injuring or destroying fish, wild birds, wild quadrupeds and other wildlife and aquatic life shall be required to reimburse the Department of Wildlife and Fisheries a sum of money equal to the value of the wildlife illegally taken, possessed, injured or destroyed. This monetary reimbursement shall be in addition to any and all criminal penalties imposed for the illegal act.

B. Resident Game Birds and Animals

1. Shooting hours: one-half hour before sunrise to one-half hour after sunset.

C. Other Season Dates

1. Turkey. Please refer to separate pamphlet.

2. Raccoon and Opossum. No closed season. Raccoon and opossum can be taken at night by one or more licensed hunters with one or more dogs and one .22 rimfire firearm. A licensed hunter may take raccoon or opossum with .22 rimfire, muzzleloader rifle .36 caliber or smaller or shotgun during daylight hours during the open rabbit season. Hunting from boats or motor vehicles is prohibited. No bag limit for nighttime or daytime raccoon or opossum hunting during the open trapping season except on certain WMAs as listed. The remainder of the year, the raccoon and opossum bag limit for daytime or nighttime is one per person per day or night. No one who hunts raccoons or opossums as prescribed above shall pelt during the closed trapping season nor sell skins or carcasses of raccoons and opossums taken during the open trapping season unless he is the holder of a valid trapping license which shall be required in addition to his basic hunting license. Pelting or selling carcasses is illegal during closed trapping season.

3. Blackbirds and crows. All blackbirds, cowbirds, grackles and crows are considered crop depredators in Louisiana and may therefore be taken year round during legal shooting hours with no limit. Shooting hours are 30 minutes before sunrise to sunset.

4. Pheasant

a. Bag limit - 2 (males only). Possession limit - 4.

b. Pheasant season restricted to the following portion of Calcasieu and Cameron parishes: That portion west of Choupique Bayou south of U.S. 90 and La. 27, west of La. 27 to north boundary of Sabine NWR, north of Sabine NWR north boundary to Sabine River, east of Sabine River to Intracoastal waterway, south of Intracoastal waterway to Gum Cove, east of Gum Cove Road to La. 108, north and east of La. 108 from Gum Cove Road to U.S. 90, and south of U.S. 90 from Vinton to Choupique Bayou.

5. Falconry. Special permit required. Resident and migratory game species except turkeys may be taken. Seasons and bag limits are the same as for statewide and WMA regulations except squirrels may be taken by licensed falconers until the last day of February. Refer to LAC 76:V.301 for specific Falconry Rules.

6. Licensed Hunting Preserve. October 1 - April 30. Pen-raised birds only. No limit entire season. Refer to LAC 76:V.305 for specific Hunting Preserve Rules.

7. Deer Management Assistance Program (DMAP). Land enrolled in the voluntary program will be assessed a \$25 registration fee and 5 cents/acre fee. Deer management assistance tags must be attached and locked to antlerless deer (including those taken on either-sex days and those taken with bow and muzzleloader) through the hock in a manner that it cannot be removed before the deer is moved from the site of the kill. Failure to do so is a violation of R.S. 56:115. Failing to follow DMAP rules and regulations may result in immediate cancellation of the program on those lands involved. Refer to LAC 76:V.111 for specific DMAP Rules.

8. Farm Raised White-tailed Deer and Exotics on Licensed Supplemented Shooting Preserves

a. Definitions

Exotics—for purposes of this rule means any animal of the family Bovidae (except the Tribe Bovini [cattle]) or Cervidae which is not indigenous to Louisiana and which is confined on a Supplemented Hunting Preserve. Exotics shall include, but are not limited to, fallow deer, red deer, elk, sika deer, axis deer, and black buck antelope.

Hunting—in its different tenses and for purposes of this rule means to take or attempt to take, in accordance with R.S. 56:8.

Same as Outside—for purposes of this rule means hunting on a Supplemented Hunting Preserve must conform to applicable statutes and rules governing hunting and deer hunting, as provided for in Title 56 of the Louisiana Revised Statutes and as established annually by the Wildlife and Fisheries Commission (LWFC).

Supplemented Hunting Preserve—for purposes of this rule means any enclosure for which a current Farm-Raising License has been issued by the Department of Agriculture and Forestry (LDAF) with concurrence of the Department of Wildlife and Fisheries (LDWF) and is authorized in writing by the LDAF and LDWF to permit hunting.

White-Tailed Deer—For purposes of this rule means any animal of the species *Odocoileus virginianus* which is confined on a Supplemented Hunting Preserve.

b. Seasons

i. Farm-Raised White-tailed Deer: Consult the regulations pamphlet

ii. Exotics: year round.

c. Methods of Take

i. White-tailed Deer: Same as outside

ii. Exotics: Exotics may be taken with longbow (including compound bow) and arrow; shotguns not larger than 10 gauge, loaded with buckshot or rifled slug; handguns and rifles no smaller than .22 caliber centerfire; or muzzleloading rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, using black powder or an approved substitute only, and using ball or bullet projectile, including sabot bullets only.

d. Shooting Hours

i. White-tailed Deer: Same as outside.

ii. Exotics: one-half hour before sunrise to one-half hour after sunset.

e. Bag Limit

i. Farm-Raised White-tailed Deer: Same as outside.

ii. Exotics: No limit.

f. Hunting Licenses

i. White-tailed Deer: Same as outside.

ii. Exotics: No

person shall hunt any exotic without possessing a valid basic and big game hunting license.

g. Tagging. White-tailed Deer and Exotics: Each animal shall be tagged in the left ear or left antler immediately upon being killed and before being moved from the site of the kill with a tag provided by the LDAF. The tag shall remain with the carcass at all times.

D. Hunting-General Provisions

1. A basic resident or non-resident hunting license is required of all persons to hunt, take, possess or cause to be

transported by any other person any wild bird or quadruped. See information below for exceptions.

2. No person born on or after September 1, 1969 shall hunt with a firearm unless that person has first been issued a certificate of satisfactory completion of a firearm and hunter education course taught or approved by the Department of Wildlife and Fisheries. However, a person younger than 16 years of age may hunt without such certificate if he is accompanied by and is under the direct and immediate supervision of a person 18 years of age or older.

3. A big game license is required in addition to the basic hunting license to hunt, take, possess or cause to be transported any deer or turkey. A separate wild turkey stamp is required in addition to the basic hunting license and the big game license to hunt, take, possess or cause to be transported any turkey.

4. Taking game quadrupeds or birds from aircraft or participating in the taking of deer with the aid of aircraft or from automobiles or other moving land vehicles is prohibited.

5. Methods of taking resident game birds and quadrupeds

a. Use of a longbow (including compound bow) and arrow or a shotgun not larger than a 10 gauge fired from the shoulder without a rest shall be legal for taking all resident game birds and quadrupeds. Also, the use of a handgun, rifle and falconry (special permit required) shall be legal for taking all game species except turkey and migratory game birds. It shall be illegal to hunt or take squirrels or rabbits at any time with a breech-loaded rifle larger than a .22 caliber rimfire or a muzzleloader rifle larger than .36 caliber. During closed deer gun season, it shall be illegal to possess shotgun shells loaded with slugs or shot larger than BB lead or F steel shot while small game hunting.

b. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs is prohibited when or where a still hunting season or area is designated, and will be strictly enforced. Shotguns larger than 10 gauge or capable of holding more than three shells shall be prohibited. Plugs used in shotguns must be incapable of being removed without disassembly. Refer to game schedules contained within these regulations for specific restrictions on the use of firearms and other devices.

6. Nuisance animals. Landowners or their designees may remove beaver and nutria causing damage to their property without a special permit. Water set traps and firearms may be used to remove beaver; nutria may be removed by any means except that nutria and beaver cannot be taken by the use of headlight and gun between the hours of sunset and sunrise. Any nuisance beaver or nutria trapped or shot outside open trapping season cannot be pelted or sold. A trapping license is required during open trapping season to sell or pelt nuisance beavers or nutria taken.

7. Threatened and endangered species - Louisiana black bear, Louisiana pearl shell (mussel), sea turtles, gopher tortoise, ringed sawback turtle, brown pelican, bald eagle, peregrine falcon, whooping crane, Eskimo curlew, piping plover, interior least tern, ivory-billed woodpecker, red-cockaded woodpecker, Bachman's warbler, West Indian manatee, Florida panther, pallid sturgeon, Gulf sturgeon,

Attwater's greater prairie chicken, whales and red wolf. Taking or harassment of any of these species is a violation of state and federal laws.

8. Unregulated quadrupeds. Holders of a legal hunting license may take coyotes, unmarked hogs where legal and armadillos year round during legal daylight shooting hours. The running of coyotes with dogs is prohibited in all turkey hunting areas during the open turkey season. Coyote hunting is restricted to "chase only" during still hunting segments of the firearm and archery only season for deer. Foxes and bobcats are protected quadrupeds and may be taken only by licensed trappers during the trapping season. Remainder of the year "chase only" permitted by licensed hunters.

9. Hunting and/or discharging firearms on public roads. Hunting, standing, loitering or shooting game quadrupeds or game birds with a gun during open season while on a public highway or public road right of way is prohibited. Hunting or the discharge of firearms on roads or highways located on public levees or within 100 feet from the centerline of such levee roads or highways is prohibited. Spot lighting or shining from public roads is prohibited by state law. Hunting from all public roads and rights of way is prohibited and these provisions will be strictly enforced.

10. Tags. Any part of the deer or wild turkey divided shall have affixed thereto the name, date, address and big game license number of the person killing the deer or wild turkey and the sex of that animal. This information shall be legibly written in pen or pencil, on any piece of paper or cardboard or any material, which is attached or secured to or enclosing the part or parts. On lands enrolled in DMAP, deer management assistance tags must be attached and locked through the hock of antlerless deer, (including those taken with bow and muzzleloader and those antlerless deer taken on either-sex days) in a manner that it cannot be removed, before the deer is moved from the site of the kill.

11. Sex identification. Positive evidence of sex identification, including the head, shall remain on any deer taken or killed within the State of Louisiana, or on all turkeys taken or killed during any special gobbler season when killing of turkey hens is prohibited, so long as such deer or turkey is kept in camp or field, or is en route to the domicile of its possessor, or until such deer or turkey has been stored at the domicile of its possessor or divided at a cold storage facility and has become identifiable as food rather than as wild game.

E. General Deer Hunting Regulations

1. One antlered and one antlerless (when legal) deer per day except on Wildlife Management Areas, Federal Refuges and National Forest Lands where the daily limit shall be one deer per day. Six per season (all segments included) by all methods of take.

2. A legal buck is a deer with visible antler of hardened bony material, broken naturally through the skin. Killing bucks without at least one visible antler as described above and killing does is prohibited except where specifically permitted.

3. Deer hunting restricted to legal bucks only, except where otherwise permitted.

4. Either-sex deer is defined as male or female deer. Taking or possessing spotted fawns is prohibited.

5. It is illegal to hunt or shoot deer with firearms smaller than .22 caliber centerfire or a shotgun loaded with

anything other than buckshot or rifled slug. Handguns may be used for hunting.

6. Taking game quadrupeds or birds from aircraft, participating in the taking of deer with the aid of aircraft or from automobiles or other moving land vehicles is prohibited.

7. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs or moving vehicles, including ATVs, when or where a still hunting season or area is designated, is prohibited and will be strictly enforced. The training of deer dogs is prohibited in all still hunting areas during the gun still hunting and archery only season. Deer hunting with dogs is permitted in all other areas having open deer seasons that are not specifically designated as still hunting only. Use of dogs to trail wounded deer is expressly prohibited in still hunting areas.

8. Areas not specifically designated as open are closed.

9. Muzzleloader Segment: (Special license and muzzleloader firearms specifications apply only to the special state, WMA, National Forest and Preserves, and Federal Refuge seasons.) Still hunt only. Specific WMAs will also be open, check WMA schedule for specific details. Muzzleloader license required for resident hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Either sex deer may be taken in all deer hunting areas except Area 5 and as specified on Public Areas. It is unlawful to carry a gun, including those powered by air or other means, while hunting during the special muzzleloader segment. Except, it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot only).

a. Legal Muzzleloader Firearms For Special Season: Rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, use black powder or approved substitute only, take ball or bullet projectile only, including sabot bullets and be fitted only with iron sights or non-magnifying scopes except persons 60 years of age or older may use magnified scopes. This includes those muzzleloaders known as "inline" muzzleloaders.

10. Archery Segment: Consult regulations pamphlet. WMA seasons are the same as outside except as noted below. Archery license required for resident bow hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Residents 60 years of age and older may use a crossbow without a special permit or license. Either sex deer may be taken in all areas open for deer hunting except when a bucks only season is in progress for gun hunting, archer's must conform to the bucks only regulations. Either sex deer may be taken on WMAs at anytime during archery season except when bucks only seasons are in progress on the respective WMA. Also, archery season restricted on Atchafalaya Delta, Salvador, Pass-a-Loutre and Point-au-Chien WMAs (See schedule).

a. Bow and arrow regulations: Hunting arrows for deer must have well-sharpened metal broadhead blades not less than 7/8 inch in width. Bow and arrow fishermen must have a sport fishing license and not carry any arrows with broadhead points unless a big game season is in progress.

i. It is unlawful:

(a). to carry a gun, including those powered by air or other means, while hunting with bow and arrow during the special bow and arrow deer season except it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot) only.

(b). to have in possession or use any poisoned or drugged arrow, arrows with explosive tips, or any bow drawn, held or released by mechanical means except that hand held releases are lawful.

(c). to hunt deer with a bow having a pull less than 30 pounds.

(d) to hunt with a bow or crossbow fitted with an infrared or laser sight.

11. Hunter orange. Any person hunting deer shall display on his head, chest and/or back a total of not less than 400 square inches of "hunter orange" during the open deer gun season including muzzleloader season. Persons hunting on privately owned, legally posted land may wear a cap or a hat that is completely covered with hunter orange material in lieu of the 400 square inches. These provisions shall not apply to persons hunting deer from elevated stands on property that is privately owned and legally posted or to archery deer hunters hunting on legally posted lands where firearm hunting is not permitted by agreement of the landowner or lessee. WARNING: DEER HUNTERS ARE CAUTIONED TO WATCH FOR PERSONS HUNTING OTHER GAME OR ENGAGED IN ACTIVITIES NOT REQUIRING "HUNTER ORANGE".

12. Special Handicapped either-sex deer season on private land. See regulations pamphlet for dates. Restricted to individuals with Physically Challenged Hunter Permit.

13. Special Youth Deer Hunt. See regulations pamphlet for dates.

F. Description of Areas

1. Area 1

a. All of the following parishes are open: Catahoula, East Feliciana, St. Helena, Concordia, Franklin, Tensas, East Baton Rouge, Madison, Washington.

b. Portions of the following parishes are also open:

i. Avoyelles - North of La. 1.

ii. Caldwell - East of U.S. 165.

iii. Grant - East of U.S. 165 and south of La. 8.

iv. LaSalle - Portion south of La. 8 from Little River eastward to La. 127 in Jena, east of La. 127 from Jena northward to U.S. 165, east of U.S. 165 from La. 127 northward to Caldwell Parish line.

v. Livingston - North of I-12.

vi. Rapides - East of U.S. 165 and north of Red River.

vii. St. Tammany - All *except* that portion south of I-12, west of Hwy. 1077 to La. 22, south of La. 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain.

viii. Tangipahoa - North of I-12.

ix. West Feliciana - All *except* that portion known as Raccourci and Turnbull Island.

c. Still hunting only in all or portions of the following parishes:

i. Avoyelles - That portion surrounding Pomme de Terre WMA, bounded on the north, east, and south by La. 451 and on the west by the Big Bend Levee from its junction

at the Bayou des Glaise structure east of Bordelonville, southward to its juncture with La. 451.

ii. Catahoula - South of Deer Creek to Boeuf River, east of Boeuf and Ouachita Rivers to La. 8 at Harrisonburg, west of La. 8 to La. 913, west of La. 913 and La. 15 to Deer Creek.

iii. East Feliciana and East Baton Rouge - East of Thompson Creek from the Mississippi line to La. 10. North of La. 10 from Thompson Creek to La. 67 at Clinton, west of La. 67 from Clinton to Mississippi line. South of Mississippi line from La. 67 to Thompson Creek. Also that portion of East Baton Rouge Parish east of La. 67 from La. 64 north to Parish Line, south of Parish Line from La. 64 eastward to Amite River. West of Amite River southward to La. 64, north of La. 64 to La. 37 at Magnolia, east of La. 37 northward to La. 64 at Indian Mound, north of La. 64 from Indian Mound to La. 67. Also, that portion of East Feliciana Parish east of La. 67 from parish line north to La. 959, south of La. 959 east to La. 63, west of La. 63 to Amite River, west of Amite River, southward to parish line, north of parish line westward to La. 67.

iv. Franklin - All

v. St. Helena - North of La. 16 from Tickfaw River at Montpelier westward to La. 449, east and south of La. 449 from La. 16 at Pine Grove northward to La. 1045, south of La. 1045 from its junction with La. 449 eastward to the Tickfaw River, west of the Tickfaw River from La. 1045 southward to La. 16 at Montpelier.

vi. Tangipahoa - That portion of Tangipahoa Parish north of La. 10 from the Tchefuncte River to La. 1061 at Wilmer, east of La. 1061 to La. 440 at Bolivar, south of La. 440 to the Tchefuncte River, west of the Tchefuncte River from La. 440 southward to La. 10.

vii. Washington and St. Tammany - East of La. 21 from the Mississippi line southward to the Bogue Chitto River, north of the Bogue Chitto River from La. 21 eastward to the Pearl River Navigation Canal, east of the Pearl River Navigation Canal southward to the West Pearl River, north of the West Pearl River from the Pearl River Navigation Canal to Holmes Bayou, west of Holmes Bayou from the West Pearl River northward to the Pearl River, west of the Pearl River from Holmes Bayou northward to the Mississippi line, south of the Mississippi line from the Pearl River westward to La. 21. Also that portion of St. Tammany Parish north of La. 22 from U.S. 190 to La. 1077, east of La. 1077 northward to junction with U.S. 190, south and west of U.S. 190 from La. 1077 to junction with La. 22. Also, that portion of Washington Parish south of La. 10 from the Tchefuncte River, eastward to the Bogue Chitto River, west of the Bogue Chitto River from La. 10 southward to St. Tammany Parish. Also that portion of Washington Parish west of La. 25 from the Mississippi state line southward to La. 38, then west to the Tangipahoa parish line, north along the parish line to the Mississippi state line then east to La. 25.

viii. West Feliciana - West of Thompson Creek to Illinois-Central Railroad, north of Illinois-Central Railroad to Parish Road #7, east of Parish Road #7 to the junction of U.S. 61 and La. 966, east of La. 966 from U.S. 61 to Chaney Creek, south of Chaney Creek to Thompson Creek.

2. Area 2
 - a. All of the following parishes are open:
 - i. Bienville, Jackson, Union, Bossier, Lincoln, Webster, Caddo, Natchitoches, Winn, Claiborne, Red River, DeSoto, Sabine.
 - ii. Except: Kisatchie National Forest which has special regulations. Caney, Corney, Middlefork tracts of Kisatchie have the same regulations as Area 2, except still hunting only for deer and except National Forest Land within the Evangeline Unit, Calcasieu Ranger District described in Area 2 description shall be still hunting only.
 - b. Portions of the following parishes are also open:
 - i. Allen - North of U.S. 190 east of Reeves and east of La. 113.
 - ii. Avoyelles - That portion west of I-49.
 - iii. Beauregard - East of La. 113. Also, west of La. 27 north to DeRidder and south and east of U.S. 190 west of DeRidder to Texas line.
 - iv. Calcasieu - West of La. 27 north of Sulphur and north of U.S. 90 from Sulphur to Texas line.
 - v. Caldwell - West of U.S. 165.
 - vi. Evangeline - All except the following portions: east of I-49 to junction of La. 29, east of La. 29 south of I-49 to Ville Platte, and north of U.S. 167 east of Ville Platte.
 - vii. Grant - All except that portion south of La. 8 and east of U.S. 165.
 - viii. Jefferson Davis - North of U.S. 190.
 - ix. LaSalle - All except south of La. 8 from Little River eastward to La. 127 in Jena, east of La. 127 from Jena northward to U.S. 165, east of U.S. 165 from La. 127 northward to Caldwell Parish line.
 - x. Morehouse - West of U.S. 165 (from Arkansas line) to Bonita, north and west of La. 140 to junction of La. 830-4 (Cooper Lake Road), west of La. 830-4 to Bastrop, west of La. 139 to junction of La. 593, west and south of La. 593 to Collinston, west of La. 138 to junction of La. 134 and north of La. 134 to Ouachita line.
 - xi. Ouachita - All except south of U.S. 80 and east of Ouachita River, east of La. 139 from Sicard to junction of La. 134, south of La. 134 to Morehouse line.
 - xii. Rapides - All except north of Red River and east of U.S. 165. South of La. 465 to junction of La. 121, west of La. 121 and La. 113 to Union Hill, and north of La. 113 from Union Hill to Vernon Parish line, and that portion south of Alexandria between Red River and U.S. 167 to junction of U.S. 167 with I-49 at Turkey Creek exit, east of I-49 southward to parish line.
 - xiii. Vernon - East and south of La. 113, north and east of La. 465, west of La. 117 from Kurthwood to Leesville, and north of La. 8 from Leesville to Texas line.
 - c. Still hunting only in all or portions of the following parishes:
 - i. Claiborne and Webster - Caney, Corney and Middlefork tracts of Kisatchie National Forest. (See Kisatchie National Forest Regulations).
 - ii. Ouachita - East of Ouachita River.
 - iii. Rapides - West of U.S. 167 from Alexandria southward to I-49 at Turkey Creek Exit, west of I-49 southward to Parish Line, north of Parish Line westward to U.S. 165, east of U.S. 165 northward to U.S. 167 at Alexandria. North of La. 465 from Vernon Parish line to La.

- 121, west of La. 121 to I-49, west of I-49 to La. 8, south and east of La. 8 to La. 118 (Mora Road), south and west of La. 118 to Natchitoches Parish line.
 - iv. Vernon - East of Mora-Hutton Road from Natchitoches Parish line to Hillman Loop Road, south and east of Hillman Loop Road to Comrade Road, south of Comrade Road to La. 465, east and north of La. 465 to Rapides Parish line.
3. Area 3
 - a. All of Acadia, Cameron and Vermilion Parishes are open.
 - b. Portions of the following parishes are also open:
 - i. Allen - South of U.S. 190 and west of La. 113.
 - ii. Beauregard - West of La. 113. ALSO east of La. 27 north to DeRidder and north and west of U.S. 190 west of DeRidder to Texas line.
 - iii. Calcasieu - East of La. 27 north of Sulphur and south of U.S. 90 from Sulphur to Texas line.
 - iv. Iberia - West of U.S. 90 and north of La. 14.
 - v. Jefferson Davis - All except north of U.S. 190.
 - vi. Lafayette - West of I-49 and U.S. 90.
 - vii. Rapides - South of La. 465 to junction of La. 121, west of La. 121 and La. 112 to Union Hill and north of La. 113 from Union Hill to Vernon Parish line.
 - viii. St. Landry - West of U.S. 167.
 - ix. Vernon - West and north of La. 113, south of La. 465, east of La. 117 from Kurthwood to Leesville, and south of La. 8 from Leesville to Texas line.
4. Area 4
 - a. All of East Carroll and Richland parishes are open.
 - b. Portions of the following parishes are open:
 - i. Morehouse - East of U.S. 165 (from Arkansas line) to Bonita, south and east of La. 140 to junction of La. 830-4 (Cooper Lake Road), east of La. 830-4 to Bastrop, east of La. 139 to junction of La. 593, east and north of La. 593 to Collinston, east of La. 138 to junction of La. 134 and south of La. 134 to Ouachita line.
 - ii. Ouachita - South of U.S. 80 and east of Ouachita River, east of La. 139 from Sicard to junction of La. 134, south of La. 134 to Morehouse line.
5. Area 5
 - a. All of West Carroll Parish is open.
 - i. All deer hunting is for bucks only including muzzleloader season.
6. Area 6
 - a. All of Orleans Parish is closed to all forms of deer hunting.
 - b. All of the following parishes are open: Ascension, Plaquemines, St. John, Assumption, Pointe Coupee, St. Martin, Iberville, St. Bernard, Jefferson, St. Charles, Lafourche, St. James, West Baton Rouge.
 - c. Portions of the following parishes are also open:
 - i. Avoyelles - South of La. 1 and also that portion east of I-49.
 - ii. Evangeline - That portion east of I-49 to junction of La. 29, east of La. 29 south of I-49 to Ville Platte and north of U.S. 167 east of Ville Platte.
 - iii. Iberia - East of U.S. 90.
 - iv. Lafayette - East of I-49 and U.S. 90.
 - v. Livingston - South of I-12.

- vi. Rapides - South of Alexandria between Red River and U.S. 167 to the junction of U.S. 167 with I-49 at Turkey Creek Exit, east of I-49 southward to parish line.
- vii. St. Landry - East of U.S. 167.
- viii. St. Mary - North of U.S. 90.
- ix. St. Tammany - That portion south of I-12, west of Hwy. 1077 to La. 22, south of La. 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain.
- x. Tangipahoa - South of I-12.
- xi. West Feliciana - West of Mississippi River, known as Raccourci and Turnbull Islands.
- d. Still hunting only in all of the following parishes:
 - i. Plaquemines - East of the Mississippi River.
 - ii. Rapides - South of Alexandria between Red River and U.S. 167 to the junction of U.S. 167 with I-49 at Turkey Creek Exit, east of I-49 southward to parish line.
 - iii. St. Bernard - All of the parish shall be still hunting only except that portion of St. Bernard known as the spoil area between the MRGO on the east and Access Canal on the west, south of Bayou Bienvenue and north of Bayou la Loutre.
 - iv. St. John - South of Pass Manchac from Lake Pontchartrain to U.S. 51, east of U.S. 51 from Pass Manchac to La. 638 (Frenier Beach Road). North of La. 638 from U.S. 51 to Lake Pontchartrain. West of Lake Pontchartrain from La. 638 to Pass Manchac.
 - v. St. Landry - Those lands surrounding Thistlethwaite WMA bounded north and east by La. 359, west by La. 10, and south by La. 103.

7. Area 7

- a. The following parish is open: Terrebonne.
- b. Portions of the following parishes are open: Iberia and St. Mary Parishes - South of La. 14 and west U.S. Hwy. 90.

G. Wildlife Management Area Regulations

1. General

- a. The following rules and regulations concerning the management, protection and harvest of wildlife have been officially approved and adopted by the Wildlife and Fisheries Commission in accordance with the authority provided in Louisiana Revised Statutes of 1950, Section 109 of Title 56. Failure to comply with these regulations will subject individual to citation and/or expulsion from the management area.
- b. Citizens are cautioned that by entering upon a WMA managed by the LDWF they may be subjecting themselves and/or their vehicles to game and/or license checks, inspections and searches.
- c. Wildlife management area seasons may be altered or closed anytime by the Department Secretary in emergency situations (floods, fire or other critical circumstances).
- d. Hunters may enter the WMA no earlier than 3:00 am unless otherwise specified. Hunters must exit the WMA no later than two hours after sunset unless otherwise specified.
- e. Lands within WMA boundaries will have the same seasons and regulations pertaining to baiting and use of dogs as the WMA within which the lands are enclosed; however, with respect to private lands enclosed within a WMA, the owner or lessee may elect to hunt according to

the regular season dates applicable to the geographic area in which the lands are located, provided that the lands are first enrolled in DMAP. Interested parties should contact the nearest LDWF regional office for additional information.

- f. Dumping garbage or trash on WMAs except in designated locations is prohibited.
 - g. Disorderly conduct or hunting under influence of alcoholic beverages, chemicals and other similar substances is prohibited.
 - h. Commercial activities prohibited without prior approval or unless otherwise specified.
 - i. Damage to or removal of trees, shrubs, hard mast (acorn, pecans, etc.) and wild plants is prohibited without prior approval. Gathering and/or removal of soft fruits and berries shall be limited to five gallons per person per day. Persons engaged in commercial activities must obtain a permit from the Region Office.
 - j. Burning of marshes is prohibited except by permit.
 - k. Nature trails. Access to trails shall be limited to pedestrians only. No vehicles, ATVs, horses, mules, bicycles, etc. allowed. Removal of vegetation (standing or down) or other natural material prohibited.
 - l. Deer seasons are for legal buck deer unless otherwise specified.
 - m. Small game, when listed under the WMA regulations, includes both resident game animals and game birds as well as migratory species of birds.
 - n. Oysters may not be harvested from any WMA, except that oysters may be harvested from private oyster leases and State Seed Grounds located within a WMA, when authorized by the Wildlife and Fisheries Commission and upon approval by the Department of Health and Hospitals.
2. Permits
- a. Daily. Daily permits when required shall be obtained at permit stations on or near each WMA. Hunters must retain permit in possession while hunting. Hunters may enter the area no earlier than two hours before legal shooting time unless otherwise specified. Hunters must checkout daily and exit the area not later than two hours after sunset unless otherwise specified.
 - b. Self Clearing Permits. On WMAs where Self Clearing Permits are required, all hunters must obtain a WMA Self Clearing Permit from an Information Station. The Check In portion *must* be completed and put in a permit box *before* each day's hunt on the day of the hunt. The Check Out portion *must* be carried by each hunter while hunting and *must* be completed and put in a permit box *after* each day's hunt on the day of the hunt unless otherwise specified. A vehicle tag will also be associated with the Self Clearing Permit and must be displayed in the vehicle while on the WMA.
 - c. Wild Louisiana Stamp. Persons using WMAs or other department administered lands for purposes other than hunting and fishing, such as camping, shooting on rifle ranges, berry picking, hiking, photography, bird-watching and the like, shall be required to possess one of the following: a Wild Louisiana stamp, a valid Louisiana fishing license, or a valid Louisiana hunting license. Persons younger than 16 or older than 60 years of age are exempt from this requirement.

3. Special Seasons

a. Youth Deer Hunt. Only youths younger than 16 years of age may hunt. All other seasons are closed except Handicapped Seasons. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. Each youth must be accompanied by one adult 18 years of age or older. Adults may not possess a firearm. Youths may possess only one firearm while hunting. Legal firearms are the same as described for deer hunting. The supervising adult shall maintain visual and voice contact with the youth at all times. An adult may supervise only one youth during this special hunt. Contact the appropriate region office for special check station locations when daily permits are required and maps of specific hunting areas. Either-sex deer may be taken on WMAs with youth hunts. Consult the regulations pamphlet for WMAs offering youth hunts.

b. Handicapped Season. For hunters possessing a Physically Challenged Hunter Permit only. Participants must possess a Physically Challenged Hunter Permit. Contact region office for permit application and map of specific hunting area. Consult the regulations pamphlet for WMAs offering Handicapped Seasons.

c. Deer Lottery Hunts. Hunts restricted to those persons selected as a result of the pre-application lottery. Consult the regulations pamphlet for deadlines. A non-refundable application fee must be sent with application. Contact region offices for applications. Consult regulations pamphlet for WMAs offering lottery hunts.

d. Turkey Lottery Hunts. Hunts restricted to those persons selected by lottery. Consult the regulations pamphlet for deadlines. All turkeys must be reported at Self Clearing station. Contact Region Offices for more details. Consult separate Turkey Hunting Regulations pamphlet for WMAs offering lottery hunts.

e. Trapping. Permits to take fur bearers from WMAs may be obtained at appropriate offices when required. Consult Annual Trapping Regulations for specific dates. All traps must be run daily. Traps with teeth are illegal. On WMAs where permits are required, each trapper must submit an annual trapping report to the Region Office where his permit was obtained. Non-compliance will result in forfeiture of trapping privileges on the WMAs. Permits may be obtained only between hours of 8 a.m. to 4:30 p.m. on normal working days at region offices. Hunter orange required when a deer gun season is in progress. A permit is required to carry a firearm outside of the normal hunting season and is available at the Region Office.

f. Raccoon Hunting. A licensed hunter may take raccoon or opossum, one per person per day, during daylight hours only, during the open rabbit season on WMAs. Nighttime Experimental - Season dates for specific WMAs are for nighttime raccoon hunting and permits may be required. There will be no bag limit for raccoons at night unless specified in the annual regulations pamphlet. Raccoon hunters with dogs must submit an annual report of their kill to the region office for WMAs where permits are required. Non-compliance will result in forfeiture of raccoon or all hunting privileges on WMAs. Permits, when required, may be obtained at region offices only between hours of 8 a.m. to 4:30 p.m. on normal working days.

g. Commercial Fishing. Permits are required of all commercial fishermen using Grassy Lake, Pomme de Terre and Spring Bayou WMAs. Drag seines (except minnow and bait seines) are prohibited except experimental bait seines permitted on Dewey Wills WMA north of La. 28 in Diversion Canal. Commercial fishing is prohibited during regular waterfowl seasons on Grand Bay, Silver Lake and Lower Sunk Lake on Three Rivers WMA. Commercial fishing is prohibited on Salvador/Timken, Ouachita and Pointe-Au-Chien WMAs except shrimping allowed on Pointe-Au-Chien in Cut Off Canal and Wonder Lake during daytime only. Non-compliance with permit regulations will result in revocation of commercial fishing privileges. Commercial and recreational crawfishing on Sherburne WMA, South Farms, is by permit only. Permits available from the Opelousas Office or Sherburne WMA Headquarters. Commercial fishing is allowed on Pass-a-Loutre and Atchafalaya Delta WMAs. See Pass-a-Loutre for additional commercial fishing regulations on mullet.

h. Sport Fishing. Sport fishing, crawfishing and frogging are permitted on WMAs when in compliance with current laws and regulations except nighttime frogging prohibited on Salvador/Timken and Pointe-Au-Chien.

i. Additional Department Lands. The Department manages additional lands that are included in the WMA system and available for public recreation. Small tracts are located in Rapides, Vernon, Evangeline and St. Helena parishes. These small tracts have been acquired from the Farmers Home Administration or other sources for conservation purposes. Contact the appropriate Wildlife and Fisheries Region Office for specific information and any additional season dates.

4. Firearms

a. Firearms having live ammunition in the chamber, magazine, cylinder or clip when attached to firearms are not allowed in or on vehicles, boats under power, motorcycles, ATVs, ATCs or in camping areas on WMAs. Firearms may not be carried on any area before or after permitted hours except in authorized camping areas.

b. Firearms and bows and arrows are not permitted on WMAs during closed hunting seasons except on designated shooting ranges or as permitted for trapping. Bows and broadhead arrows are not permitted on WMAs except during regular archery season, turkey season or except as permitted for bowfishing.

c. Encased or broken down firearms and any game harvested may be transported through the areas by the most direct route provided that no other route exists except as specified under Wildlife Management Area listing.

d. Loaded firearms are not permitted near WMA check stations.

e. Centerfire rifles and handguns, arms larger than .22 caliber rimfire, shotgun slugs or shot larger than BB lead or F steel shot cannot be carried onto any WMA except during modern firearm deer season.

f. Target shooting and other forms of practice shooting are prohibited on WMAs except as otherwise specified.

g. Discharging of firearms on or hunting from designated roads and trails or their rights-of-way is prohibited during the modern firearm and muzzleloader deer season.

5. Methods of Taking Game

a. Moving deer or hogs on a WMA with organized Drivers and standers, Drivers or making use of noises or noise-making devices is prohibited.

b. On Wildlife Management Areas, Federal Refuges and National Forest Lands where the daily limit shall be one deer per day, six per season (all segments included) by all methods of take.

c. Baiting or hunting over bait is prohibited on all WMAs (hogs included). Unmarked hogs may be taken on some WMAs by properly licensed hunters and only with guns or bow and arrow legal for specified seasons in progress. Consult the specific WMA for additional information. Proper licenses and permits are required for hunting.

d. Hunters who kill deer on WMAs that require daily permits must have deer checked at the check station on same day of kill.

e. Deer hunting on WMAs is restricted to still hunting only. No WMA will be open for deer during early still hunt season unless specified in the regulation pamphlet.

f. Construction of and/or hunting from permanent tree stands or permanent blinds on WMAs is prohibited. Any permanent stand or permanent blind will be removed and destroyed.

g. On Wildlife Management Areas and Refuges, all deer stands must be removed from the area no later than two hours after sunset each day.

h. A permanent blind is any blind using non-natural materials or having a frame which is not dismantled within two hours after sunset. Blinds with frames of wood, plastic, metal, poles, wire, mesh, webbing or any materials may be used but must be removed from the WMA within two hours after sunset. Blinds made solely of natural vegetation may be left in place but cannot be used to reserve hunting locations. All decoys must be removed from the WMA daily.

i. It is illegal to save or reserve hunting locations using permanent stands or blinds. Stands or blinds attached to trees with screws, nails, spikes, etc. are illegal.

j. Tree climbing spurs, spikes or screw-in steps are also prohibited.

k. Unattended decoys will be confiscated and forfeited to the Department of Wildlife and Fisheries and disposed of by the Department. This action is necessary to prevent preemption of hunting space.

l. Hunters shall not hunt, take or pursue birds or animals from moving vehicles on any WMA. No person shall take birds or animals from or by any motor boat or sail boat unless the motor has been completely shut off and/or the sail furled and its progress therefrom has ceased.

m. Spot lighting (shining) from vehicles is prohibited on all WMAs.

n. The use of horses and mules is prohibited for hunting or trapping on WMAs except for quail hunting or except as otherwise specified. Horses and mules are specifically prohibited during gun seasons for deer and turkey and except as permitted for bird dog field trials on Sandy Hollow WMA.

o. All hunters except waterfowl hunters (including archers and small game hunters) on WMAs must display 400 square inches of "Hunter Orange" and wear a "Hunter Orange" cap during open gun season for deer. Quail and

woodcock hunters as well as hunters participating during special dog seasons for rabbit and squirrel are required to wear a minimum of a "Hunter Orange" cap. Also all non-hunters afield during hunting seasons are encouraged to display "Hunter Orange".

p. Archery season for deer. The archery season on WMAs is the same as outside and is open to either sex deer except as otherwise specified on individual WMAs. Archery season restricted or closed on certain WMAs when special seasons for youth or handicapped hunters are in progress. Consult regulations pamphlet for specific seasons.

q. Either sex deer may be taken on WMAs at any time during archery season except when bucks only seasons are in progress on the respective WMAs. Archers must abide by bucks only regulations and other restrictions when such seasons are in progress.

r. Muzzleloader Season for Deer. See WMA deer schedule.

6. Camping

a. Camping on WMAs, including trailers, houseboats, recreational vehicles and tents, is permitted only in designated areas and for a period not to exceed sixteen (16) consecutive days, regardless if the camp is attended or unattended. Houseboats shall not impede navigation. At the end of the 16 day period, camps must be removed from the area for at least 48 hours. Camping area use limited exclusively to outdoor recreational activities.

b. Houseboats are prohibited from overnight mooring within WMAs except on stream banks adjacent to Department-owned designated camping areas. Overnight mooring of vessels that provide lodging for hire are prohibited on WMAs. On Atchafalaya Delta WMA and Pass-a-Loutre, houseboats may be moored in specially designated areas throughout the hunting season. At all other times of the year, mooring period is limited to a period not to exceed sixteen (16) consecutive days. Permits are required for camping and overnight mooring of houseboats on Pass-a-Loutre. Houseboat mooring permits are required for Atchafalaya Delta Wildlife Management Area. Permits may be obtained from headquarters on respective WMAs or from the New Iberia office for Atchafalaya Delta WMA.

c. Anyone camping on WMAs is required to have an operational waste disposal system attached to the camper, trailer, houseboat or other unit or a portable waste disposal unit to remove all human waste upon leaving the WMA camping area. Discharge of human waste on a WMA is prohibited. Additionally it is against both Federal and State law to discharge human waste into the waterways of Louisiana.

d. No refuse or garbage may be dumped from these boats.

e. Firearms may not be kept loaded or discharged in a camping area.

f. Campsites must be cleaned by occupants prior to leaving and all refuse placed in designated locations when provided or carried off by campers.

g. Non-compliance with camping regulations will subject occupant to immediate expulsion and/or citation, including restitution for damages.

h. Swimming prohibited within 100 yards of boat launching ramps.

7. Restricted Areas

a. All oil and gas production facilities (wells, pumping stations and storage facilities) are off limits.

b. No unauthorized entry or hunting in restricted areas or refuges.

8. Dogs. All use of dogs on WMAs, except for bird hunting and duck hunting, is *experimental* as required by law. Except for nighttime experimental raccoon hunting, squirrel hunting, rabbit hunting, bird hunting, duck hunting and bird dog training when allowed, having or using dogs on any WMA is prohibited. Dogs running at large are prohibited on WMAs. The owner or handler of said dogs shall be held liable. Only recognizable breeds of bird dogs and retrievers are permitted for quail and migratory bird hunting. Only beagle hounds which do not exceed 15 inches at the front shoulders and which have recognizable characteristics of the breed may be used on WMAs having experimental rabbit seasons.

9. Vehicles

a. Vehicles having wheels with a wheel-tire combination having a radius of 17 inches or more from the center of the hub (measured horizontal to ground) are prohibited.

b. The testing, racing, speeding or unusual maneuvering of any type of vehicle is prohibited within wildlife management areas due to property damages resulting in high maintenance costs, disturbance of wildlife and destruction of forest reproduction.

c. Tractor implement tires with farm tread designs R1, R2 and R4 known commonly as spade or lug grip types are prohibited on all vehicles. ATV tires are restricted to those with maximum allowable tire pressure of 5 psi, as indicated on the tire by the manufacturer.

d. Airboats, aircraft, personal water craft and hover craft are prohibited on all WMAs and Refuges. Personal water craft are defined as a vessel which uses an inboard motor powering a water jet pump as its primary source of propulsion and is designed to be operated by a person sitting, standing or kneeling on the vessel rather than in the conventional manner of sitting or standing inside the vessel. Personal water craft allowed on designated areas of Alexandria State Forest WMA.

e. No internal combustion engines permitted in certain Greentree reservoir.

f. Driving or parking vehicles on food or cover plots and strips is prohibited.

g. Blocking the entrance to roads and trails is prohibited.

h. Motorized vehicles, including ATVs, ATCs and motorcycles, are restricted entirely to designated roads and ATV trails as indicated on WMA maps, except on Atchafalaya Delta WMA where ATVs, ATCs and motorcycles are prohibited. WMA maps available at all region offices. This restriction does not apply to bicycles.

i. Use of special ATV trails for handicapped persons restricted to special ATV handicapped permittees. Handicapped ATV permittees restricted to handicapped ATV trails or other ATV trails only as indicated on WMA maps. Persons 70 years of age and older, with proof of age, are also permitted to use special handicapped trails and need not obtain a permit. However, these persons must abide by all rules in place for these trails. Handicapped persons should

make application for a Physically Challenged Hunter Program Permit with the Department.

j. Entrances to ATV trails will be marked with peach colored paint. Entrances to handicapped-only ATV trails will be marked with blue colored paint. Routes of all trails are as indicated on WMA maps. Deviation from the trails indicated on the map constitutes a violation of WMA rules and regulations.

k. Roads and trails may be closed due to poor condition or construction.

l. ATVs, ATCs and motorcycles cannot be left overnight on WMAs except on designated camping areas. All roads including trails and roads designated as ATV Only shall be closed to ATVs from March 1 through September 15 and from two hours after sunset to 3:00 a.m. unless otherwise specified. ATV off-road travel is prohibited unless permitted by signs on trail walk-in only.

m. Caution: Many Department-maintained roadways on WMAs are unimproved and substandard. A maximum 20 mph speed limit is recommended for all land vehicles using these roads.

10. Wildlife Management Areas Basic Season Structure. For season dates, bag limits, shooting hours, special seasons and other information consult the annual regulations pamphlet for specific details.

11. Resident Small Game (squirrel, rabbit, quail, dove, woodcock, snipe, rail and gallinule). Consult regulations pamphlet.

12. Waterfowl (ducks, geese and coots). Consult regulations pamphlet.

13. Archery. Consult regulations pamphlet.

14. Hogs. Consult regulations pamphlet.

15. Outlaw Quadrupeds and Birds. Consult regulations pamphlet.

16. Wildlife Management Areas Hunting Schedule and Regulations

a. Alexander State Forest. Vehicles restricted to paved and graveled roads. No parking on or fishing or swimming from bridges. No open fires except in recreation areas.

b. Atchafalaya Delta. Water control structures are not to be tampered with or altered by anyone other than employees of the Department of Wildlife and Fisheries at any time. ATVs, ATCs and motorcycles prohibited.

c. Attakapas. Free-ranging livestock prohibited.

d. Bayou Macon. All night activities prohibited except as otherwise provided.

e. Bayou Pierre. No ATVs or ATCs allowed on the area. Motorized vehicles are allowed only on parish roads and roads marked on WMA map.

f. Bens Creek. All motorized vehicles restricted to designated roads. Refer to WMA map for location of designated roads. No hunting in restricted areas. (See WMA Map). Horses and mules are specifically prohibited during gun seasons for deer and during the spring turkey season.

g. Big Colewa Bayou. ATVs restricted to designated trails. Refer to WMA map for location of designated trails. All other motorized vehicles prohibited. All nighttime activities prohibited.

h. Big Lake. Free-ranging livestock prohibited.

i. Biloxi

j. Bodcau

- k. Boeuf. Free-ranging livestock prohibited.
- l. Boise-Vernon. Road travel and hunting restrictions: All motorized vehicles restricted to designated roads. Refer to WMA map for location of designated roads. Hunting prohibited on roads designated for motorized vehicle travel.
- m. Buckhorn. Free-ranging livestock prohibited.
- n. Camp Beauregard. Daily military clearance required for all recreational users. Registration for use of Self Clearing Permit required once per year. Free-ranging livestock prohibited. All game harvested must be reported.
- o. Dewey W. Wills. Crawfish: 100 pounds per person per day. Roads may be closed during wet weather conditions.
- p. Elm Hall. No ATVs allowed.
- q. Fort Polk. Daily military clearance required to hunt or trap. Registration for use of Self Clearing Permit required once per year. Special regulations apply to ATV users.
- r. Georgia-Pacific. Except as otherwise provided, all nighttime activities prohibited.
- s. Grassy Lake. Commercial Fishing: Permitted except on Smith Bay, Red River Bay and Grassy Lake proper on Saturday and Sunday and during waterfowl season. Permits available from area supervisor at Spring Bayou headquarters or Opelousas Region Office. Free-ranging livestock prohibited. No hunting in restricted area.
- t. Jackson-Bienville. ATVs are allowed on non-public maintained gravel roads and timber management roads and trails. However, all ATVs/ATCs prohibited March 1 through September 15.
- u. Joyce. Swamp Walk: Adhere to all WMA rules and regulations. No firearms or hunting allowed within 100 yards of walkways. Check hunting schedule and use walkway at your own risk.
- v. Lake Boeuf
- w. Lake Ramsay. Foot traffic only - all vehicles restricted to Parish Roads.
- x. Little River. Roads may be closed during wet conditions.
- y. Loggy Bayou
- z. Manchac. Crabs: No crab traps allowed. Attended lift nets are allowed.
- aa. Ouachita. Waterfowl Refuge: North of La. Hwy. 15 closed to all hunting, fishing and trapping during waterfowl season. Crawfish: 100 pounds per person per day limit. Night crawfishing prohibited. No traps or nets left overnight. Commercial Fishing: Closed. All nighttime activities prohibited except as otherwise provided.
- ab. Pass-a-Loutre. Commercial Fishing: Same as outside. Commercial mullet fishing open only in: South Pass, Pass-a-Loutre, North Pass, Southeast Pass, Northeast Pass, Dennis Pass, Johnson Pass, Loomis Pass, Cadro Pass, Wright Pass, Viveats Pass, Cognevich Pass, Blind Bay, Redfish Bay, Garden Island Bay and Northshore Bay oil and gas canals as described on the Department Pass-a-Loutre WMA map.
- ac. Pearl River. All roads closed 8 p.m. to 4:30 a.m. to all vehicles. Old Hwy. 11 will be closed when river gauge at Pearl River, Louisiana, reaches 16.5 feet. All hunting will be closed when the river stage at Pearl River reaches 16.5 feet except waterfowl hunting South of Hwy. 90. No hunting

- in the vicinity of Nature Trail. Observe "No Hunting" signs. Rifle range open noon until 4 p.m. Friday, and 8 a.m. to 4:30 p.m. Saturday and Sunday with a fee.
- ad. Peason Ridge. Daily military clearance required to hunt or trap. Registration for use of Self Clearing Permit required once per year. Special federal regulations apply to ATV users.
- ae. Pointe-au-Chien. Hunting until 12 noon on *all game*, except for *dove* hunting as specified in regulation pamphlet. Point Farm: Gate will be open during opening weekend of the second split of dove season and all weekends during month of February. No motorized vessels allowed in the drainage ditches. Recreational Fishing: Shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) shall be permitted. Size count to conform with open season requirements. During the inside closed season, 10 pounds per boat per day (heads on) may be taken for bait. Fish may be taken by rod and reel or hand lines for recreational purposes only. Crabs may be taken through the use of hand lines or nets; however, none are to remain set overnight. Twelve dozen crabs are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the wildlife management area and shall be limited to 100 pounds per boat or group. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational purposes only and any commercial use is prohibited. Mudboats or vessels with engines larger than 25 h.p. prohibited in the Montegue and Grand Bayou marsh management units. Public is permitted to travel anytime through the WMA for access purposes only in the waterways known as Grand Bayou, Humble Canal, Little Bayou, Blue and Grand Bayou Blue. Vehicles prohibited on Point Farm properties unless authorized by the department.
- af. Pomme de Terre. Commercial Fishing: Permitted Monday through Friday, except closed during duck season. Commercial Fishing permits available from area supervisor, Opelousas Region Office or Spring Bayou headquarters. Sport Fishing: Same as outside except permitted after 2 p.m. only during waterfowl season. Crawfish: April 1 - July 31, 100 lbs. per person per day limit. No traps or nets left overnight. Free-ranging livestock prohibited.
- ag. Red River. Free-ranging livestock prohibited. Crawfishing prohibited on Wetland Restoration Areas.
- ah. Russell Sage. Transporting trash or garbage on WMA roads is prohibited. All nighttime activities prohibited except as otherwise provided. Note: All season dates on Chauvin Tract (U.S. 165 North) same as outside, except still hunt only and except deer hunting restricted to archery only. Waterfowl hunting after 2 p.m. prohibited. All vehicles including ATVs prohibited.
- ai. Sabine
- aj. Sabine Island. Sabine Island boundaries are Sabine River on the west, Cut-Off Bayou on the north, and Old River and Big Bayou on the south and east.
- ak. Salvador/Timken. Hunting until 12 noon only for all game. All nighttime activities prohibited, including frogging. Recreational Fishing: Shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) shall be permitted. Size count to conform with open season requirements.

During the inside closed season, 10 pounds per boat per day (heads on) may be taken for bait. Fish may be taken by rod and reel or hand lines for recreational purposes only. Crabs may be taken through the use of hand lines or nets; however, none of the lines are to remain set overnight. Twelve dozen crabs maximum are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the wildlife management area and shall be limited to 100 pounds per boat or group. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational purposes only and any commercial use is prohibited. Boats powered by internal combustion engines having horsepower ratings above 25 H.P. are permitted only in oil company access canals, Louisiana Cypress Canal, the Netherlands Pond including the West Canal, Lakes - "Baie Des Chactas" and Baie du Cabanage" and the Rathborne Access ditch. Operation of the above described internal combustion engines in interior ditches is prohibited. Pulling boats over levees, dams or water control structures or any other activities which cause detriment to the integrity of levees, dams and water control structures is prohibited. Special Use Permits may be issued for persons interested in clearing existing ditches (trenasses). Permits will be considered on a case-by-case basis. Contact New Orleans Region Office-Fur and Refuge Division.

al. Sandy Hollow. Bird Dog Training: Consult regulation pamphlet. Wild birds only (use of pen-raised birds prohibited). Bird Dog Field Trials: Permit required from Baton Rouge Region Office. Horseback Riding: Organized trail rides prohibited. Horses and mules are specifically prohibited during turkey and gun season for deer except as permitted for bird dog field trials. No horses and mules on green planted areas. No motorized vehicles allowed off designated roads. Free-ranging livestock prohibited.

am. Sherburne. Crawfishing: permits required, for South Farms from Area Headquarters. Free-ranging livestock prohibited. Vehicular traffic prohibited on east Atchafalaya River Basin levee road within Sherburne WMA boundaries. Rifle and Pistol Range open daily. Skeet ranges open by appointment only, contact Hunter Education Office. No trespassing in restricted area behind ranges. Note: Atchafalaya National Wildlife Refuge, and U.S. Army Corps of Engineers land holdings adjacent to the Sherburne Wildlife Management Area will have the same rules and regulations as Sherburne WMA. No hunting or trapping in restricted area. No commercial activity on ANWR, except trapping.

an. Sicily Island Hills. Firearms and any game harvested cannot be transported through the area except during the corresponding open season on area. Free-ranging livestock prohibited.

ao. Soda Lake. Entire area is walk-in only - no motorized vehicles allowed. Access into the area is allowed only from south end of the area off of Hwy. 173 at Twelve Mile Bayou. All trapping and hunting prohibited except archery hunting for deer.

ap. Spring Bayou. Commercial Fishing: Permitted Monday through Friday except slat traps and hoop nets permitted any day. Permits available from area supervisor or Opelousas Region Office. Closed until after 2 p.m. during waterfowl season. Sport Fishing: Same as outside except

permitted only after 2 p.m. during waterfowl season. Crawfish: 100 lbs. per person per day limit. Permit required from area supervisor. No hunting allowed in headquarters area. Only overnight campers allowed in the improved Boggy Bayou Camping area. Rules and regulations posted at camp site. A fee is assessed for use of this camp site. Water skiing permitted only in Old River and Grand Lac.

aq. Thistlethwaite. No hunting or trapping in restricted area (See WMA Map). All motorized vehicles restricted to improved roads only. All users must enter and leave through main gate only. No entry into restricted areas.

ar. Three Rivers. Free-ranging livestock prohibited in area.

as. Tunica Hills. All vehicles restricted to Parish roads. ATV's restricted to designated trails. Driving on food plots prohibited. Access to restricted areas is unauthorized. Refer to WMA map. Camping prohibited on area. North of Highway 66 (Angola Tract) closed to the public except during open hunting season.

at. Union. All nighttime activities prohibited except as otherwise provided.

au. West Bay. Road Travel and Hunting Restrictions: All motorized vehicles restricted to designated roads. Refer to WMA map for location of designated roads. Hunting prohibited on roads designated for motorized vehicular travel.

av. Wisner

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115 and R.S. 56:116.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:1279 (July 1999).

Bill A. Busbice, Jr.
Chairman

9907#024

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Resident Game Hunting Season—1999-2000
(LAC 76:XIX.101 and 103)

In accordance with the Notice of Intent published in the March 1999 *Louisiana Register*, the Wildlife and Fisheries Commission, at its regular monthly meeting in July hereby ratifies regulation on open hunting season dates, bag limit and methods of taking on Department operated wildlife management areas and the state at large for the period September 1, 1999 through August 31, 2000. Authority to establish regulation is vested in the Commission by Section 115 of Title 56 of the Louisiana Revised Statutes of 1950. A copy of this information is attached and made part of this rule.

For those interested, a copy of the rules and regulations is available upon request by contacting: Administrator, Wildlife Division, Department of Wildlife and Fisheries, Box 9800, Baton Rouge, LA 70898-9000.

**Title 76
WILDLIFE AND FISHERIES**

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season

§101. General

The Resident Game Hunting Season, 1999-2000 regulations are hereby adopted by the Wildlife and Fisheries Commission. A complete copy of the Regulation Pamphlet may be obtained from the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999).

§103. Resident Game Birds and Animals 1999-2000

A. Shooting hours. One-half hour before sunrise to one-half hour after sunset.

B. Consult Regulation Pamphlet for seasons or specific regulations on Wildlife Management Areas or specific localities.

4	Oct. 1-Jan. 31	Nov. 13-Nov. 19 Jan. 15-Jan. 21	Nov. 20- Jan. 14	
5	Oct. 1-Jan. 31	Nov. 13-Nov. 19 Jan. 15-Jan. 21 (Bucks Only)	Nov.20- Nov. 28	
6	Oct. 1-Jan. 31	Nov. 13-Nov. 19 Jan. 24-Jan. 30	Nov. 20- Dec.5	Dec.11-Jan. 23
7	Oct. 1-Jan. 31	Oct. 9-Oct. 15 Jan. 17-Jan. 23	Oct. 16- Oct. 31 Nov. 20- Dec. 5	Dec. 11- Jan. 16

D. Modern Firearm Schedule (Either Sex Seasons)

Species	Season Dates	Daily Bag Limit	Possession Limit
Quail	Nov. 13-Feb. 29	10	20
Rabbit	Oct. 2-Feb. 29	8	16
Squirrel	Oct. 2-Feb. 13	8	16
Pheasant	Nov. 13-Jan. 31	2 (Cock Only)	4
Deer	See Schedule	1 Antlered and 1 Antlerless (When Legal)	6

C. Deer Hunting Schedule

Area	Archery	Muzzleloader (All Either Sex)	Still Hunt	With or Without Dogs
1	Oct. 1-Jan. 31	Nov. 13-Nov. 19 Jan. 24-Jan.30	Nov.20- Dec. 5 Jan.10- Jan.23	Dec.11- Jan.9
2	Oct. 1-Jan. 31	Oct. 30-Nov. 5 Jan. 15-Jan. 21	Nov. 6- Dec.10	Dec.11- Jan.14
3	Sept.18-Jan. 18	Oct. 9-Oct. 15 Dec. 13-Dec. 17	Oct.16- Dec.12 Dec.18- Jan. 2	

Area	Basic Season Dates	Total Days	Exceptions (those portions of the following parishes)
1	Nov. 20-21, 26-28 Dec. 4-5, 11-12, 18-19	11	Nov. 20-21, 26-28 (Franklin, Catahoula, LaSalle, Caldwell) Nov. 20-21, 26-28, Dec. 11-12 (Avoyelles), Nov. 20-21, 26-28, Dec.4-5,11-12 (Grant and Rapides)
2	Nov. 6-7, 13-14, 20-21, 26-28, Dec. 4-5, 11-12	13	Nov. 6-7, 26-28 (Caldwell, LaSalle) Nov. 6-7, 26-28, Dec. 11-12 (Avoyelles)
3	Oct. 16-17, 23-24, Oct. 30-31, Nov. 6-7, 20-21, 26-28	13	Oct. 16-17, Nov. 20-21, Dec. 11-12 (St. Landry)
4	Nov. 20-21, 26-28 (except East Carroll)	5	Nov. 20-21, 26-28, Dec. 4-5, 11-12 (East Carroll—That portion between the Mississippi River Levee and the Mississippi River)
5	None		
6	Nov. 20-21, 26-28, Dec. 4-5, 11-12, 18-19	11	Nov. 20-21, 26-28, Dec. 11-12 (Avoyelles, Rapides, St. Landry)
7	Oct. 16-17, Nov. 20-21, 26-28, Dec. 11-12, 18-19	11	

E. Farm Raised White-tailed Deer on Supplemented Shooting Preserves

Archery	Modern Firearm	Either Sex	Muzzleloader
Oct. 1-Jan. 31 (Either Sex)	Nov. 1-Dec. 6 Dec. 21-23 Dec. 26-Jan.31	Nov. 1-3 Dec. 21-23 Dec. 26-30	Dec. 7-20 (Either Sex)

F. Exotics on Supplemented Shooting Preserves: Either Sex, no closed season.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999).

Bill A. Busbice, Jr.
Chairman

9907#022

Notices of Intent

NOTICE OF INTENT

**Department of Agriculture and Forestry
Forestry Commission
and
Department of Revenue
Tax Commission**

Timber Stumpage Values
LAC 7:XXXIX.111

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of Forestry, and the Department of Revenue, Tax-Commission, under the authority of LA R.S. 3:3 proposes to repeal §111. Stumpage Values.

No preamble concerning the proposed rules is available.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 1. Timber Stumpage

§111. Stumpage Values

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Forestry Commission and the Department of Revenue, Tax Commission, LR 24:2076 (November 1998), repealed LR 25:

A public hearing will be held by the Louisiana Department of Agriculture and Forestry, Louisiana Forestry Commission, located in the auditorium at 5825 Florida Boulevard on August 27, 1999 at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments in writing at the public hearing. All interested persons may submit written comments on the proposed amendments through October 2, 1999, to Don Feduccia, Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806.

Burton D. Weaver, Jr., Chairman
Forestry Commission

Malcom Price, Chairman
Tax Commission

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Stumpage Values

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no fiscal impact to state or local governmental units as a result of this proposed action. This proposed rule deletes Section 111 from the current rule on Timber Stumpage. Section 111 is a remnant of earlier stumpage value procedures which were modified in November 1998. The timber stumpage values listed in Section 111 are no longer in

effect, and the November 1998 rule change eliminated the need for values to be listed in the rule itself beginning in 1999.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no effect on directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Skip Rhorer
Assistant Commissioner
9907#046

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry Livestock Sanitary Board

Brucellosis Vaccination and Fee (LAC 7:XXI.305)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., The Department of Agriculture and Forestry, Livestock Sanitary Board proposes to amend regulations governing livestock auction market requirements. These rules comply with and are enabled by R.S. 3:2093, R.S. 3:2221, and R.S. 3:2228.

No preamble concerning the proposed rules is available.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 3. Cattle

§305. Brucellosis Vaccination and Fee

A. This regulation shall expire 12 years from the date of adoption. The fee shall only be used to pay for the direct and indirect costs of the Livestock Sanitary Board program and are anticipated to generate \$146,000 annually in revenues. The kinds and anticipated amounts or costs, which will be offset by this fee, include but are not limited to: other charges/professional services - \$127,750; indirect costs-\$18,250. The Department of Agriculture and Forestry shall suspend collection upon a finding by the Department of Agriculture and Forestry that collections will exceed the cost of the program. The commissioner of the Department of Agriculture and Forestry hereby certifies that written approval to adopt this regulation was received on July 1, 1988 from the commissioner of administration.

B. All heifer calves between 4 and 12 months of age not vaccinated for Brucellosis which are to be sold through an approved livestock auction market must be vaccinated with USDA approved Brucellosis vaccine prior to being sold. There shall be a fee to be paid by the seller of \$2 for each

heifer calf required to be vaccinated for Brucellosis, which fee shall be known as the Brucellosis vaccination fee. The Brucellosis vaccination fee shall be collected on the date of the sale from the seller by the approved livestock auction market and forwarded to the Louisiana Department of Agriculture and Forestry no later than the tenth day of the month following the month in which the fee was collected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2221 and R.S. 3:2223.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 15:75 (February 1989), amended LR 22:960 (October 1996), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1677 (September 1998), amended by the Department of Agriculture and Forestry, LR 25:

All interested persons should submit written comments on the proposed amendments by the end of business on August 25, 1999 to Dr. Maxwell Lea, Jr., Louisiana Department of Agriculture and Forestry at 5825 Florida Blvd., Baton Rouge, LA 70806.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Livestock Auction Market Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs or savings to state or local governmental units to implement the proposed rule. The proposed rule change deletes redundant language in the existing rule which has created confusion.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no effect on directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Skip Rhorer Assistant Commissioner 9907#045	Robert E. Hosse General Government Section Director Legislative Fiscal Office
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NOTICE OF INTENT

Department of Economic Development Used Motor Vehicle and Parts Commission

Commission Meetings; Motor Vehicle Trade Shows
(LAC 46:V.2701, 3601, 3603, and 3605)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with Revised Statutes Title 32, Chapters 4A and 4B, the Department of Economic Development, Used Motor Vehicle

and Parts Commission, notice is hereby given that the Used Motor Vehicle and Parts Commission intends to amend sections of existing rules and regulations regarding motor vehicle trade shows.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part V. Automotive Industry

Subpart 2. Used Motor Vehicle and Parts Commission

Chapter 27. The Used Motor Vehicle and Parts Commission

§2701. Meetings of the Commission

A. The Commission shall meet at its office in Baton Rouge, LA on the third Tuesday in each month to transact such business as may properly come before it. The regular meeting will convene at the hour of 1 P.M. and shall continue at the pleasure of those present. Any change of monthly meetings will be in accordance with the Open Meeting Law R.S. 42:5.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772(E).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 15:1058 (December 1989), LR 18:1116 (October 1992), LR 24:1682 (September 1998), LR 25:

Chapter 36. Motor Vehicle Trade Shows

§3601. Definitions

Promoter—means any Louisiana resident, domestic firm, association, corporation, or trust, who alone or with others assumes the financial responsibility of a vehicle trade show or exposition in which vehicles are displayed by dealers, manufacturers or distributors, licensed under R.S. 32:773.

Trade Show—means a controlled event in which a promoter charges or barter for booth space and/or charges for spectator entrance in which 3 or more used motor vehicle dealers exhibit vehicles.

Vehicle—means any new or used motor home, motorcycle, motor scooter, ATV, watercraft, boat, or boat with an inboard or outboard motor attached and shall also include new and used trailers, recreational trailers, semi-trailers and travel trailers. Motor manufacturer of motor homes, motorcycles, motor scooters, ATV's, watercraft, boats, or a boat with an inboard or outboard motor attached.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772E.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 16:113 (February 1990), LR 25:

§3603. License, Fees and Applications

A. - A.3. ...

4. A promoter shall also be required to obtain a permit for any trade show or exposition from the LUMVPC.

5. A permit fee of \$50.00 will be charged for each show.

B. - B.5. ...

6. An exhibitor may not attend more than 3 trade shows or expositions in any calendar year.

7. An exhibitor may not attend any trade show or exhibition in which there is less than 4 attending Louisiana dealers.

C. - C.1. ...

2. A licensed used motor vehicle dealer who participates in a motor vehicle show or exposition shall not be deemed to have an additional place of business at that show or exposition and shall not be charged any permit fees.

D. All applications for permits received within 5 days of the start of the trade show or exposition shall be charged a \$50.00 late processing fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772E.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 16:113 (February 1990), amended by LR 19:1021 (August 1993), LR 25:

§3605. Qualifications and Eligibility of Motor Vehicle Trade Shows

A. Promoters of motor vehicle trade shows or expositions in which a dealer, manufacturer, or distributor, which is required to be licensed under R.S. 32:773, displays vehicles, are required to obtain a permit from the LUMVPC no later than 60 days prior to the start date of the vehicle trade show and shall give the start date, ending date, location of the proposed trade show or exposition, and the type of vehicles to be promoted.

B. Within 10 days of the start of the event, the promoter shall also furnish a complete list of all licensed Louisiana dealers and exhibitors who will participate. This list shall also include the dealer's current dealer number.

C. - C.3. ...

4. That the exhibitor invited has not attended more than 2 trade shows or expositions in the last calendar year in this state.

D. If the majority of local Louisiana licensed dealers in a trade show area decline to attend, the commission shall have the authority to prohibit any trade show.

E. A licensed Louisiana dealer will not be permitted to attend more than 3 trade shows per calendar year.

F. A promoter shall not allow an exhibitor who has secured a permit to exhibit any used vehicles of any type.

G. A promoter shall not allow an exhibitor to display any vehicles of the same make, model or brand as an attending local licensed Louisiana dealer at a trade show or exposition.

H. A promoter cannot be an owner, officer, employee or relative of an owner, officer, or employee of a participating dealership in a trade show.

I. A promoter is required to keep all records of attending dealers and exhibitors and all records of dealers that have declined to attend a trade show or exposition for a period of 5 years.

J. A manufacturer or distributor may exhibit vehicles through a licensed Louisiana dealer and may only display suggested list price.

K. A minimum of 3 Louisiana dealers will be required for all trade shows. Of the 3 Louisiana dealers, each dealer must represent a separate company or corporation.

L. An exhibitor cannot attend more than 2 trade shows per calendar year where there is less than 4 licensed Louisiana dealers.

M. Any promoter who violates any provisions of these rules and regulations shall be subject to the civil penalties under R.S. 32:780.

N. The executive director may, upon approval by the commission, suspend or modify any portion or portions of these rules and regulations herein when it is in the best interest of the community in which the trade show is being held.

O. The commission may deny an application for a permit for any licensed used motor vehicle dealer, an exhibitor or manufacturer for any reason it feels to be in the best interest of the trade show to be held.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772E and 32:774E.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 16:114 (February 1990), amended LR 19:1021 (August 1993), LR 25:

Interested persons may submit written comments no later than 30 days from the date of publication of the notice of intent to John M. Torrance, Executive Director, 3132 Valley Creek Drive, Baton Rouge, LA, 70808, (225) 925-3870.

John M. Torrance
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Commission Meetings; Motor Vehicle Trade Shows

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No implementation costs or savings to state or local governmental units are anticipated as a result of the proposed rules. Proposed rules change the meeting date of the commission and imposes limits on participation in trade shows or expositions that the licensee may attend and adds a \$50.00 fee per trade show or exposition for promoters.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections will be increased by approximately \$800.00 per year as a result of a \$50.00 permit fee per show for promoters.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Proposed rules will not result in any cost to the trade show participants.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Proposed rules will allow licensees to be competitive due to imposed limitation of participants. Not all licensees are able to participate in the numerous trade show events; therefore, the limitations of participants will reduce the exposure of those licensees who participate in the numerous events. The limitation also includes out of state exhibitors. Attendance of Louisiana dealers at trade shows or expositions will be limited to three shows per year.

John M. Torrance
Executive Director
9907#054

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Used Motor Vehicle and Parts Commission**

**Exemptions on Selling Extended Warranties
(LAC 46:V.4103)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with Revised Statutes Title 32, Chapters 4A and 4B, the Department of Economic Development, Used Motor Vehicle and Parts Commission, notice is hereby given that the Used Motor Vehicle and Parts Commission intends to amend a section of existing rules and regulations regarding vehicle service contracts.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part V. Automotive Industry

Subpart 2. Used Motor Vehicle and Parts Commission

Chapter 41. Condition of Sale of a Motor Vehicle

§4103. Sale and Marketing of Motor Vehicle

Performance Warranty Contracts

A - E.5. ...

6. If an Issuer is selling an extended performance warranty to a consumer who is purchasing a new motor vehicle with a manufacturer's warranty from a used motor vehicle dealer and offers a 90 day or more refund of the purchase price of the extended performance warranty, the Issuer shall be exempt from E.4, E.5, E.5a, E.5b and E.5c.

F - H.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:466 (June 1989), amended LR 25:

Interested persons may submit written comments no later than 30 days from the date of publication of the notice of intent to John M. Torrance, Executive Director, 3132 Valley Creek Drive, Baton Rouge, LA 70808, (225) 925-3870.

John M. Torrance
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Exemptions on Selling Extended
Warranties**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that there will be no implementation costs to this agency. This rule merely exempts the 48 hour waiting period before the contract can be sold to a consumer and the requirement of a 2' x 2' sign informing the consumer about the 48 hour waiting period.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no estimated effect on revenue collections since this agency does not receive any funds from the sale of extended warranties.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

For those dealers who are selling and backing their own extended warranty contracts, they must post a \$150,000.00 surety bond with this agency. The estimated costs of the surety bond ranges from \$3,000.00 - \$5,000.00 a year. It is anticipated that approximately five used motor vehicle dealers will sell their own extended warranty contracts. The authority to sell and back these contracts is provided by the current rules.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There is no estimated effect on competition and employment.

John M. Torrance
Executive Director
9907#056

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Accountability System (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, an amendment to Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The School Accountability System was promulgated as a Rule in the June, 1999 issue of the Louisiana Register and amendments have been made to the policy.

**Title 28
EDUCATION**

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education LR 24:1085 (June 1998), LR 25:

Bulletin 741

Louisiana Handbook for School Administrators

2.006.00 Every School shall participate in a school accountability system based on student achievement as approved by the Louisiana State Board of Elementary and Secondary Education (SBESE).

Refer to R.S. 17:10.1

Indicators for School Performance Scores

2.006.01 A school's School Performance Score shall be determined using a weighted composite index derived from three or four indicators: criterion-referenced tests (CRT), norm-referenced tests (NRT), and student attendance for grades K-12, and dropout rates for grades 7-12.

Louisiana's 10- and 20-Year Education Goals

2.006.02 Each school shall be expected to reach 10- and 20-Year Goals that depict minimum educational performances.

Indicators and Weighting	Grades Administered	10-Year Goal	20-Year Goal
CRT Tests (60 percent K-12)	Grades 4, 8, 10, 11	Average student score at BASIC	Average student score at PROFICIENT
NRT Tests (30 percent K-12)	Grades 3, 5, 6, 7, 9	Average composite standard score corresponding to the 55th percentile rank in the tested grade level	Average composite standard score corresponding to the 75th percentile rank in the tested grade level
Attendance (10 percent K-6; 5 percent 7-12)		95 percent (grades K-8) 93 percent (grades 9-12)	98 percent (grades K-8) 96 percent (grades 9-12)
Dropout Rate (5 percent 7-12)		4 percent (grades 7-8) 8 percent (grades 9-12)	2 percent (grades 7-8) 4 percent (grades 9-12)

School Performance Scores

2.006.03 A School Performance Score (SPS) shall be calculated for each school. This score shall range from 0-100 and beyond, with a score of 100 indicating a school has reached the 10-Year Goal and a score of 150 indicating a school has reached the 20-Year Goal. The lowest score that a given school can receive for each individual indicator index and/or for the SPS as a whole is "0."

Every year of student data shall be used as part of a school's SPS. The initial school's SPS shall be calculated using the most recent year's NRT and CRT test data and the prior year's attendance and dropout rates. Subsequent calculations of the SPS shall use the most recent two years' test data and attendance and dropout rates from the two years prior to the last year of test data used. For schools entering accountability after 1999, one year's baseline data shall be used for schools formed in mid-cycle years and two year's data for other schools.

A baseline School Performance Score shall be calculated in Spring 1999 for Grades K-8 and in Spring 2001 for Grades 9-12.

During the summer of 1999 for K-8 schools and summer of 2001 for 9-12 schools, each school shall receive two School Performance Scores as follows:

- A score for regular education students, including gifted, talented, speech or language impaired, and Section 504 students.
- A score including regular education students AND students with disabilities eligible to participate in the CRT and/or NRT tests.
- For the purpose of determining Academically Unacceptable Schools, during the summer of 1999 for K-8 schools and during the summer of 2001 for 9-12 schools, the School Performance Score that includes only regular education students shall be used.

Indicator	Index Value	Weight	Indicator Score
CRT	66.0	60 percent	39.6
NRT	75.0	30 percent	22.5
Attendance	50.0	10 percent	5.0
Dropout	N/A	0 percent	0
SPS = 76.1			

Criterion-Referenced Tests (CRT) Index Calculations	
A school's CRT Index score equals the sum of the student totals divided by the number of student eligible to participate in state assessments. For the CRT Index, each student who scores within one of the following five levels shall receive the number of points indicated.	
Advanced =	200 points
Proficient =	150 points
Basic =	100 points
Approaching Basic =	50 points
Unsatisfactory =	0 points

Formula for Calculating a CRT Index for a School	
1. Calculate the total number of points by multiplying the number of students at each performance level times the points for those respective performance levels, for all content areas.	
2. Divide by the total number of students eligible to be tested times the number of content area tests.	
3. Zero shall be the lowest CRT Index score reported for accountability calculations.	
Initial Transition Years	
To accommodate the phase-in of Social Studies and Science tests for K-8 schools, the following CRT scores shall be used for each year:	
1999 Baseline CRT Score =	1999 Math and English Language Arts (Grades 4 and 8)
2001 Comparison CRT Score =	2000 and 2001 Math and English Language Arts (both years averaged for each subject and each grade)
2001 <i>New</i> Baseline CRT Score =	2000 and 2001 Math, English, Social Studies, and Science (both years averaged for each subject and each grade)
2003 Comparison CRT Scores =	2002 and 2003 Math, English, Social Studies, and Science (both years averaged for each subject and each grade)
This re-averaging shall result in a re-calculated baseline to include science and social studies for K-8 schools in 2001. A similar schedule shall be used for 9-12 schools to begin with a 2001 baseline year.	

Norm-Referenced Tests (NRT) Index Calculations						
For the NRT Index, standard scores shall be used for computing the SPS. Index scores for each student shall be calculated, scores totaled, and then averaged together to get a school's NRT Index score.						
NRT Goals and Equivalent Standard Scores						
Composite Standard Scores Equivalent to Louisiana's 10- and 20-Year Goals, by Grade Level *						
Grade						
Goals	Percentile Rank	3	5	6	7	9

10-Year Goal	55th	187	219	231	243	TBA
20-Year Goal	75th	199	236	251	266	TBA

* Source of percentile rank-to-standard score conversions: *Iowa Tests of Basic Skills, Norms and Score Conversions, Form M (1996), Spring norms, interpolated for Fourth Quarter, March and Iowa Test of Educational Development, Norms and Score Conversions, with Technical Information, Form M (1996), Chicago, IL: Riverside Publishing Company.*

NRT Formulas Relating Student Standard Scores to NRT Index
Where the 10-year and 20-year goals are the 55th and 75th percentile ranks respectively and where SS = a student's standard score, then the index for that student is calculated as follows:

Grade 3:	Index 3rd grade = $(4.167 * SS) - 679.2$ SS = $(\text{Index 3rd grade} + 679.2)/4.167$
Grade 5:	Index 5th grade = $(2.941 * SS) - 544.1$ SS = $(\text{Index 5th grade} + 544.1)/2.941$
Grade 6:	Index 6th grade = $(2.500 * SS) - 477.5$ SS = $(\text{Index 6th grade} + 477.5)/2.500$
Grade 7:	Index 7th grade = $(2.174 * SS) - 428.3$ SS = $(\text{Index 7th grade} + 428.3)/2.174$
Grade 9:	Index 9th grade = TBA SS = TBA

Formula for Calculating a School's NRT Index

1. Calculate the index for each student, using the grade-appropriate formula relating standard score to NRT Index.
2. Zero shall be the lowest NRT Index score reported for accountability calculations.
3. Compute the total number of index points in all grades in the school.
4. Divide the sum of NRT Index points by the total number of students eligible to be tested.

Attendance Index Calculations
An Attendance Index score for each school shall be calculated. The initial year's index shall be calculated from the prior year's attendance rates. Subsequent years' indices shall be calculated using the prior two years' average attendance rates as compared to the state goals.

Attendance Goals		
	10-Year Goal	20-Year Goal
Grades K-8	95 percent	98 percent
Grades 9-12	93 percent	96 percent

Attendance Index Formulas
Grades K-8
Indicator (ATT K-8) = $(16.667 * ATT) - 1483.4$
Grades 9-12
Indicator (ATT 9-12) = $(16.667 * ATT) - 1450.0$
Where ATT is the attendance percentage, using the definition of attendance established by the Louisiana Department of Education

Lowest Attendance Index Score
Zero shall be the lowest Attendance Index score reported for accountability calculations.

Dropout Index Calculations
A Dropout Index score for each school shall be calculated. The initial year's index shall be calculated from the prior year's dropout rates. Subsequent years' indices shall be calculated using the prior two year's average dropout rates as compared to the state goals.

Dropout Goals		
	10-Year Goal	20-Year Goal
Grades 7 and 8	4 percent	2 percent

Grades 9-12	8 percent	4 percent
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Dropout Index Formulas
Non-Dropout Rate (NDO) = 100 - Dropout Rate (DO) (expressed as a percentage)

Grades 7 and 8	Dropout Index (7-8) = Indicator (DO Gr 7-8) = $(25 * NDO) - 2300.0$ NDO = $(\text{Indicator DO Gr 7-8} + 2300.0) / 25$
Grades 9-12	Dropout Index (9-12) = Indicator (DO Gr 9-12) = $(12.5 * NDO) - 1050.0$ NDO = $(\text{Indicator DO Gr 9-12} + 1050.0) / 12.5$

Lowest Dropout Index Score
Zero shall be the lowest Dropout Index score reported for accountability calculations.

Data Collection

2.006.04 A test score shall be entered for all eligible students within a given school. For any eligible student who does not take the test, including those who are absent, a score of "0" on the CRT Index and NRT Index shall be calculated in the school's SPS. To assist a school in dealing with absent students, the Louisiana Department of Education shall provide an extended testing period for test administration. The only exception to this policy is a student who was sick during the test and re-testing periods AND who has formal medical documentation for that period.

Growth Targets

2.006.05 Each school shall receive a Growth Target that represents the amount of progress it must make every two years to reach the state 10- and 20-Year Goals.

In establishing each school's Growth Target, the SPS inclusive of students with disabilities shall be used as the baseline. However, the percentage of students with disabilities varies significantly across schools and the rate of growth for such students, when compared to regular education students, may be different. Therefore, the proportion of students with disabilities eligible to participate in the CRT or NRT test in each school will be a factor in determining the Growth Target for each school.

Growth Targets
During the first ten years, the formula is the following:
[PropRE * (100 - SPS)/N] + [PropSE * (100 - SPS)/2N], or 5 points, whichever is greater
where
PropSE = the number of special education students in the school who are eligible to participate in the NRT or CRT tests, divided by the total number of students in the school who are eligible to participate in the NRT or CRT tests. For purposes of this calculation, gifted, talented, speech or language impaired, and 504 students shall not be counted as special education students, but shall be included in the calculations as regular education students.
PropRE = 1-PropSE. PropRE is the proportion of students not in special education.
SPS = School Performance Score
N = Number of remaining accountability cycles in the 10-Year Goal period
During the second ten years, the formula is the following:
[PropRE * (150 - SPS)/N] + [PropSE * (150 - SPS)/2N], or 5 points, whichever is greater

Growth Labels

2.006.06 A school shall receive a label based on its success in attaining its Growth Target.

Growth Labels

A school exceeding its Growth Target by 5 points or more shall receive a label of *Exemplary Academic Growth*.
A school exceeding its Growth Target by fewer than 5 points shall receive a label of *Recognized Academic Growth*.
A school improving, but not meeting its Growth Target, shall receive a label of *Minimal Academic Growth*.
A school with a flat or declining SPS shall receive a label of *School in Decline*.

When a school's SPS is greater than or equal to the state goal, "Minimal Academic Growth" and "School in Decline" labels shall no longer apply.

Performance Labels

2.006.07 A Performance Label shall be given to a school that qualifies, in addition to Growth Labels.

A school with an SPS of 30 or below shall be identified as an Academically Unacceptable School. This school immediately enters Corrective Actions.

For purpose of determining Academically Unacceptable Schools, during the summer of 1999 for K-8 schools and during the summer of 2001 for 9-12 schools, the SPS that includes only regular education students shall be used. Any school with an SPS of 30 or less, based on the test scores of regular education students only, shall be deemed an Academically Unacceptable School.

A school with an SPS of 30.1 - state average shall be labeled Academically Below Average.
A school with an SPS of state average - 99.9 shall be labeled Academically Above Average.
*The state average is recalculated every growth cycle. The state average shall be the SPS calculated for all eligible students in the state, treating the state as a single unit.
**A school with an SPS of 100.0 - 124.9 shall be labeled a *School of Academic Achievement*.
**A school with an SPS of 125.0 - 149.9 shall be labeled a *School of Academic Distinction*.
**A school with an SPS of 150.0 or above shall be labeled a *School of Academic Excellence* and shall have no more Growth Targets.
**A school with these labels shall no longer be subject to Corrective Actions and shall not receive "negative" growth labels, i.e., School in Decline and Minimal Academic Growth. This school shall continue to meet or exceed Growth Targets to obtain "positive" growth labels, recognition, and possible rewards.

Rewards/Recognition

2.006.08 A school shall receive recognition and possible monetary awards when it meets or surpasses its Growth Targets and when it shows growth in the performance of students who are classified as high poverty.

School personnel shall decide how any monetary awards shall be spent; however, possible monetary rewards shall not be used for salary or stipends. Other forms of recognition shall also be provided for a school that meets or exceeds its Growth Targets.

Corrective Actions

2.006.09 A school that does not meet its Growth Target shall enter into Corrective Actions. A school that enters Corrective Actions shall receive additional support and assistance, with the expectation that extensive efforts shall be made by students, parents, teachers, principals, administrators, and the school board to improve student achievement at the school. There shall be three levels of Corrective Actions.

All schools in Corrective Action I shall provide pertinent information to the Louisiana Department of Education concerning steps they have taken to improve student performance in order to document activities related to Corrective Action I and in light of recent proposed changes in federal programs. This information shall be required on an annual basis.

Requirements for Schools in Corrective Actions I

1) Revised or New School Improvement Plan (due December 15)

All Louisiana schools were required to have a School Improvement Plan in place by May of 1998. Those schools falling within the category of "Academically Unacceptable" and placed in Corrective Actions I shall be required to review and either revise or completely rewrite their plan, with the assistance of a District Assistance Team, and submit it to the Division of School Standards, Accountability, and Assistance. The plan shall contain the following essential research-based components:

- A. A Statement of the school's beliefs, vision, and mission;
- B. A comprehensive needs assessment which shall include the following quantitative and qualitative data:

Student academic performances on standardized achievement tests (both CRT and NRT) and performance/authentic assessment disaggregated by grade vs. content vs. exceptionality);

Demographic indicators of the community and school to include socioeconomic factors.

School human and material resource summary, to include teacher demographic indicators and capital outlay factors;

Interviews with stakeholders: principals, teachers, students, parents;

Student and teacher focus groups;

Questionnaires with stakeholders (principals, teachers, students, parents) measuring conceptual domains outlined in school effectiveness/reform research;

Classroom Observations;

- C. Measurable objectives and benchmarks;
- D. Effective research-based methods and strategies;
- E. Parental and community involvement activities;
- F. Professional development component aligned with assessed needs;
- G. External technical support and assistance;
- H. Evaluation strategies;
- I. Coordination of resources and analysis of school budget (possible redirection of funds);
- J. Action plan with time lines and specific activities.

2) Assurance pages (due December 15)

Each school in Corrective Actions I shall be required to provide assurances that it worked with a District Assistance Team to develop its School Improvement Plan, and that the plan has the essential components listed above. Signatures of the team members shall also be required.

3) An annual Evaluation of the Level of Implementation of the School Improvement Plan (due June 15)

This evaluation shall be designed by the Louisiana Department of Education through the services of a contracted evaluator and mailed to the schools as soon as they are identified. It shall be required on an annual basis, with the first year's data pertaining to implementation activities. The evaluation for the second year shall contain some implementation data, but shall pertain particularly to student performance as determined by the School Performance Score. The Louisiana Department of Education shall make every effort to see that the information is collected in a manner that shall be of assistance to the schools and that shall provide feedback to them as they strive to improve student achievement.

Corrective Actions Summary Chart

Corrective Actions Level II: A highly trained Distinguished Educator (DE) shall be assigned to a school by the state. The DE shall work in an advisory capacity to help the school improve student performance. The DE shall make a public report to the school board of recommendations for school improvement. Districts shall then publicly respond to these recommendations. If a school is labeled as Academically Unacceptable, parents shall have the right to transfer their child to a higher performing public school (See Transfer Policy Standard Number 2.006.11).

Corrective Actions Level III: The DE shall continue to serve the school in an advisory capacity. Parents shall have the right to transfer their child to a higher performing public school (See Transfer Policy, Standard Number 2.006.11). A district must develop a Reconstitution Plan for the school at the beginning of the first year in this level and submit the plan to SBESE for approval.

If a Corrective Actions Level III school has achieved at least 40 percent of its Growth Target or 5 points, whichever is greater, during its first year, then that school may proceed to a second year in Level III. If such minimum growth is not achieved during the first year of Level III, but SBESE has approved its Reconstitution Plan, then the school shall implement the Reconstitution Plan during the beginning of the next school year. If SBESE does not approve the Reconstitution Plan AND a given school does not meet the required minimum growth, the school shall lose state approval and all state funds.

Any reconstituted School's SPS and Growth Target shall be re-calculated utilizing data from the end of its previous year. SBESE shall monitor the implementation of the Reconstitution Plan.

A school initially enters Corrective Actions Level I if it has an SPS of 30 or less or if it has an SPS of less than 100 and fails to reach its Growth Target.

A school moves into a more intensive level of Corrective Actions when adequate growth is not demonstrated during each 2-year cycle.

A school with an SPS of 30 or less, i.e., Academically Unacceptable School, shall move to the next level of Corrective Actions as long as its score is 30 or less.

A school with an SPS of 30.1 to 50.0 shall move to the next level of Corrective Actions if it grows fewer than 5 points. If it grows 5 points or more each cycle, but less than its Growth Target, a school may remain in Corrective Actions Level I for two cycles and Corrective Actions Level II for one cycle.

A school with an SPS of 50.1 to 99.9 shall remain in Corrective Actions Level I as long as its growth is at least its Growth Target minus 5 points, but not less than 0.1 points. During the first 10-year cycle, there is no maximum number of cycles that such a school can stay in Level I as long as this minimum growth is shown each cycle.

A school exits Corrective Actions if its School Performance Score is above 30 and the school achieves its Growth Target.

School Level Tasks

Level I

- 1) Utilize state diagnostic process to identify needs; and
- 2) Develop/implement a consolidated improvement plan, including an integrated budget; process must include: a) opportunities for significant parent and community involvement, b) public hearings, and c) at least two-thirds teacher approval

Level II

- 1) Work with advisory Distinguished Educator, teachers, parents, and others to implement revised School Improvement Plan; and
- 2) Distinguished Educator works with principals to develop capacity for change

Level III

- 1) Distinguished Educator continues to assist with improvement efforts and the design of that school's Reconstitution Plan

Reconstitution or No State Approval/No Funding

- 1) If Reconstitution Plan is approved by SBESE: a) implement Reconstitution Plan, and b) utilize data from the end of the previous year to re-calculate school performance goals and Growth Targets. If Reconstitution Plan is not approved, no state approval/no state funding

District Level Tasks

Level I

- 1) Create District Assistance Teams to assist schools;
- 2) Publicly identify existing and additional assistance being provided by districts, such as funding, policy changes, and greater flexibility;
- 3) As allowed by law, reassign or remove school personnel as necessary; and
- 4) For Academically Unacceptable schools, ensure schools receive at least their proportional share of applicable state, local, and federal funding.

Level II

- 1) District Assistance Teams continue to help schools;
- 2) Hold public hearing and respond to Distinguished Educators' written recommendations;
- 3) As allowed by law, local boards reassign or remove personnel as necessary; and
- 4) For Academically Unacceptable Schools, authorize parents to send their children to other public schools

Level III

- 1) District Assistance Teams shall continue to help schools;
- 2) Authorize parents to send their children to other public schools;
- 3) Design Reconstitution Plan; and
- 4) At the end of year one, one of the following must occur: a) schools must make adequate growth of at least 40 percent of the Growth Target or 5 points, whichever is greater; b) District shall develop Reconstitution Plan to be approved by SBESE; or c) SBESE grants non-school approval status

Reconstitution or No State Approval/Funding

- 1) If Recommendation Plan is approved by SBESE, provide implementation support. If the Reconstitution Plan is not approved, no state approval/no state funding

State Level Tasks

Level I

- 1) Provide diagnostic process for schools;
- 2) Provide training for District Assistance Teams;
- 3) For some Academically Unacceptable Schools only, SBESE assigns advisory Distinguished Educators to schools; and
- 4) Work to secure new funding and/or redirect existing resources to help schools implement their improvement plans

Level II

- 1) Assign advisory Distinguished Educator to schools; and
- 2) Work to secure new funding and/or redirect existing resources to help schools implement their improvement plans

Level III

- 1) Assign advisory Distinguished Educator to schools for one additional year;
- 2) At end of Year 1, SBESE approves or disapproves Reconstitution Plans; and
- 3) Work to secure new funding and/or redirect existing resources to help schools implement their improvement plans

Reconstitution or No State Approval/No Funding

- 1) If Reconstitution Plan is approved by SBESE, a) monitor implementation of reconstitution plan; and b) provide additional state improvement funds; and
- 2) If Reconstitution Plan is not approved, no state approval/state funding

Reconstitution Plan

2.006.10 Districts shall develop and submit a Reconstitution Plan to SBESE for approval for any school in Correction Actions Level III during the first year in that level. This Reconstitution Plan indicates how the district shall remedy the school's inadequate growth in student performance. The plan shall specify how and what reorganization shall occur and how/why these proposed changes shall lead to improved student performance.

If a Corrective Actions Level III school has grown at least 40 percent of its Growth Target or 5 points, whichever is greater, during its first year, then that school may continue another year in Level III. If such minimum growth is not achieved during the first year, but SBESE has approved its Reconstitution Plan, then the school shall implement the Reconstitution Plan during the beginning of the next school year. If SBESE does not approve the Reconstitution Plan AND a given school does not meet the required minimum growth, it shall lose state approval and all state funds.

Transfer Policy

2.006.11 Parents shall have the right to transfer their child to another public school when an Academically Unacceptable School begins Correction Actions Level II or any other school begins Correction Actions Level III.

Transfers shall not be made to Academically Unacceptable Schools or any school undergoing Corrective Actions Level II or Level III.

Upon parental request, districts shall transfer the child to the nearest acceptable school prior to the October 1 student membership count.

If no academically acceptable school in the district is available, the student may transfer to a neighboring district. Parents shall provide the transportation to the school. State dollars shall follow the child when such a transfer occurs.

Schools and districts may refuse to accept a student if there is insufficient space, if a desegregation order prevents such a transfer, or if the student has been subjected to disciplinary actions for behavioral problems.

Progress Report

2.006.12 The SBESE shall report annually on the state's progress in reaching its 10- and 20-Year Goals. The Louisiana Department of Education shall publish individual school reports to provide information on every school's performance. The school reports shall include the following information: School Performance Scores, and school progress in reaching Growth Targets.

Appeals Procedures

2.006.13 The Louisiana Department of Education shall define "appeal" what may be appealed, and the process that the appeal shall take.

Student Mobility

2.006.14 As a general rule, the test score of every eligible student at a given school shall be included in that school's performance score regardless of how long that student has been enrolled in that school. A school that has at least 10 percent of its students transferring from outside the district and enrolled in the school after October 1 may request that the Louisiana Department of Education calculate what its SPS would have been if such out-of-district enrollees had not been included. If there is at least a 5 point difference between the two School Performance Scores, then the school may appeal any negative accountability action taken by the state, e.g., movement into Corrective Actions, application of growth labels.

Pairing/Sharing of Schools with Insufficient Test Data

2.006.15 In order to receive an SPS, a given school must have at least one grade level of CRT testing and at least one grade level of NRT testing. A school that does not meet this requirement must either be "paired or shared" with another school in the district as described below. For the purpose of the Louisiana Accountability System, such a school shall be defined as a "non-standard school."

A school with a grade-level configuration such that it participates in neither the CRT test nor in the NRT test (e.g., a K, K-1, K-2 school) must be "paired" with another school that has at least one grade level of CRT testing and one grade level of NRT testing. This "pairing" means that a single SPS shall be calculated for both schools by averaging both schools' attendance and/or dropout data and using the test score data derived from the school that has at least two grade levels of testing.

A school with a grade-level configuration where students participate in either CRT or NRT testing, but not both (e.g., a K-3, 5-6 school), must "share" with another school that has at least one grade level of the type of testing missing. Both schools shall "share" the missing grade level of test data. This shared test data must come from the grade level closest to the last grade level in the non-standard school. The non-standard school's SPS shall be calculated by using the school's own attendance, dropout, and testing data AND the test scores for just one grade from the other school.

A district must identify the school where each of its non-standard schools shall be either "paired or shared." The "paired or shared" school must be the one that receives by promotion the largest percentage of students from the non-standard school. In other words, the "paired or shared" school must be the school into which the largest percentage of students "feed." If two schools receive an identical percentage of students from a non-standard school, the district shall select the "paired or shared" school.

Once the identification of "paired or shared" schools has been made, this decision is binding for 10 years. An appeal to SBESE may be made to change this decision prior to the end of 10 years, when redistricting or other grade configuration and/or membership changes occur.

New Schools and/or Significantly Reconfigured Schools

2.006.16 For a newly formed school, the school district shall petition SBESE, following existing procedures, to have a new site code assigned to that school. Once the site code is assigned, the school shall receive its initial baseline SPS the summer following its second year of operation, since it shall need two years of testing data and one year of attendance and/or dropout data.

The district may also petition SBESE for a new SPS for a school with significant reconfiguration from the previous year, where such significant reconfiguration varies at least 50 percent from the previous year's grade structure and/or size. For example, a K-4 school changes to a K-8 school, or a given school's population decreases in half or doubles in size from one year to the next. If SBESE grants a new SPS and agrees that this is a significant reconfiguration, this school would receive a new baseline SPS during the summer following its second year of operation.

A school that has population and/or grade configuration change from the previous year of less than 50 percent, but more than 25 percent, is not eligible for a new SPS. Instead, such school may appeal any state accountability decisions made as a result of not meeting its Growth Targets, e.g., movement into Corrective Actions.

Inclusion of Alternative Education Students

2.006.17 Each superintendent, in conjunction with the alternative school director, shall choose from one of two options for including alternative education students in the Louisiana Accountability System for the system's alternative education schools.

Option I The score for every alternative education student at a given alternative school shall be returned to ("sent back") and included in the home-based school's SPS. The alternative school itself shall receive a "diagnostic" SPS, not to be used for rewards or Corrective Actions, if a statistically valid number of students were enrolled in the school at the time of testing.

Option II The score for every alternative education student shall remain at the alternative school. The alternative school shall be given its own SPS and Growth Target, which makes the alternative school eligible for rewards and Corrective Actions.

In order to be eligible for Option II, an alternative school shall meet all of the following requirements:

- The alternative school must have its own site code and operate as a school;
- The alternative school must have a required minimum number of students in the tested grade levels. The definition of "required minimum" is stated in section 2.006.19, and
- At least fifty percent (50 percent) of the total school population must have been enrolled in the school for the entire school year, October 1 - May 1.

Once an option is selected for an alternative school, it shall remain in that option for at least 10 years. An appeal to SBESE may be made to change the option status prior to the end of 10 years if a school's purpose and/or student eligibility changes.

An alternative school that chooses Option II shall receive an initial baseline SPS during summer of 1999 if the majority of its students are in grades K-8. If the majority of its students are in grades 9-12, an alternative school shall receive its baseline SPS during the summer of 2001.

All students pursuing a regular high school diploma, working in curriculum developed from Louisiana Content Standards, shall be included in the state-testing program, with those scores included in an SPS.

Students 16 years of age and older who are enrolled in a Pre-GED program, not pursuing a regular high school diploma, shall not be included in the state-testing program and shall not be included in an SPS. Information on these students, e.g., number receiving a GED, shall be reported in the school's report card as a sub-report.

An alternative school in Corrective Actions II may request some flexibility in obtaining assistance from either a Distinguished Educator (DE) or a team designed to address the special needs of the alternative school population, as long as the total costs for the team do not exceed that for the DE. Sample team members could include the following: social workers, psychologists, educational diagnosticians, and counselors, etc.

Inclusion of Lab Schools and Charter Schools

Such schools shall be included in the Louisiana Accountability System following the same rules that apply to traditional and/or alternative schools. The only exceptions are that Lab Schools and Type 1, 2, and 3 Charter Schools are "independent" schools and cannot be "paired" or "shared" with another school if they do not have at least one CRT and one NRT grade level, and/or if there is no "home-based" district school to which a given student's scores can be returned if all three conditions for Option II cannot be met. Therefore, if they do not have the required grade levels and/or required minimum number of students, such schools cannot receive an SPS. Instead, the state shall publish the results from pre- and post-test student achievement results, as well as other relevant accountability data, as part of that school's report card. This policy is to be revisited during the year 2001.

For the 1998-99 and 1999-2000 academic school years, detention and Department of Corrections facilities shall NOT receive an SPS.

Inclusion of Students with Disabilities

2.006.18 All students, including those with disabilities, shall participate in Louisiana's new testing program. The scores of all students who are eligible to take the CRT and the NRT tests shall be included in the calculation of the SPS. Most students with disabilities, approximately 80 percent of students with disabilities, shall take the CRT and the NRT tests with accommodations, if required by their Individualized Education Program. A small percentage of students with very significant disabilities, approximately 20 percent of students with disabilities, shall participate in an alternate assessment, as required by their IEP.

Inclusion of Schools with Very Low Numbers of Students

2.006.19 A minimum amount of test data shall be required for School Accountability calculations. To be included, a school shall have at least 40 testing units on the statewide criterion-referenced test. A testing unit is one subject test for one student, e.g., English language arts or mathematics. A school shall have at least 20 students with composite scores on the statewide norm-referenced test.

Interested persons may submit written comments until 4:30 p.m., September 10, 1999 to Jeannie Stokes, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Bulletin 741—Accountability System

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Educational Assessment
Program—LEAP 21 (LAC 28:I.901)

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The estimated implementation costs of Louisiana's Public Education Accountability System to state governmental units will be \$12,240,682. There will be no additional implementation costs to state government units to establish a minimum number of students to be tested in order to generate a School Performance Score. Under the accountability system, every eligible student shall be included in the testing. A minimum number of students for testing is required to assure a reliable School Performance Score. Local school systems may incur additional costs for the following items: costs not funded by the State for teacher staff development and in-service training, collection and analysis of data for the state's diagnostic process, personnel assigned to the District Assistance Teams, development and implementation of consolidated improvement plans, and transportation costs for students who choose to attend another school within the district as part of Corrective Actions Level II or Level III.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections by state/local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Louisiana's Public Education Accountability System is based on the concept of continuous growth: every school can improve and is expected to show academic growth. Economic benefits may be realized as K-12 students acquire knowledge and skills to become more productive citizens in the workforce. Parents who choose to send their children to a school in another district as part of Corrective Actions Level II or III may incur additional transportation costs for such students since the policy specifies that such transportation costs are the responsibility of parents.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

More rigorous academic standards and higher student performance may improve school districts' ability to recruit and retain qualified teachers. School districts may have to improve compensation and/or working conditions to recruit qualified teachers if the diagnostic process concludes that poor teacher quality is negatively affecting student performance. School districts will need to hire qualified replacements for personnel who take temporary positions as Distinguished Educators. Schools in Corrective Actions may find it difficult to recruit and retain qualified teachers. School districts may have to improve teacher compensation and/or working conditions to recruit and retain qualified teachers for such schools.

Marlyn Langley
Deputy Superintendent
Management and Finance
9907#033

H. Gordon Monk
Staff Director
Legislative Fiscal Office

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, an amendment to Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November, 1975). The content of the procedural block clarifies that the performance standards for LEAP for the 21st Century (LEAP 21) are equal to the rigor of the National Assessment of Educational Progress (NAEP) performance standards.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

901. School Approval Standards and Regulations

A. Bulletin 741

* * *

AUTHORITY NOTE: Promulgated in accordance with 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975), amended LR 25:

Louisiana Educational Assessment Program

1.009.03 Each school system shall participate in the Louisiana Educational Assessment Program.

Performance standards for *LEAP for the 21st Century* (LEAP 21) are equal to the rigor of the National Assessment of Educational Progress (NAEP) performance standards.

District-wide test results, but not scores or rankings of individual students, shall be reported to the local educational governing authority at least once a year at a regularly scheduled local educational governing authority meeting.

Systems shall not conduct any program of specific preparation of the students for the testing program by using the particular test to be administered therein.

Interested persons may submit written comments until 4:30 p.m., September 10, 1999, to Jeannie Stokes, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741—Louisiana Handbook for
School Administrators—LEAP 21**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no estimated implementation costs (savings) to state and local governmental units as a result of this measure. There will be no impact because the revisions to Bulletin 741 will be incorporated into the existing document.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collection at the state or local level.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There should be no effect on costs or benefits to directly affected persons in non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There should be no impact on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
9907#053

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Hiring Full-Time/Part-Time Noncertified
School Personnel (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, the proposed rule which extends until July 1, 2000, the current policy which allows noncertified school personnel to be employed by local school systems when there is no certified teacher available. The revision is a change to the *Louisiana Administrative Code*, 28:I.903.I. There is no change proposed in the content of the current policy which allows school systems to employ noncertified teachers when there is no certified teacher available. The change extends the date only.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§903. Teacher Certification Standards and Regulations**

* * *

I. Noncertified Personnel

Full-time/part-time noncertified school personnel, excluding speech, language, and hearing specialists, may be employed by local public education agencies experiencing extreme difficulty in employing certified teachers for the

classroom, provided that the following documentation is submitted to the Department of Education:

A signed affidavit by the local superintendent that the position could not be filled by a certified teacher;

Submission of names, educational background, subject matter and grade level being taught as an addendum to the Annual School Report.

A. Individuals employed under this policy must:

- 1. Hold a minimum of a baccalaureate degree from a regionally accredited institution;
- 2. Take all appropriate areas of the PRAXIS/NTE at the earliest date that it is offered during the first year of employment and all appropriate areas at least once each year during subsequent years of employment; and
- 3. Earn six semester hours of college course work each year as indicated below.

a. Teachers who have not completed a teacher education program must:

(1) within the first year of employment and prior to consideration for re-employment the second year, be officially admitted to a teacher education program; obtain a prescription or outline of course work required for certification; and achieve the required scores on the PRAXIS Pre-Professional Skills Tests in Reading, Writing, and Mathematics. The appropriate score(s) on the Communication Skills and/or General Knowledge portions of the NTE may be accepted only if the test(s) was taken prior to September 1999;

(2) prior to consideration for re-employment each year, complete at least six semester hours of college course work as prescribed by the college or university to complete a teacher education program.

b. Teachers who have completed a teacher education program but who have not achieved the required scores on all parts of the PRAXIS/NTE, prior to consideration for re-employment each year, must earn six semester hours appropriate to the area of the PRAXIS/NTE (Pre-Professional Skills Tests in Reading, Writing, and Mathematics, the Principles of Learning and Teaching K-6 or 7-12, and the subject assessments/specialty area tests) in which the score was not achieved. Appropriate scores achieved on portions of the NTE which were formerly required may be used provided the score was achieved prior to the date the test(s) was discontinued for use in Louisiana.

A university sponsored seminar, workshop or course specially designed for preparing for the PRAXIS/NTE may be used once to substitute for three semester hours of the required course work. Documentation from the university must be provided to verify participation.

B. The following documentation, as appropriate, shall be kept on file in the LEA's Superintendent's/Personnel Office:

- 1. official transcripts showing a minimum of a baccalaureate degree from a regionally accredited institution;
- 2. documentation that the teacher has been officially admitted to a teacher education program, if applicable;
- 3. an outline by the college or university of the course work required for certification, or an outline of courses to help achieve the appropriate PRAXIS/NTE scores for persons who have completed a teacher education program;

4. official transcripts showing successful completion of the six semester hours as prescribed by the college or university since the last employment under this policy;

5. documentation to verify one-time participation in a university sponsored or state approved seminar/workshop/course for PRAXIS/NTE preparation for teachers who have completed a teacher education program;

6. an original PRAXIS/NTE score card showing the PRAXIS/NTE has been taken in all appropriate areas since the last employment under this policy; and

7. documentation that efforts for recruitment of certified teachers have been made (e.g. newspaper advertisements, letters, contacts with colleges, and so forth).

C. These individuals shall be employed at a salary that is based on the effective state salary schedule for a beginning teacher with a baccalaureate degree and a certificate with zero years of experience. Local salary supplements are optional.

D. The total number of years a person may be employed according to the provisions of this policy is five years.

E. To be eligible for re-employment under this policy, a teacher who has not met the requirement of earning six semester hours of college credit or who has not taken the PRAXIS/NTE must meet one or more of the following conditions.

1. Medical Excuse. When serious medical problems of the teacher or immediate family in the same household exist, a doctor's statement is required with a letter of assurance from the teacher that six semester hours will be earned prior to the beginning of the next school year.

2. Required Courses Not Available. A letter of verification from area universities is required stating that the required courses are not being offered.

3. Change of School, Parish, or School System. Re-employment is permitted only if the change is not part of a continuous pattern.

4. Change of Certification Areas. Re-employment is permitted with assurance that the requirements for continued employment under this policy will be met.

(These are the only conditions that may be used. Documentation which supports the above condition must be maintained in the teacher's personnel file.)

THIS INTERIM EMERGENCY POLICY WILL REMAIN IN EFFECT UNTIL JULY 1, 2000.

This policy does not apply to university laboratory schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3761-3764.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education LR 24:1085 (June 1998), LR 25:0000 (June 1999), LR:

Interested persons may submit written comments until 4:30 p.m., August 10, 1999 to Jeannie Stokes, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 746—Hiring Full-Time/Part-Time Noncertified School Personnel**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The adoption of this policy will result in a cost to the Department of Education of approximately \$700 (printing and postage) for dissemination of the policy.

BESE's estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$60. Funds are available.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The extension of this policy will allow local school systems to continue to employ noncertified school personnel when there is no certified teacher available.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The extension of this policy allows school systems to fill vacancies which exist due to the unavailability of certified teachers.

Marlyn Langley
Deputy Superintendent
Management and Finance
9907#027

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1213—Minimum Standards for School Buses (LAC 28:XXV.537)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the State Board of Elementary and Secondary Education approved for advertisement a revision to Bulletin 1213 promulgated in LR 2:187 (June 1976), referenced in LAC 28:I.915.B, and adopted in codified format in the *Louisiana Register*, April 1999. The amendment allows two decals on school buses to acknowledge the free cellular phone services made available to that school system by a provider.

Title 28

EDUCATION

Part XXV. Minimum Standards for School Buses

Chapter 5. Bus Body Standards

§537. Identification

A. - F.2. ...

3. No more than two signs, not to exceed 18" x 7", acknowledging a cellular telephone service provider may appear on the side of a school bus. One sign shall be placed to the immediate left of the main door. The other sign shall be placed below or to the right of the driver's side window.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158; R.S. 17:160-161; R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 25:646 (April 1999), amended LR 25:

Interested persons may submit written comments until 4:30 p.m., September 10, 1999 to Jeannie Stokes, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 1213—Minimum
Standards for School Buses**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no estimated implementation costs or savings to state or local governmental units as a result of this measure.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no estimated effects on revenue collection of state or local governmental units as a result of this measure.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

All individuals involved in transporting students to and from school, e.g., school officials, parents whose children ride the bus and the passengers themselves, will benefit by knowing that each school bus has been designed and equipped with safety of its passengers in mind. Use of cellular phones adds another element of safety in the operation of school buses.

This action will affect school officials and contract drivers of school buses. They will have at their disposal, at no cost to the school system or the individual, a cellular telephone to use in case of an emergency. Use of the telephone will be limited to 911, the district maintenance shop, school administrators or other agencies that can respond to an emergency. We could not determine the economic benefits to directly affected persons. It will depend upon the number of school buses equipped with cellular phones and the cost the provider would normally charge for the services provided. Affected persons will not incur workload adjustments or additional paperwork by this action.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This action will have no effect on employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
9907#061

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1475—Operational and Vehicle Maintenance
Procedures (LAC 28:XXIX.901)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the State

Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 1475 promulgated in LR 2:198 (June 1976), referenced in LAC 28:I.915.C, and adopted in codified format in the *Louisiana Register*, May 1999. The amendment provides instructions to school bus drivers of those buses that are equipped with cellular telephones.

**Title 28
EDUCATION**

**Part XXIX. Bulletin 1475—Operational and Vehicle
Maintenance Procedures**

Chapter 9. Vehicle Operations

901. Specific Procedures

A.1. - 7.j. ...

k. The use of cellular telephones by school bus operators shall be authorized only under the following conditions:

- i. an emergency situation exists, such as a mechanical problem, accident, illness of driver or passenger;
- ii. bus is pulled safely out of traffic (if possible) and motor is turned off.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158; R.S. 17:160-161; R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:835 (May 1999), amended LR 25:

Interested persons may submit written comments until 4:30 p.m., September 10, 1999 to Jeannie Stokes, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 1475—Operational and Vehicle
Maintenance Procedures**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no estimated implementation costs or savings to state or local governmental units as a result of this measure.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no estimated effects on revenue collections of state or local governmental unit as a result of this measure.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The school bus driver will be the person directly affected by this action. Bulletin 1475 provides the essentials the driver needs to do his or her job. Students he or she transports every day to and from school will also benefit from a free, safe drive. Parents whose children are using the school bus will also benefit by not having to drive their children to school. The amendment to Bulletin 1475 adds to the essentials the driver needs to know. Now, when the school bus is equipped with a cellular telephone, the driver is required, if possible, to safely pull out of traffic, stop the bus and shut off the engine before he or she can operate the telephone. It is to be used only in case of emergencies. The telephone will be programmed so only certain agencies can be contacted, e.g., 911, school board offices and maintenance shop.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

The adoption of this bulletin will not effect competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
9907#058

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1566—Guidelines for Pupil Progression
(LAC 28:XXXIX.Chapters 1-11)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the State Board of Elementary and Secondary Education approved for advertisement revised Bulletin 1566, Guidelines for Pupil Progression. The revised guidelines for Pupil Progression incorporate the High States Testing Policy and other policies related to the promotion and retention of students. School systems will implement the new guidelines with the 1999-2000 school session.

**Title 28
EDUCATION**

Part XXXIX. Bulletin 1566—Guidelines for Pupil Progression

Editor's Note: Bulletin 1566 was promulgated in LR 6:144 (April 1980), amended LR 11:685 (July 1985) and LR 16:766 (September 1990), promulgated LR 19:1417 (November 1993), amended LR 24:2081 (November 1998). Once this bulletin becomes a rule as a codified document, historical notes will reflect activity on individual sections from that time forward.

Chapter 1. Purpose

§101. Foreword

A. This publication represents a forward step in the implementation of a vital component of R.S. 17:24.4. These Guidelines represent a cooperative effort of offices in the Louisiana Department of Education (LDE), and educators from across the State.

B. The Louisiana Department of Education will continue to provide leadership and assistance to school systems in an effort to attain a public system of education that makes the opportunity to learn available to all students on equal terms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§103. Preface

A. "The goal of the public educational system is to provide learning environments and experiences, at all stages of human development, that are humane, just and designed to promote excellence in order that every individual may be afforded an equal opportunity to achieve his full potential" (Preamble to Article VIII, Louisiana Constitution). This goal statement from the Constitution suggests that public elementary and secondary education is only a part of a continuum of services that should be available to assist each

individual to identify and reach his/her own educational or training goals as quickly and effectively as possible.

B. The amendment and enactment of the Louisiana Competency-Based Education Program, Act 750, (R.S. 17:24.4) by the Louisiana State Legislature in Regular Session during the summer of 1997, was the result of an ever-increasing demand by Louisiana's taxpayers for a better accounting of their educational dollars. A forerunner of Act 750 was Act 621, the public school Accountability Law. This far-reaching statute called for:

1. the establishment of a program for shared educational accountability in the public educational system of Louisiana;

2. the provision for a uniform system of evaluation of the performance of school personnel;

3. the attainment of established goals for education;

4. the provision of information for accurate analysis of the costs associated with public educational programs;

5. the provision of information for an analysis of the effectiveness of instructional programs; and

6. the annual assessment of students based on state content standards.

C. The Louisiana Competency-Based Education Law evolved from the Accountability Law into a unique program that encompasses all recent educational statutes, providing opportunities for students to learn systematically and opportunities for educators to gear instructional programs to achievement based on specific objectives.

D. The Louisiana Competency-Based Program is based on the premise that the program must provide options to accommodate the many different learning styles of its students. Every effort is being made to tailor the curriculum to the needs of the individual student, including the student with special instructional needs who subsequently needs curricular alternatives. Such a practice enhances the probability of success, since the student is provided with an instructional program compatible with his individual learning styles as well as with his needs.

E. The Louisiana State Legislature in Regular Session during the summer of 1997 amended and reenacted R.S. 17:24.4 (F) and (G) (1), relative to the Louisiana Competency-Based Education Program, to require proficiency on certain tests as determined by the State Board of Elementary and Secondary Education (SBESE) for student promotion and to provide guidelines relative to the content of Pupil Progression Plans.

F. The amended sections relate state content standards adopted for mathematics, English language arts, science, and social studies, to the Louisiana Educational Assessment Program (LEAP), and to the comprehensive Pupil Progression Plans of each of the 66 local educational agencies.

G. A *Pupil Progression Plan* is a comprehensive plan developed and adopted by each parish or city school board; it shall be based on student performance on the Louisiana Educational Assessment Program with goals and objectives that are compatible with the Louisiana Competency-Based Education Programs and that supplement standards approved by the State Board of Elementary and Secondary Education (SBESE). A Pupil Progression Plan shall require the student's proficiency on certain tests as determined by the

SBESE before he or she can be recommended for promotion.

H.1. The revised Section G of the Competency-Based Education Program, Act 750, addresses the Pupil Progression Plan as follows:

Each city and parish school board shall appoint a committee which shall be representative of the parents of the school district under the authority of such school board. Each committee shall participate and have input in the development of the Pupil Progression Plans provided for in this Section. Each parish or city school board shall have developed and shall submit to the State Department of Education a Pupil Progression Plan which shall be in accordance with the requirements of this section and be based upon student achievements, performance, and proficiency on tests required by this section. Each parish or city school board plan for pupil progression shall be based on local goals and objectives which are compatible with the Louisiana Competency-Based Education Program numerated in R.S. 17:24.4 (B), which comply with the provisions of R.S. 17:24.4 (A) (3), and which supplement the performance standards approved by the State Board of Elementary and Secondary Education. Each local school board shall establish a policy regarding student promotion or placement which shall comply with the provisions of this Section, including the requirements for Pupil Progression Plans. Based upon the local school board policy, which policy shall be developed with the participation and input of the committee provided for in this Subsection G, each teacher shall, on an individualized basis, determine promotion or placement of each student. Each local school board may review promotion and placement decisions in order to insure compliance with the established policy. Review may be initiated by the local board, superintendent, or parent or guardian. Those students who fail to meet required proficiency levels on the state administered criterion-referenced test of the Louisiana Educational Assessment Program shall receive remedial education programs that comply with regulations adopted by the State Board of Elementary and Secondary Education.

2. Those persons responsible for developing local Pupil Progression Plans must build their plans on a broad-based instructional program fluid enough to accommodate the individual student's previous experience, his acquired skills and abilities, and his deficiencies and disabilities, while at the same time maintaining a balance in the student's curricular experiences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

Chapter 3. General Procedure for Development; Approval and Revision of a Pupil Progression Plan

§301. Development of a Local Plan

A. Committee of Educators

1. The State Board of Elementary and Secondary Education (SBESE) and the Louisiana Department of Education (LDE) require assurances that the local education agency (LEA) Supervisors of Elementary and Secondary Education, Special Education, Vocational Education, Adult Education, Title I, teachers and principals and other individuals deemed appropriate by the local Superintendent are included in the development of the parish Pupil Progression Plan.

B. Committee of Parents

1. Act 750 of the 1979 Louisiana Legislature states that "each city and parish school board shall appoint a committee which shall be representative of the parents of the school district under the authority of such school board.

Such committees shall participate and have input in the development of the Pupil Progression Plan."

2. A committee representing the parents of the school district shall be appointed by each city and parish school board. Procedures shall be established whereby this committee shall be informed of the development of the Pupil Progression Plan. Opportunities shall be provided for parents to have input into the development of the local plan.

3. Due process and equal protection considerations require the local board to include on the parent committee representatives of various disability groups, racial, socio-economic, and ethnic groups from the local district.

4. The local board shall provide staff support to the parent committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§303. Description of Committees

A. The local school system shall keep on file a written description of the method of selection, composition, function and activities of the local committees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§305. Public Notice

A. Meetings of the local committees shall be conducted within the legal guidelines of Louisiana's Open Meetings Law. [R.S. 42.4.2(A) (2); Attorney General's Opinion Number 79-1045]

B. The local Pupil Progression Plan shall be adopted at a public meeting of the local board, notice of which shall be published pursuant to the Open Meetings Law. It shall be stated that once the plan is adopted, it will be submitted to the SBESE for approval pursuant to Act 750. Once the plan is approved by the SBESE, the policies in the local plan shall be incorporated into the policies and procedures manual of the local school board.

C. The statement defining the committee-selection process and the Pupil Progression Plan are public documents and must be handled within the guidelines of the Public Records Act (R.S. 44:1-42).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§307. Approval Process

A. Approval

1. Upon adoption for submission by the local school board, the plan along with a formal submission statement shall be submitted annually to the Office of Student and School Performance for review by the LDE.

B. Review and Revision

1. Local Pupil Progression Plans must be accompanied by a completed checklist.

2. Local systems will be informed in writing of approval.

3. Local systems whose plans need revision will be informed of needed changes.

4. Local systems are to resubmit revised plans for final approval, following the procedures outlined in Part B under Public Notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

Chapter 5. Placement Policies; State Requirements

§501. State Requirements

A. Each local Pupil Progression Plan shall contain written policies relative to regular placement and alternatives to regular placement. Such policies must conform to the requirements of these guidelines.

B. Based upon local school board policy pursuant to these guidelines, each teacher shall, on an individualized basis, determine promotion or placement of each student [Act 750; R.S. 17:24.4(G)]. Local School Board policies relative to pupil progression will apply to students placed in regular education programs as well as to exceptional students and to students placed in alternative programs. Placement decisions for exceptional students must be made in accordance with the least restrictive environment requirements of state and federal laws (Act 754 regulations, subsection 443).

C. No school board member, school superintendent, assistant superintendent, principal, guidance counselor, other teacher, or other administrative staff members of the school or the central staff of the parish or city school board shall attempt, directly or indirectly, to influence, alter, or otherwise affect the grade received by a student from his/her teacher (R.S. 17:414.2).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§503. Regular Placement¹

A. Promotion—Grades K-12

1. Promotion from one grade to another shall be based on the following statewide evaluative criteria.

a. Requirements in Bulletin 741, Louisiana Handbook for School Administrators

i. Each plan shall include the school attendance requirements.

ii. Each plan shall include the course requirements for promotion by grade levels.

iii. Each plan shall include other applicable requirements.

b. Requirements of the Louisiana Educational Assessment Program

i. Each plan shall include the statement that, in addition to completing a minimum of 23 Carnegie units of credit as presented by SBESE, the student shall be required to pass all components of the Graduation Exit Examination in order to receive a high school diploma.

ii.(a). No fourth or eighth grade student shall be promoted if he or she scores at the "Unsatisfactory" level on the English language arts or mathematics components of LEAP for the 21st century (LEAP 21).

(b). Exceptions. This state policy may be overridden by the School Building Level Committee (and therefore the student can be promoted) only under the following conditions:

(i). if a given student scores at the "Unsatisfactory" level in English language arts or mathematics and scores at the "Proficient" or "Advanced" level in the other;

(ii). if a student with disabilities has participated in an alternative assessment;

(iii). For the 1999/2000 school year only, if a given student had been formerly classified as Alternative to Regular Placement (ARP) during the 1997-98 school year and if that student has participated in summer programs and retesting.

iii. Summer school and end-of-summer retest must be offered by school systems at no costs to all students who score at the "Unsatisfactory" level.

iv. Fourth grade students who are 12 years old on or before September 30 (and still have not scored above "Unsatisfactory") must be enrolled in an alternative setting or program.

v. A school system, through its superintendent, may apply for an appeal on behalf of individual fourth grade students who have not scored above the "Unsatisfactory" level after retesting provided that certain criteria are met.

vi. Eighth grade students who are 16 years of age on or before September 30 must enroll in an alternative program or setting, Option 2 or Option 3.

(a). Option 2—placement in a transitional program at the traditional high school campus where students take non-credit remedial courses in English language arts and/or mathematics and may take credit courses in other subjects. Students may remain in Option 2 for a maximum of two years and will participate in the Grade 8 LEAP 21.

(b). Option 3—placement in an alternative program/setting, job skills training program or other program designed to meet students' needs. Students are working toward a GED, certificate of completion, or other diploma options. Students in Option 3 may choose to take the eighth grade LEAP 21 for a maximum two years.

vii. Exceptional students participating in LEAP 21 must be provided with significant accommodations as noted in the students IEP.

viii. The aforementioned policies will be in effect from Spring 2000 through Spring 2003. Beginning in Spring 2004, the policies will also apply to students scoring at the "Approaching Basic" level.

c. Other Requirements

i. Each plan shall include the function of the school building level committee/student assistance team as it relates to student promotion.

B. Retention—Grades K-12

1. Retention of a student shall be based upon the student's failure to meet the criteria established by local boards for promotion and other criteria contained in these guidelines.

C. Acceleration

1. Grades K-8

a. The local school board shall establish written policies and procedures for the placement of students who evidence that they will benefit more from the instructional program at an advanced grade level.

2. Grades 9-12

a. The local school board shall follow the policies and procedures established in Bulletin 741, *Louisiana Handbook for School Administrators*, and other local requirements for student acceleration.

D. Transfer Students

1. The local school board shall establish written policies for the placement of students transferring from all other systems and home study programs (public, nonpublic, (both in and out-of-state), and foreign countries).

¹Schools can only make recommendations to parents regarding student enrollment in kindergarten, since kindergarten is not mandatory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§505. Progression—Students Participating in Alternate Assessment

A. The local school board shall establish written policies for progression of those exceptional students who are participating in alternate assessment.

1. The students participating in the alternate assessment will progress from one grade level to the next if they meet the following assurances.

a. The student has met attendance requirements according to Bulletin 741.

b. The student has completed 70 percent of his annual goals.

c. Transition planning, if noted on the IEP, has been addressed by the student and documented by the teacher.

d. The student participated in the alternate assessment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§507. Alternatives to Regular Placement

A. The local school board shall establish written policies for all alternatives to regular placement. Prior to a student's being removed from the regular program and being placed in an alternative program, written informed consent by the student's parents or guardians must be obtained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§509. Alternative Schools/Programs

A. The local school board may establish alternative schools/programs which shall respond to particular educational need(s) within the community.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§511. Review of Placement

A. Review of promotion and placement decisions may be initiated by the local school board, superintendent and/or parent or guardian [Act 750; R.S. 17:24.4(G)].

B. Each local school board may adopt policies whereby it may review promotion and placement decisions in order to insure compliance with its local plan [Act 750; R.S. 17:24.4(G)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§513. Policies on Records and Reports

A. Local school systems shall maintain permanent records of each student's placement, K-12. Each record shall be maintained as a part of the student's cumulative file.

B. Student records for the purposes of these guidelines shall include:

1. course grades;

2. scores on the Louisiana Educational Assessment Program;

3. scores on local testing programs and screening instruments necessary to document the local criteria for promotion;

4. information (or reason) for student placement (see definition of *placement*);

5. documentation of results of student participation in remedial and alternative programs;

6. special education documents as specified in the approved IDEA-Part B, LEA application;

7. a copy of the letter informing the parent of either the placement of the student in or the removal of the student from a remedial program;

8. a copy of the parent's written consent for either the placement of a student in or the removal of a student from an alternative to regular placement program;

9. a statement regarding written notification to parent concerning retention and due process procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§515. Policies on Due Process

A. Due process procedures for teachers, students, and parents shall be specified in each local Pupil Progression Plan as related to student placement. The local school system must assure that these procedures do not contradict the due process rights of exceptional students as defined in the IDEA-Part B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

Chapter 7. Placement Policies; Local Options

§701. Local Options

A. In addition to the statewide mandatory criteria for student placement in Chapter 5, §501 of these guidelines, local school boards, by written local policies, may also establish local criteria to be used in determining student placement. Such criteria shall be compatible with the statewide criteria established in Chapter 5, §501 and shall be submitted to the LDE as part of the local Pupil Progression Plan.

B. Local option criteria for Pupil Progression Plans shall conform to the following guidelines. Additionally, at the option of local school systems, the plans may include other factors to be considered in pupil placements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§703. Legislative Guidelines

A. Local school systems are encouraged to develop local criterion-referenced testing programs for local assessment use [Act 621; R.S. 17:391.7(G) and Act 750; R.S. 17:24(H)].

B. Local criteria for K-12 must supplement the content standards approved by the SBESE [Act 750; R.S. 17:24(G)].

C. Local criteria must be coordinated with statewide curricular standards for required subjects, to be developed as part of the competency-based education plan [Act 750; R.S. 17:24.4(E) and (G)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§705. Departmental Guidelines

A. Student scores on local testing programs may be used as additional criteria for determining pupil progression. Additional skills may be specified and tested for mastery at the local level as additional criteria for placement.

B. With reference to pupil placement, the local school system shall state the name of the instrument and publisher of other testing and screening programs to be used locally in grades K-12 for regular and exceptional students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§707. Other Local Option Factors

A. In conjunction with the enumerated legislated guidelines and LDE directives, local school systems may include evaluative criteria in their local Pupil Progression Plans. If other criteria are used, the Pupil Progression Plan must so specify.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

Chapter 9. Regulations for the Implementation of Remedial Education Programs Related to the LEAP/CRT Program

§901. Preface

A. The regulations for remedial education programs approved by the State Board of Elementary and Secondary Education are an addendum to Bulletin 1566, *Guidelines for Pupil Progression*, Board Policy 4.01.90. The regulations provide for the development of local remedial education programs by local education agencies.

B. The Louisiana Department of Education shall recommend for approval by the SBESE only those local remedial education plans in compliance with these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§903. Legal Authorization

A. R.S. 17:24.4(G) provides that those students who fail to meet required proficiency levels on the state administered criterion-referenced tests of the Louisiana Educational Assessment Program shall receive remedial education programs that comply with regulations adopted by the State Board of Elementary and Secondary Education.

B. R.S. 17:394 - 400 is the established legislation for the remedial education programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§905. Definition and Purpose

A. Definitions

Department—is the Louisiana Department of Education.

Remedial Education Programs—are defined as local programs designed to assist students, including identified students with disabilities, to overcome their educational deficits identified as a result of the state's criterion-referenced testing program for grades 4 and 8 and the Graduation Exit Examination (R.S. 17:396, 397, 24.4 and Board Policy).

State Board—is the State Board of Elementary and Secondary Education.

B. Purpose

1. The purpose of the Louisiana Remedial Education Act is to provide supplemental funds for the delivery of supplemental remedial instruction adapted for those eligible students in the elementary and secondary schools of this state as set forth in the city and parish school board Pupil Progression Plans approved by the SBESE. A program of remedial education shall be put into place by local parish and city school systems following regulations adopted by the Department and approved by the State Board pursuant to R.S. 17:24.4. All eligible students shall be provided with appropriate remedial instruction (R.S. 17:395 A).

2. The intent of remedial educational programs is to improve student achievement in the grade appropriate skills identified as deficient on the state's criterion-referenced testing program for grades 4 and 8 and the Graduation Exit Examination (R.S. 17:395 B and Board Policy).

3. For the Graduation Exit Examination only, remediation shall be provided in English language arts, mathematics, and written composition to all eligible students beginning in either the summer of 1989 or the 1989-90 school year. Remediation shall be provided in social studies and science for those eligible students beginning in either the summer of 1990 or during the 1990-91 regular school year (R.S. 17:24.4(G), 395 B and C and Board Policy).

4. Beginning in the Summer of 2000, remediation in the form of summer school shall be provided to students who score at the "Unsatisfactory" level on LEAP 21st Century (LEAP 21) English language arts or mathematics tests.

5. Beginning in the Fall of 2000 (or earlier), remediation shall be provided to students who score at the "Unsatisfactory" level on LEAP for the 21st Century (LEAP 21) science and social studies tests.

6. Beginning in the Fall of 2000 (or earlier), remediation is recommended for students who score at the "Approaching Basic" level on LEAP for the 21st Century (LEAP 21) English language arts, mathematics, science, or social studies tests.

7. Beyond the goal of student achievement in grade appropriate skills, additional goals are to give students a sense of success, to prevent alienation from school, and to prevent their early departure from school (R.S. 17:395 B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§907. Responsibilities of the State Board of Elementary and Secondary Education

A. The SBESE shall perform the following functions in relation to the remedial education program:

1. approve as a part of the Pupil Progression Guidelines (Bulletin 1566) the regulations for development of local remedial education programs designed to meet student deficiencies as identified through the Louisiana Educational Assessment Program in English/Language arts, written composition, mathematics, social studies and science (R.S. 17:399 A) for the Graduation Exit Examination and English language arts, mathematics, science and social studies for LEAP 21;

2. approve remedial education programs submitted by local education agencies as a part of their local Pupil Progression Plan (R.S. 17:398 B);

3. approve qualifications/certification requirements for remedial education teachers (R.S. 17:398 A);

4. receive from the Department an annual evaluation report on local remedial education programs that meet the requirements of R.S. 17:400 B;

5. approve the evaluation criteria developed by the Department for determining the effectiveness of remedial education programs [R.S. 17:399 B (2) and Board Policy].

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§909. State Funding of Remedial Education Programs

A. Remedial education funds shall be appropriated annually within the Minimum Foundation Program formula.

B. State remedial education funds shall be distributed to the parish and city school boards according to the distribution process outlined within the Minimum Foundation Program.

C. State funds for the remedial education program shall not be used to supplant other state, local, or federal funds being used for the education of such students (R.S. 17:399 (B)5). A plan for coordination of all state, local and federal funds for remediation must be developed by each LEA.

D. The use of state remedial education funds shall not result in a decrease in the use for educationally deprived children of state, local, or federal funds which, in the absence of funds under the remedial education program, have been made available for the education of such students [R.S. 17:399 (B)5].

E. For funding purposes, a student receiving remediation in English/Language arts, written composition, mathematics, social studies and/or science, shall be counted for each area in which remediation is needed (R.S. 17:398 B) for the Graduation Exit Examination and for English language arts and mathematics for LEAP 21.

F. Students in the State Remediation Program are also included in the student membership count for MFP funding purposes.

G. The remedial education program shall be coordinated with locally funded and/or federally funded remedial education programs, but shall remain as a separate remedial program.

H. If the Department determines through its monitoring authority that a city or parish board is not actually providing the type of remedial education program that was approved

through its Pupil Progression Plan or is not complying with state evaluation regulations, the Department shall recommend appropriate action until such time as it is determined that the school board is in compliance with its approved Pupil Progression Plan and with state evaluation regulations.

I. The state and local funds expended in the program shall be included in the instructional parameters for each city or parish school board.

§911. Criteria for State Approval

A. Student Eligibility

1. Any public elementary or secondary student, including an exceptional student participating in LEAP 21, who does not meet the performance standards established by the Department and approved by the State Board, as measured by the state criterion-referenced tests, shall be provided remedial education (R.S. 17:397).

2. The failure of Special Education students to achieve performance standards on the state criterion-referenced tests does not qualify such students for special education extended school year programs (Board Policy).

B. Teacher Qualifications

1. Remedial teachers shall possess the appropriate certification/qualifications as required by the SBESE.

2. Parish and city school boards may employ an instructional paraprofessional under the immediate supervision of a regularly certified teacher to assist with the remediation. Paraprofessionals must have all of the following qualifications:

a. must be at least twenty years of age;

b. must possess a high school diploma or its equivalent; and

c. must have taken a nationally validated achievement test and scored such as to demonstrate a level of achievement equivalent to the normal achievement level of a tenth grade student (R.S. 17:398A and Board Policy).

3. Parish and city school boards may employ educators already employed as regular or special education teachers to provide remedial instruction. These educators may receive additional compensation for remedial instruction, provided the services are performed in addition to their regular duties (R.S. 17:398 A).

C. Program Requirements

1. Student Profile

a. The Remedial Education Student Profile for the LEAP 21/Graduation Exit Examination, provided by the LDE shall be used by the local school system for providing remediation for each eligible student (Board Policy).

2. Coordination With Other Programs

a. The school system shall assure that coordination and communication occur on a regular basis among all who provide instruction for a student receiving remedial instruction (Board Policy).

3. Instruction

a. For the Graduation Exit Examination, remediation shall be provided in English language arts, mathematics and writing to all eligible students beginning in either the summer of 1989 or the 1989-90 school year. Remediation shall be provided in social studies and science for those eligible students beginning in either the summer of 1990 or during the 1990-91 regular school year (R.S. 17:24.4(G); 395 B and C and Board Policy).

b. Beginning in the Summer of 2000, remediation in the form of summer school shall be provided to students who score at the "Unsatisfactory" level on LEAP 21st Century (LEAP 21) English language arts or mathematics tests.

c. Beginning in the Fall of 2000 (or earlier), remediation shall be provided to students who score at the "Unsatisfactory" level on LEAP for the 21st Century (LEAP 21) science and social studies tests.

d. Beginning in the Fall of 2000 (or earlier), remediation is recommended for students who score at the "Approaching Basic" level on LEAP for the 21st Century (LEAP 21) English language arts, mathematics, science, or social studies tests.

e. Instruction shall include but not be limited to the philosophy, the methods, and the materials included in local curricula that are based upon State Content Standards in mathematics, English language arts, science and social studies (Board Policy 3.01.08).

f. Remedial methods and materials shall supplement and reinforce those methods and materials used in the regular program (Board Policy).

g. Each student achieving mastery criteria shall continue receiving instruction for maintenance of grade appropriate skills. The amount of instruction shall be based upon student need (R.S. 17:395.E).

D. Student Assessment

1. The parish and city school boards shall develop, as part of their Pupil Progression Plans, mastery criteria based on the State Content Standards and local curricula based on these standards (R.S. 17:395 D and Board Policy).

2. For Graduation Exit Examination these mastery criteria shall be used in determining the extent of student achievement in those grade appropriate skills in English language arts, written composition, mathematics, social studies, and/or science in which he/she was found deficient (R.S. 17:395 D, 17:24.4(G) and Board Policy).

3. For LEAP 21, these mastery criteria shall be used in determining the extent of student achievement in those grade appropriate skills in English language arts, mathematics, science and social studies.

4. School systems shall describe the methods used to measure student achievement of these criteria (R.S. 17:395 D and Board Policy).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§913. Local Program Development and Evaluation

A. Each parish and city school board shall develop annually a remedial education program as part of its Pupil Progression Plan, which complies with the established regulations adopted by the Department and approved by the SBESE pursuant to R.S. 17.24.4. The remedial education plan shall be reviewed annually by the Department prior to recommendation for approval by the SBESE (R.S. 17:395 A and Board Policy).

B. The remedial education plan shall describe all remedial instruction and proposals for program

improvement. Proposals shall include a narrative that shall incorporate the following:

1. program objective;
2. student population to be served and the selection criteria to be used;
3. methodologies, materials, and/or equipment to be used in meeting the remediation needs;
4. brief description of the remedial course;
5. plan for coordination of state, federal, and local funds for remediation;
6. procedure for documenting student's and parent(s) refusal to accept remediation;
7. evaluation plan encompassing both the educational process and the growth and achievement evidenced of students (R.S. 17:399A).

C. The remedial program shall be based on performance objectives related to educational achievement in grade appropriate skills addressed through the statewide curriculum standards for required subjects, and shall provide supplementary services to meet the educational needs of each participating student.

D. Each local school system shall adhere to the remedial education plan as stated in its approved Pupil Progression Plan and shall provide services accordingly (R.S. 17:400 A and Board Policy).

E. Each local school system shall include within the remedial education plan a summary of how state, federal, and local funds allocated for remediation have been coordinated to ensure effective use of such funds [R.S. 399 A (5) and B (4) and Board Policy].

F. Each local school system shall maintain a systematic procedure for identifying students eligible for remedial education (R.S. 17:397).

G. Each local school system shall offer remediation accessible to all students. Refusal to accept remediation by student and parent(s) must have written documentation signed by student and parent(s).

H. A list of all students eligible for remediation shall be maintained at the central office level with individual school lists maintained at the building level (Board Policy).

I. Each local school system shall participate in the evaluation of the Remedial Education Program conducted by the Department [17:399 A (6) and Board Policy].

J.1. Each local school system shall complete an annual evaluation of its program, using the approved Department guidelines, and shall submit the evaluation report to the State Superintendent by June 15 of each year [R.S. 17:399 B (1) and Board Policy]. The evaluation plan shall include specific means to examine and document:

- a. student performance;
- b. coordination with other programs;
- c. instruction.

2. The evaluation shall be conducted as described in the local evaluation plan (Board Policy).

K. Annually, prior to October 15, each school system shall report to the public the results of its efforts to provide a remedial education program and the results of the monitoring review submitted by the State Superintendent (Board Policy).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§915. State Department of Education Responsibilities

A. The Department shall be responsible for reviewing plans, monitoring implementation, and evaluating the remedial education programs of the local school system (R.S. 17:400 A).

B. The State Superintendent of Education shall prepare an annual report for submission to the SBESE and the Joint Committee on Education of the Louisiana Legislature which shall contain:

1. the number of students participating in remedial education programs; and
2. the level of student achievement.

C. The department shall provide guidelines for local evaluation of programs, shall review the local evaluation plans, shall monitor the implementation of remedial education plans, and shall receive and approve evaluation reports (R.S. 17:400 A and Board Policy).

D. Within 60 days of receipt of the evaluation report from the local school system, the Department shall submit to each local school system an analysis of the system's evaluation report and the Department's monitoring results (Board Policy).

E. The Department shall provide technical assistance to the city and parish school boards which shall include:

1. assistance with development of the remedial section of the Pupil Progression Plan;
2. assistance with staff development;
3. assistance with the use of appropriate Department forms;
4. assistance with program implementation; and
5. assistance with conducting local evaluations.

Chapter 11. Appendix A

§1101. Definition Of Terms

A. As used in this bulletin the terms shall be defined as follows:

1. State Terms

Acceleration—advancement of a pupil at a rate faster than usual in or from a given grade or course. This may include "gifted student" as identified according to Bulletin 1508.

Alternate Assessment—the substitute way of gathering information on the performance and progress of students who do not participate in typical state assessments.

Alternative to Regular Placement—placement of students in programs not required to address the State Content Standards.

Content Standards—statements of what we expect students to know and be able to do in various content areas.

LEAP 21 Summer School—the summer school program offered by the LEA for the specific purpose of preparing students to pass the LEAP 21 test in English language arts, or mathematics.

Louisiana Educational Assessment Program (LEAP)—the state's testing program that includes the grades 3, 5, 6, 7 and 9 Louisiana Norm-referenced Testing Program; the grades 4 and 8 Criterion-referenced Testing Program including English language arts, mathematics, social studies and science and the Graduation Exit Examination (English

language arts, mathematics, written composition, science and social studies).

Promotion—a pupil's placement from a lower to a higher grade based on local and state criteria contained in these Guidelines.

Pupil Progression Plan—"The comprehensive plan developed and adopted by each parish or city school board which shall be based on student performance on the Louisiana Educational Assessment Program with goals and objectives which are compatible with the Louisiana competency-based education program and which supplement standards approved by the State Board of Elementary and Secondary Education (SBESE). A Pupil Progression Plan shall require the student's proficiency on certain test as determined by SBESE before he or she can be recommended for promotion."

Regular Placement—the assignment of students to classes, grades, or programs based on a set of criteria established in the Pupil Progression Plan. Placement includes promotion, retention, remediation, and acceleration.

Remedial Programs—programs designed to assist students including identified exceptional and Non/Limited English Proficient (LEP) students, to overcome educational deficits identified through the Louisiana Education Assessment Program and other local criteria.

Remediation—see Remedial Programs.

Retention—nonpromotion of a pupil from a lower to a higher grade.

2. Local Terms

a. The definition of *terms* used in a local school system plan must be clearly defined for use as the basis for interpretation of the components of the plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

Interested persons may submit written comments until 4:30 p.m., September 10, 1999 to Jeannie Stokes, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 1566—Guidelines for Pupil Progression

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Cost associated with the first year implementation of the High Stakes Testing Policy and associated summer school program are approximately \$13.16 million; approximately \$7.36 million provided by the state and approximately \$5.8 million provided by local education agencies.

It is anticipated that the cost of a summer school program will be shared 50/50 by state and local school systems. The state is projected to provide approximately \$7.36 million during the 1999-2000 year for summer school (approximately \$5.8 million) and early intervention and remediation pilots (\$1.6 million). Projections indicate that this amount of funding would provide for 67,056 instruction units of math and/or language arts, at approximately \$87.50 per unit. For a student

taking both subjects, this would account for 50 percent of the \$350 summer school program (covering 4 weeks of a 5 week summer school).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Benefits to schools and students include better accountability and increased student achievement.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no impact on competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
9907#034

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Medical Examiners

Respiratory Therapists—Licensing and Practice
(LAC 46:XLV.2501-2569, 5501-5519)

Notice is hereby given, in accordance with R.S. 49:953, that the Louisiana State Board of Medical Examiners (Board), pursuant to the authority vested in the Board by the Louisiana Respiratory Therapy Practice Act, R.S. 37:3351-3361, and particularly 37:3355(3), the Louisiana Medical Practice Act, 37:1270(B)(6), and the provisions of the Louisiana Administrative Procedure Act, intends to amend its rules governing the licensure of respiratory therapists, LAC 46:XLV, Chapter 25, §§2501-2569, and Chapter 55, §§5501-5519, to conform such rules to the definitional and credentialing changes implemented by the national certifying board for respiratory therapists, the National Board for Respiratory Care, Inc., and to provide for other substantive modifications and technical corrections. The proposed rule amendments are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 1. General

Chapter 25. Respiratory Therapists

Subchapter A. General Provisions

§2501. Scope of Chapter

The rules of this chapter govern the licensing of certified and registered respiratory therapists in the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§2503. Definitions

A. As used in this chapter, unless the context clearly states otherwise, the following terms and phrases shall have the meanings specified:

Applicant—a person who has applied to the board for licensure as a licensed registered respiratory therapist or a licensed certified respiratory therapist.

Board—the Louisiana State Board of Medical Examiners.

Certified Respiratory Therapist—also known as Certified Respiratory Therapy Technician, prior to July 1, 1999, means one who has successfully completed the entry level examination or its successor administered by the National Board for Respiratory Care.

Chest Physiotherapy (CPT)—chest percussion, postural drainage, chest clapping, chest vibrations, bronchopulmonary hygiene and cupping, positive expiratory therapy (PEP), deep breathing/cough exercise, and inspiratory muscle training.

Good Moral Character—as applied to an applicant, means that an applicant has not, prior to or during the pendency of an application to the board, been guilty of any act, omission, condition or circumstance which would provide legal cause under R.S. 37:3358 for the denial, suspension or revocation of respiratory care licensure; the applicant has not, prior to or in connection with his application, made any representation to the board, knowingly or unknowingly, which is in fact false or misleading as to material fact or omits to state any fact or matter that is material to the application; and the applicant has not made any representation or failed to make a representation or engaged in any act or omission which is false, deceptive, fraudulent or misleading in achieving or obtaining any of the qualifications for a license required by this chapter.

Licensed Respiratory Therapist—a person who is licensed by the board and has the lawful authority to engage in the practice of respiratory care in the state of Louisiana, only under the qualified medical direction and supervision of a licensed physician, as evidenced by certificate duly issued by and under the official seal of the board. The term *licensed respiratory therapist* shall signify both certified respiratory therapist and registered respiratory therapist.

Medical Gases—gases commonly used in a respiratory care department in the calibration of respiratory care equipment (nitrogen, oxygen, compressed air and carbon dioxide), in the diagnostic evaluation of diseases (carbon monoxide, nitrogen, carbon dioxide, helium and oxygen) and in the therapeutic management of diseases (nitrogen, carbon dioxide, helium, oxygen and compressed air).

National Board for Respiratory Care—the official credentialing board of the profession, or its successor.

Nontraditional Respiratory Care Education Program—a program of studies primarily through correspondence with tutorial assistance and with a clinical component comparable to a traditional program.

Physician—a person who is currently licensed by the board to practice medicine in the state of Louisiana.

Registered Respiratory Therapist—one who has successfully completed the Advanced Practitioner Examination or its successor administered by the National Board for Respiratory Care.

Respiratory Care—the allied health specialty practiced under the direction, supervision and approval of a licensed physician involving the treatment, testing, monitoring, and care of persons with deficiencies and abnormalities of the cardiopulmonary system. Such therapy includes, but is not limited to, the following activities conducted upon written prescription or verbal order of a physician and under his supervision:

- a. application and monitoring of oxygen, ventilatory therapy, bronchial hygiene therapy, cardiopulmonary rehabilitation, and resuscitation;
- b. insertion and care of airways as ordered by a physician;
- c. institution of any type of physiologic monitoring applicable to respiratory care;
- d. administration of drugs and medications commonly used in respiratory care that have been prescribed by a physician to be administered by qualified respiratory care personnel;
- e. initiation of treatment changes and testing techniques required for the implementation of respiratory care protocols as directed by a physician;
- f. administration of medical gases and environmental control systems and their apparatus;
- g. administration of humidity and aerosol therapy;
- h. application of chest physiotherapy;
- i. the institution of known and physician-approved patient driven protocols relating to respiratory care under physician approval in emergency situations in the absence of immediate direction by a physician;
- j. application of specific procedures and diagnostic testing as ordered by the physician to assist in diagnosis, monitoring, treatment, and research, including those procedures required and directed by the physician for the drawing of blood samples to determine acid-base status and blood gas values, the collection of sputum for analysis of body fluids, and the measurement of cardiopulmonary functions as commonly performed in respiratory therapy, and the starting of intravenous lines for the purpose of administering fluids as pertinent to the practice of respiratory care under the supervision of a licensed physician.
- k. supervision of other respiratory therapy personnel; and
- l. transcription and implementation of the written and verbal orders of a physician.

Respiratory Therapy Practice Act or the Act—Acts 1985, Number 408, as amended, R.S. 37:3351-3361;

United States Government—any department, agency or bureau of the United States Armed Forces or Veterans Administration.

B. Respiratory care shall also include teaching patient and family respiratory care procedures as part of a patient's ongoing program and consultation services or for health, educational, and community agencies under the order of a licensed physician.

C. Masculine terms wherever used in this chapter shall also be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6). R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health

and Hospitals, Board of Medical Examiners, LR 19:744 (June 1993), LR 25:

Subchapter B. Requirements and Qualifications for Licensure

§2505. Scope of Subchapter

The rules of this subchapter govern and prescribe the requirements, qualifications and conditions requisite to eligibility for licensure as a licensed respiratory therapist in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§2507. Requirements for Licensure of Registered Respiratory Therapist

A. To be eligible and qualified to obtain a registered respiratory therapist license, an applicant shall:

1. be at least 18 years of age;
2. be of good moral character;
3. be a high school graduate or have the equivalent of a high school diploma;
4. possess current credentials as a registered respiratory therapist granted by the National Board of Respiratory Care, or its successor organization or equivalent approved by the board, on the basis of written examination;
5. be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the Commissioner of Immigration and Naturalization Service of the United States under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the commissioner's regulations thereunder (8 C.F.R.);
6. satisfy the applicable fees as prescribed by Chapter 1 of these rules;
7. satisfy the procedures and requirements for application provided by §§2515 to 2519 of this chapter; and
8. not be otherwise disqualified for licensure by virtue of the existence of any grounds for denial of licensure as provided by the law or in these rules.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for licensure shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualification in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended LR 14:87 (February 1988), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 15:271 (April 1989), LR 17:479 (May 1991), LR 25:

§2509. Requirements for Licensure of Certified Respiratory Therapists

A. To be eligible and qualified to obtain a certified respiratory therapist license, an applicant shall:

1. be at least 18 years of age;
2. be of good moral character;
3. be a high school graduate or have the equivalent of a high school diploma;
4. have successfully completed:

a. a traditional respiratory care education program then accredited by the Commission on Accreditation of Allied Health Education Programs, or its successor, in collaboration with the Committee on Accreditation for Respiratory Care; or

b. a nontraditional respiratory care education program then accredited by the Commission on Accreditation of Allied Health Education Programs, or its successor, in collaboration with the Committee on Accreditation for Respiratory Care which was conducted in accordance with the provisions of §2510 of this chapter;

5. possess at least one of the following credentials:

a. current credentials as a certified respiratory therapist granted by the National Board for Respiratory Care, or its successor organization or equivalent approved by the board, on the basis of written examination; or

b. have taken and successfully passed the examination administered by the board as further detailed in §§2521 to 2537 of this chapter; provided, however, that an applicant who has failed such examination four times shall not thereafter be eligible for licensure in Louisiana; or

c. a temporary license in accordance with the provisions of §2547 of these rules and who has taken and passed the licensing examination administered by the board; provided, however, that an applicant who has failed such examination four times shall not thereafter be eligible for licensure in Louisiana;

6. be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the Commissioner of Immigration and Naturalization Service of the United States under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the Commissioner's regulations thereunder (8 C.F.R.);

7. satisfy the applicable fees as prescribed by Chapter 1 of these rules;

8. satisfy the procedures and requirements for application provided by §§2515 to 2519 of this Chapter and, if applicable, the procedures and requirements for examination provided by §2521 to §2537 of this chapter; and

9. not be otherwise disqualified for licensure by virtue of the existence of any grounds for denial of licensure as provided by the law or in these rules.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for licensure shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualification in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended LR 14:87 (February 1988), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 15:271 (April 1989), LR 17:479 (May 1991), LR 19:755 (June 1993), LR 25:

§2510. Conduct of Nontraditional Training Programs

A. To qualify an applicant for licensure as a certified respiratory therapist pursuant to §2509.A.4.b, a nontraditional respiratory care education program must be conducted in accordance with the following standards.

1. A certified respiratory therapist student participating in such a program must be concurrently enrolled in a respiratory care education program of a school or college accredited by the Commission on Accreditation of Allied Health Education Programs, or its successor, in collaboration with the Committee on Accreditation for Respiratory Care.

2. The hospital furnishing tutorial assistance, testing, clinical training and similar services for the benefit of the student must:

a. have a written affiliation agreement with the accredited program;

b. designate a training coordinator who shall have had prior experience in a formal respiratory care educational environment with at least five years clinical experience in respiratory care and who shall be a licensed respiratory therapist or a physician who actively practices respiratory care;

c. provide for tutorial assistance and supervision of the student's clinical activities to be provided by a licensed respiratory therapist or a physician who actively practices respiratory care; and

d. be able to provide students with an opportunity to observe and participate in respiratory care procedures adequate in number and type to support the clinical training of entry level therapists relative to the number of students admitted to and participating in such training.

3. A student providing respiratory care to patients as permitted by R.S. 37:3361(3) in the course of a student's clinical training shall be supervised in accordance with the provisions of §5515 of these rules and shall be identified to patients and licensed practitioners by title or otherwise which clearly designates the student's status as a student or trainee.

B. A nontraditional respiratory care education program which does not conform to and apply the standards prescribed in §2510.A shall not be considered by the board to qualify as an applicant for licensure under §2509.A.4.b.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:746 (June 1993), amended LR 25:

§2511. Licensure by Reciprocity

A. A person who possesses and meets all of the qualifications and requirements for licensure specified in §2507 of this chapter, save for possessing current credentials as a registered respiratory therapist as prescribed in §2507.A.4, shall nonetheless be deemed qualified for licensure, as a registered respiratory therapist, provided that such person presents proof of current licensure as a registered respiratory therapist in another state, the District of Columbia, a territory of the United States, or another country which requires standards for licensure considered by the board to exceed or to be equivalent to the requirements for licensure under this chapter, provided such state, district, territory, or country accord similar privileges of licensure to persons who have been granted their licenses under the provisions of this chapter.

B. A person who possesses and meets all of the qualifications and requirements for licensure specified by

§2509, save for successfully passing the licensure examination administered by the board or save for possessing current credentials as a certified respiratory therapist as prescribed in §2509.A.4.a, shall nonetheless be deemed qualified for licensure as a certified respiratory therapist provided that such person presents proof of current licensure as a certified respiratory therapist in another state, the District of Columbia, a territory of the United States, or another country which requires standards for licensure considered by the board to exceed or to be equivalent to the requirements for licensure under this chapter, provided such state, district, territory, or country accord similar privileges of licensure to persons who have been granted their licenses under the provisions of this chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§2513. Temporary License

The board may issue a temporary license as a licensed respiratory therapist to an applicant who possesses and meets all of the qualifications and requirements specified in §2547.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

Subchapter C. Application

§2515. Purpose and Scope

The rules of this subchapter govern the procedures and requirements applicable to application to the board for licensure of a licensed respiratory therapist in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended, Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§2517. Application Procedure

A. Application for licensure shall be made upon forms prescribed and supplied by the board.

B. If application is made for licensure of a certified respiratory therapist on the basis of examination to be administered by the board, an initial application must be received by the board not less than 90 days prior to the scheduled date of the examination for which the applicant desires to sit (see Subchapter D of this Chapter respecting dates and places of examination). A completed application must be received by the board not less than 60 days prior to the scheduled date of such examination.

C. Application for licensure as a certified respiratory therapist based upon qualifications not requiring written examination administered by the board, or an application for licensure as a registered respiratory therapist may be made at any time.

D. Application forms and instructions pertaining thereto may be obtained upon personal request at or written request directed to the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA

70130. Application forms will be mailed by the board within 30 days of the board's receipt of a request therefor. To ensure timely filing and completion of applications, forms must be requested not later than 40 days prior to the deadlines for initial applications specified in §2517.B.

E. An application for licensure under this Chapter shall include:

1. proof, documented in a form satisfactory to the board, that the applicant possesses the qualifications for licensure set forth in this chapter;

2. one recent photograph of the applicant; and

3. such other information and documentation as is referred to or specified in this chapter or as the board may require to evidence qualification for licensure.

F. An application for licensure of a certified respiratory therapist on the basis of examination shall include all documents prescribed by the National Board for the Respiratory Care entry level examination and any other information and documentation deemed necessary by the board.

G. All documents required to be submitted to the board must be the original thereof. For good cause shown, the board may waive or modify this requirement.

H. The board may refuse to consider any application which is not complete in every detail, including submission of every document required by the application form. The board may, at its discretion, require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

I. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these rules as established by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§2519. Effect of Application

A. The submission of an application for licensure to the board shall constitute and operate as an authorization by the applicant to each educational institution at which the applicant has matriculated, each governmental agency to which the applicant has applied for any license, permit, certificate or registration, each person, firm, corporation, organization or association by whom or with whom the applicant has been employed as a registered respiratory therapist or certified respiratory therapist, each physician whom the applicant has consulted or seen for diagnosis or treatment, and each professional or trade organization to which the applicant has applied for membership, to disclose and release to the board any and all information and documentation concerning the applicant which the board deems material to consideration of the application. With respect to any such information or documentation, the submission of an application for licensure to the board shall equally constitute and operate as a consent by the applicant to disclosure and release of such information and documentation as a waiver by the applicant of any privileges or right of confidentiality which the applicant would otherwise possess with respect thereto.

B. By submission of an application for licensure to the board, an applicant shall be deemed to have given his consent to submit to physical or mental examinations if, when, and in the manner so directed by the board if the board has reasonable grounds to believe that the applicant's capacity to act as a registered respiratory therapist or certified respiratory therapist with reasonable skill or safety may be compromised by physical or mental condition, disease or infirmity, and the applicant shall be deemed to have waived all objections as to the admissibility or disclosure of findings, reports or recommendations pertaining thereto on the grounds of privileges provided by law.

C. The submission of an application for licensure to the board shall constitute and operate as an authorization and consent by the applicant to the board to disclose any information or documentation set forth in or submitted with the applicant's application or obtained by the board from other persons, firms, corporations, associations or governmental entities pursuant to this section, to any person, firm, corporation, association or governmental entity having a lawful, legitimate and reasonable need therefor, including, without limitation, the respiratory care licensing authority of any state, the National Board for Respiratory Care, the Louisiana Department of Health and Hospitals, state, county or parish and municipal health and law enforcement agencies and the armed services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

Subchapter D. Examination

§2521. Purpose and Scope

The rules of this subchapter govern the procedures and requirements applicable to the examination as administered by the board for the licensure of certified respiratory therapists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§2523. Designation of Examination

The examination administered and accepted by the board pursuant to R.S. 37:3354 is the National Board for Respiratory Care entry level examination or its successor, developed by the National Board for Respiratory Care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§2525. Eligibility for Examination

To be eligible for examination by the board, an applicant shall possess all qualifications for licensure as a certified respiratory therapist prescribed by this chapter save for having successfully completed the examination; provided, however, that an applicant who has completed, or prior to the next scheduled examination will complete the traditional respiratory care program required by §2509.A.4 of this

chapter, but who does not yet possess evidence of such completion shall be deemed eligible for examination upon submission to the board of a letter subscribed by the director of the approved program certifying that the applicant has completed the applicable program or will have completed such program prior to the board's next scheduled examination and specifying the date on which such curriculum will be completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§2527. Dates, Places of Examination

The board's licensure examination is administered at least annually by the National Board for Respiratory Care in the city of New Orleans. The applicants shall be advised of the specific date, time and location of the next scheduled examination upon application to the board and may obtain such information upon inquiry to the office of the Louisiana State Board of Medical Examiners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§2529. Administration of Examination

A. The board's licensure examination is administered by a chief proctor, appointed by the board, and one or more assistant proctors. The chief proctor is authorized and directed by the board to obtain positive photographic identification from all applicants appearing and properly registered for the examination, to establish and require examinees to observe an appropriate seating arrangement, to provide appropriate instructions for taking the examination, to fix and signal the time for beginning and ending the examination or the section thereof, to prescribe such additional rules and requirements as are necessary or appropriate to the taking of the examination in the interest of the examinees or the examination process, and to take all necessary and appropriate actions to secure the integrity of the examination and the examination process, including, without limitation, excusing an applicant for the examination or changing an applicant's seating location at any time during the examination.

B. An applicant who appears for examination shall:

1. present to the chief proctor or his designated assistant proctor proof of registration for the examination and positive personal photographic identification in the form prescribed by the board; and

2. fully and promptly comply with any and all rules, procedures, instructions, directions or requests made or prescribed by the chief proctor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), repromulgated by Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§2531. Subversion of Examination Process

A. An applicant-examinee who engages or attempts to engage in conduct which subverts or undermines the

integrity of the examination process shall be subject to the sanctions specified in §2535 of this chapter.

B. Conduct which subverts or undermines the integrity of the examination process shall be deemed to include:

1. refusing or failing to fully and promptly comply with any rules, procedures, instructions, directions or requests made by the chief proctor or an assistant proctor.
2. removing from the examination room or rooms any of the examination materials;
3. reproducing or reconstructing, by copying, duplication, written notes or electronic recording, any portion of the licensure examination;
4. selling, distributing, buying, receiving, obtaining or having unauthorized possession of a future, current, or previously administered licensure examination;
5. communicating in any manner with any other examinee or any other person during the administration of the examination;
6. copying answers from another examinee or permitting one's answers to be copied by another examinee during the administration of the examination;
7. having in one's possession during the administration of the examination any materials or objects other than the examination materials distributed, including, without limitation, any books, notes, recording devices, or other written, printed or recorded materials or data of any kind;
8. impersonating an examinee by appearing for and as an applicant and taking the examination for, as and in the name of an applicant other than himself;
9. permitting another person to appear for and take the examination on one's behalf and in one's name; or
10. engaging in any conduct which disrupts the examination or the taking thereof by other examinees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), repromulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§2533. Finding of Subversion

A. When, during the administration of examination, the chief proctor or any assistant proctor has reasonable cause to believe that an applicant-examinee is engaging or attempting to engage, or has engaged or attempted to engage, in conduct which subverts or undermines the integrity of the examination process, the chief proctor shall take such action as he deems necessary or appropriate to terminate such conduct and shall report such conduct in writing to the board.

B. In the event of suspected conduct described in 2531.B.5 or 6, the subject applicant-examinee shall be permitted to complete the examination, but shall be removed at the earliest practical opportunity to a location precluding such conduct.

C. When the board, upon information provided by the chief proctor, an assistant proctor, an applicant-examinee or any other person, has probable cause to believe that an applicant has engaged or attempted to engage in conduct which subverts or undermines the integrity of the examination process, the board shall so advise the applicant in writing, setting forth the grounds for its finding of probable cause, specifying the sanctions which are mandated

or permitted for such conduct by §2535 of this subchapter and provide the applicant with an opportunity for hearing pursuant to R.S. 49:9955-58 and applicable rules of the board governing administrative hearings. Unless waived by the applicant, the board's findings of fact, conclusions of law under these rules, and its decision as to the sanctions, if any, to be imposed shall be made in writing and served upon the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), repromulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§2535. Sanctions for Subversion of Examination

A. An applicant who is found by the board, prior to the administration of the examination, to have engaged in conduct or to have attempted to engage in conduct which subverts or undermines the integrity of the examination process shall be permanently disqualified from taking the examination and from licensure in the state of Louisiana.

B. An applicant-examinee who is found by the board to have engaged or to have attempted to engage in conduct which subverts or undermines the integrity of the examination process shall be deemed to have failed the examination. Such failure shall be recorded in the official records of the board with reasons given for such failure.

C. In addition to the sanctions permitted or mandated by §2535.A and B, as to an applicant-examinee found by the board during the examination to have engaged or to have attempted to engage in conduct which subverts or undermines the integrity of the examination process, the board may:

1. revoke licensure issued to such applicant;
2. disqualify the applicant, permanently or for a specified period of time, from eligibility for licensure in the state of Louisiana; or
3. disqualify the applicant, permanently or for a specified number of subsequent administrations of the examination, from eligibility for examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), repromulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§2536. Restrictions, Limitation on Examination

With respect to any written examination administered by the board the successful passage of which is a condition to any license or permit issued under this chapter, an applicant having failed to obtain a passing score upon taking any such examination four times shall not thereafter be considered eligible for licensing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended LR 14:87 (February 1988), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:479 (May 1991), LR 25:

§2537. Passing Score, Reporting of Examination Scores

An applicant will be deemed to have successfully passed the examination if he attains a score equivalent to that required by the National Board for Respiratory Care as a

passing score; provided, however, that with respect to any given administration of the examination, the board may determine to accept a lower or higher score as passing. Applicants for licensure shall be required to authorize the National Board for Respiratory Care to release their test scores to the board each time the applicant-examinee attempts the examination according to the procedures for such notification established by the National Board for Respiratory Care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§2539. Lost, Stolen or Destroyed Examinations

The submission of an application for examination by the board shall constitute and operate as an acknowledgment and agreement by the applicant that the liability of the board, its members, committees, employees and agents, and the state of Louisiana to the applicant for the loss, theft or destruction of all or any portion of an examination taken by the applicant, prior to the reporting of scores, thereon by the board or the National Board for Respiratory Care, shall be limited exclusively to the refund of the fees paid for examination by the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), repromulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

Subchapter E. Licensure Issuance, Termination, Renewal, Temporary Issuance and Reinstatement

§2540. Issuance of License

A. If the qualifications, requirements and procedures prescribed or incorporated by §§2507, 2509 or 2511 are met to the satisfaction of the board, the board shall issue to the applicant a license evidencing the applicant's licensure as a registered respiratory therapist or a certified respiratory therapist in the state of Louisiana.

B. A license issued by the board on the basis of examination by the board shall be issued by the board within 30 days following the reporting of the applicant's license examination scores to the board. A license issued to an applicant not required to be examined by the board shall be issued by the board within 15 days following the meeting of the board next following the date on which the applicant's application, evidencing all requisite qualifications, is completed in every respect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§2541. Expiration of License

A. Every license issued by the board under this chapter to be effective on or after January 1, 1999, and each year thereafter, shall expire, and thereby become null, void and to no effect the following year on the first day of the month in which the licensee was born.

B. The timely submission of an application for renewal of a license as provided by §2543 hereof shall operate to continue the expiring license in force and effect pending the

board's issuance, or denial of issuance, of the renewal license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1218 (December 1996), LR 24:1502 (August 1998), LR 25:

§2543. Renewal of License

A. Every license issued by the board under this subchapter shall be renewed annually on or before the date of its expiration by submitting to the board an application or renewal, upon forms supplied by the board, together with the applicable renewal fee prescribed in Chapter 1 of these rules and documentation of satisfaction of the continuing professional education requirements prescribed by subchapter G of these rules.

B. Every license issued by the board under this chapter to be effective on or after January 1, 1999, shall be renewed in the year 2000, and each year thereafter, on or before the first day of the month in which the licensee was born. Renewal fees shall be prorated for the transition to birth month licensure. An application for renewal of license shall be mailed by the board to each person holding a license issued under this chapter at least 30 days prior to the expiration of the license each year. Such form shall be mailed to the most recent address of each licensed respiratory therapist as reflected in the official records of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1218 (December 1996), LR 24:1502 (August 1998), LR 25:

§2545. Reinstatement of License

A. A license which has expired without renewal may be reinstated by the board if application for reinstatement is made not more than two years from the date of expiration and subject to the conditions and procedures hereinafter provided.

B. An application for reinstatement shall be made upon forms supplied by the board and accompanied by two letters of recommendation, one from a reputable licensed physician and one from a reputable licensed respiratory therapist with whom the applicant has been associated in the applicant's most recent place of employment, together with the applicable renewal fee, plus a penalty equal to twice the renewal fee.

C. With respect to an application for reinstatement made more than one year after the date on which the license expired, as a condition of reinstatement, the board may require that the applicant complete a statistical affidavit upon a form provided by the board, provide the board with a recent photograph, and/or possess a current, unrestricted license issued by another state, evidencing satisfaction of the requirements of Chapter 25, Subchapter G with respect to continuing professional education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR

12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1218 (December 1996), LR 25:

§2547. Temporary License

A. The board may issue a 12-month temporary license as a registered respiratory therapist or a certified respiratory therapist under the following terms and conditions.

1. To be eligible for a 12 month temporary license as a registered respiratory therapist or a certified respiratory therapist, an applicant shall:

a. be qualified for licensure under §2507.A or §2509.A, save for having taken and passed a required licensing examination;

b. have successfully completed a respiratory care educational program accredited by the Commission on Accreditation of Allied Health Education Programs or its successor, in collaboration with the Committee on Accreditation for Respiratory Care;

c. have taken, or made application to take, the required written examination and be awaiting the administration and/or reporting of scores thereon; and

d. have applied within one year of the applicant's date of graduation from an accredited respiratory care education program. Exceptions to §2547.A.1.d, may be made at the discretion of the board with the advice of the Advisory Committee, provided that such request is submitted within the initial one year period from the date of graduation.

2. A temporary license issued under this subsection shall be effective for 12 months and shall, in any event, expire and become null and void on the earlier of:

a. the date on which the board takes action on the application following notice of the applicant's scores on the licensing examination; or

b. the first date of the examination if the applicant fails to appear for or complete the examination.

3. A temporary license may be extended only once, for a 6 month period, provided the applicant submits a written request for extension to the board. All such requests for a 6 month extension will be referred to the Advisory Committee for review and recommendation to the board. The Advisory Committee or the board may require additional documents from the licensee, such as:

a. licensing examination results for all attempts;

b. evidence of having attended entry level examination review courses; or

c. proof of extenuating circumstances preventing the licensee from attempting the licensing examination.

4. A temporary license so renewed under this subsection shall be effective for not more than 6 months and shall, in any event, expire and become null and void on the earlier of:

a. the date on which the board takes action on the application following notice of the applicant's scores on the licensing examination; or

b. the first date of the examination if the applicant fails to appear for or complete the examination.

B. The board may grant a permit to practice, effective for a period of 60 days, to an applicant who has made application to the board for a license as a registered respiratory therapist, who provides satisfactory evidence of registration by the National Board for Respiratory Care

pursuant to written examination administered by the NBRC, and who is not otherwise demonstrably ineligible for licensure under §2507 of these rules. A permit issued under this subsection may not be extended or renewed beyond its initial term.

C. The board may grant a permit to practice, effective for a period of 60 days, to an applicant who has made application to the board for a license as a certified respiratory therapist, who provides satisfactory evidence of having successfully completed a respiratory care educational program approved by the Committee on Accreditation for Respiratory Care or its successor organization, and who is not otherwise demonstrably ineligible for licensure under §2509 of these rules. A permit issued under this Subsection may not be extended or renewed beyond its initial term.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 15:271 (April 1989), LR 17:480 (May 1991), LR 19:746 (June 1993), LR 25:

Subchapter F. Advisory Committee on Respiratory Care

§2549. Organization; Authority and Responsibilities

A. The Advisory Committee on Respiratory Care (the "committee"), as established, appointed and organized pursuant to R.S. 37:3356 of the Act is hereby recognized by the board.

B. The committee shall:

1. have such authority as is accorded it by the Act;

2. function and meet as prescribed by the Act;

3. serve as a clearinghouse for nontraditional respiratory care education and training programs conducted in the state of Louisiana;

4. advise the board on issues affecting the licensing of registered and certified respiratory therapists—and on the regulation of respiratory care in the state of Louisiana;

5. perform such other functions and provide such additional advice and recommendations as may be requested by the board;

6. provide advice and recommendations to the board respecting the modification, amendment and supplementation of rules and regulations, standards, policies and procedures respecting respiratory care licensure and practice;

7. serve as liaison between and among the board, licensed respiratory therapists, and professional organizations; and

8. have authority to review and advise the board on requests for extension of temporary licenses and license reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:747 (June 1993), amended LR 25:

§2551. Delegation of Authority

A. Authority is hereby delegated to the Advisory Committee on Respiratory Care to:

1. survey, by site visit or otherwise, each hospital or other institution located in this state which is affiliated with and at which is conducted a nontraditional respiratory care

education and training program for the purpose of reporting to the board as provided by §2351.B;

2. assist the board in the review of applicant's satisfaction of continuing education requirements for renewal of licensure under this chapter as provided in §2551.D.

B. The committee shall annually report to the board, in writing, on each such nontraditional respiratory care education and training program conducted in this state and, with respect to each such program, advise the board with respect to:

1. such program's compliance with the provisions of these rules relating to the conduct of such programs;

2. the number of students enrolled and participating in such program during the preceding year;

3. the number of graduates of such program having taken the National Board of Respiratory Care entry-level examination and the number of such graduates having successfully passed such examination; and

4. any recommendations the committee may have with respect to the future conduct of such program and regulation of the same by the board.

C. In discharging the responsibilities provided for by this section, the committee shall have authority to:

1. periodically request and obtain necessary and appropriate information from hospitals or other institutions located in this state which are affiliated with and at which are conducted a nontraditional respiratory care education and training programs, from the coordinators of such program, and from students enrolled in such programs; and

2. periodically conduct visits of the hospitals or other institutions at which such programs are conducted in this state.

D. To carry out its duties of §2551.A.2, the Advisory Committee is authorized by the board to advise and assist the board in the review and approval of continuing professional education programs and licensee satisfaction of continuing professional education requirements for renewal of licensure, as prescribed by Chapter 25, Subchapter G, including the authority and responsibility to:

1. evaluate organizations and entities providing or offering to provide continuing professional education programs for all licensed respiratory therapists and provide recommendations to the board with respect to the board's recognition and approval of such organizations and entities as sponsors of qualifying continuing professional education programs and activities pursuant to §2559 of these rules; and

2. review documentation of continuing professional education by licensed respiratory therapists, verify the accuracy of such documentation, and evaluation of and make recommendations to the board with respect to whether programs and activities evidenced by applicants for renewal of licensure comply with and satisfy the standards for such programs and activities prescribed by these rules; and

3. request and obtain from applicants for renewal of licensure such additional information as the Advisory Committee may deem necessary or appropriate to enable it to make the evaluations and provide the recommendations for which the committee is responsible.

E. In discharging the functions authorized under this section the Advisory Committee and the individual members thereof shall, when acting within the scope of such authority,

be deemed agents of the board. All information obtained by the Advisory Committee members pursuant to §§2551.A.2 and D shall be considered confidential. Advisory Committee members are prohibited from communicating, disclosing or in any way releasing to anyone, other than the board, any information or documents obtained when acting as agents of the board without first obtaining written authorization from the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3351-3361, R.S. 37:1270(B)(6) and R.S. 37:3357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:747 (June 1993), amended LR 22:1219 (December 1996), LR 25:

Subchapter G. Continuing Professional Education §2553. Scope of Subchapter

The rules of this subchapter provide standards for the continuing professional education requisite to the annual renewal of licensure as a licensed respiratory therapist, as required by §2543 and §2555 of these rules, and prescribe the procedures applicable to satisfaction and documentation of continuing professional education in connection with application for renewal of licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1219 (December 1996), amended LR 25:

§2555. Continuing Professional Educational Requirement

A. Subject to the exceptions specified in §2569 of this subchapter, to be eligible for renewal of licensure for 1998 and thereafter, a registered respiratory therapist or certified respiratory therapists shall, within each year during which he holds licensure, evidence and document, upon forms supplied by the board, successful completion of not less than 10 hours, or 1.0 continuing education unit (CEU) of continuing education courses sanctioned by the American Association of Respiratory Care, the Respiratory Care Advisory Committee to the board, or their successors.

B. One Continuing Education Unit (CEU) constitutes and is equivalent to 10 hours of participation in organized continuing professional education programs approved by the board and meeting the standards prescribed in this subchapter. One hour of continuing education credit is equivalent to 50 minutes of instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1219 (December 1996), amended LR 25:

§2557. Qualifying Continuing Professional Education Programs

A. To be acceptable as qualifying continuing professional education under these rules, a program shall:

1. have significant and substantial intellectual or practical content dealing principally with matters germane and relevant to the practice of respiratory care;

2. have pre-established written goals and objectives, with its primary objective being to maintain or increase the participant's competence in the practice of respiratory care;

3. be presented by persons whose knowledge and/or professional experience is appropriate and sufficient to the subject matter of the presentation and is up to date;

4. provide a system or method for verification of attendance or course completion; and

5. be a minimum of 50 continuous minutes in length.

B. Other approved continuing education activities include:

1. earning a grade of "C" or better in a college or university course required to earn a degree in cardiopulmonary science or respiratory care, or grade of "pass" in a pass/fail course. One credited semester hour will be deemed to equal 15 contact hours or 1.5 CEUs;

2. programs on advanced Cardiac Life Support (ACLS), Pediatric Advanced Life Support (PALS) or Neonatal Advanced Life Support (NALS), or their successors each of which will equal 10 contact hours;

3. successfully completing a recertifying examination for the highest credential held by the registered respiratory therapist or the certified respiratory therapist including certified respiratory therapist (CRT), registered respiratory therapist (RRT), certified pulmonary function technologist (CPFT), registered pulmonary function technologist (RPFT), registered cardiovascular technologist (RCVT), and certified cardiovascular technologist (CCVT), with each such recertifying examination equal to 10 contact hours;

4. initial certification as a CPFT, RPFT Perinatal/Pedi Specialist, RCVT or CCVT and each such certification will equal 10 hours;

5. any accredited home study/correspondence program approved by the American Association for Respiratory Care (AARC) or the Respiratory Care Advisory Committee;

6. any initial instructor course taken in preparation for teaching ACLS, PALS, Basic Life Support (BLS) or NALS or their successors; and

7. successful completion by a certified respiratory therapist of the advanced practitioner examination (Registry examination).

C. None of the following programs, seminars or activities shall be deemed to qualify as acceptable CEU programs under these rules:

1. any program not meeting the standards prescribed by §2557.A;

2. independent/home study correspondence programs not approved or sponsored by the AARC or the Louisiana Respiratory Care Advisory Committee;

3. in-service education provided by a sales representative;

4. teaching, training or supervisory activities not specifically included in §2557.B;

5. holding office in professional or governmental organizations, agencies or committees;

6. participation in case conferences, informal presentations, or in service activities;

7. giving or authorizing verbal or written presentations, seminars or articles or grant applications;

8. passing basic cardiac life support (BCLS); and

9. any program, presentation, seminar, or course not providing the participant an opportunity to ask questions or seek clarification of matters pertaining to the presented content.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1220 (December 1996), amended LR 25:

§2559. Approval of Program Sponsors

A. Any program, course, seminar, workshop or other activity meeting the standards prescribed by §2557 shall be deemed approved for purposes of satisfying continuing education requirements under this subchapter, if sponsored or offered by the American Association for Respiratory Care (AARC), the Louisiana Hospital Association, the Louisiana Nurses Association, the American Lung Association, the American Heart Association, the American College of Chest Physicians, the American Thoracic Society, the American Nursing Association, the American Society of Cardiovascular Professionals, the American Medical Association, the American College of Cardiology, the Louisiana Association of Cardiovascular and Pulmonary Rehabilitation, the Louisiana State Medical Society, the American Board of Cardiovascular Perfusion, the American Nursing Credentialing Center, the Society for Diagnostic Medical Sonographers, any hospital or agency belonging to the Louisiana Hospital Association, any hospital or agency accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), and Cardiovascular Credentialing International.

B. Upon the recommendation of the Advisory Committee, the board may designate additional organizations and entities whose programs, courses, seminars, workshops, or other activities shall be deemed approved by the board for purposes of qualifying as an approved continuing professional education program under §2557.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1220 (December 1996), amended LR 25:

§2561. Approval of Program

A. A continuing professional education program or activity sponsored by an organization or entity not deemed approved by the board pursuant to §2559.A may be pre-approved by the board as a program qualifying and acceptable for satisfying continuing professional education requirements under this subchapter upon written request to the board therefore, upon a form supplied by the board, providing a complete description of the nature, location, date, content and purpose of such program and such other information as the board or Advisory Committee may request to establish the compliance of such program with the standards prescribed by §2557. Any such requests for pre-approval respecting a program which makes and collects a charge for attendance shall be accompanied by a nonrefundable processing fee of \$30.00.

B. Any such written request shall be referred by the board to the Advisory Committee for its recommendation. If the recommendation is against the approval, the board shall give notice of such recommendation to the person or organization requesting approval and such person or organization may appeal to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval of any such activity shall be final. Persons and organizations requesting pre-approval of continuing professional education programs

should allow not less than 60 days for such requests to be processed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1221 (December 1996), amended LR 25:

§2563. Documentation Procedure

A. A form for annual documentation and certification of satisfaction of the continuing professional education requirements prescribed by these rules shall be mailed by the board to each licensed respiratory therapist subject to such requirements with the application for renewal of licensure form mailed by the board pursuant to §2543 of these rules. Such form shall be completed and delivered to the board with the licensee's renewal application.

B. A licensed respiratory therapist shall maintain a record or certificate of attendance for at least four years from the date of completion of the continuing education program.

C. The board or Advisory Committee shall randomly select for audit no fewer than three percent of the licensees each year for an audit of continuing education activities. In addition, the board or Advisory Committee has the right to audit any questionable documentation of activities. Verification shall be submitted within 30 days of the notification of audit. A licensee's failure to notify the board of a change of mailing address will not absolve the licensee from the audit requirement.

D. Any certification of continuing professional education not presumptively approved by the board pursuant to these rules, or pre-approved by the board in writing, shall be referred to the Advisory Committee for its evaluation and recommendations pursuant to §2551.D.1.

E. If the Advisory Committee determines that a program or activity certified by an applicant for renewal in satisfaction of continuing education requirements does not qualify for recognition by the board or does not qualify for the number of CEU's claimed by the applicant, the board shall give notice of such determination to the applicant for renewal and the applicant may appeal the Advisory Committee's recommendation to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval and recognition of such program or activity shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1221 (December 1996), amended LR 25:

§2565. Failure to Satisfy Continuing Professional Education Requirements

A. An applicant for renewal of licensure who fails to evidence satisfaction of the continuing professional education requirements prescribed by these rules shall be given written notice of such failure by the board. The license of the applicant shall remain in full force and effect for a period of 90 days following the mailing of such notice, following which it shall be deemed expired, unrenewed and subject to revocation without further notice, unless the applicant shall have, within 90 days, furnished the board satisfactory evidence, by affidavit, that:

1. the applicant has satisfied the applicable continuing professional education requirements;

2. the applicant is exempt from such requirements pursuant to these rules; or

3. the applicant's failure to satisfy the continuing professional education requirements was occasioned by disability, illness or other good cause as may be determined by the board pursuant to §2567.

B. The license of a registered respiratory therapist or a certified respiratory therapist whose license has expired by nonrenewal or has been revoked for failure to satisfy the continuing professional education requirements of these rules may be reinstated by the board upon written application to the board accompanied by payment of a reinstatement fee, in addition to all other applicable fees and costs of \$50, together with documentation and certification that the applicant has, for each calendar year since the date on which the applicant's license lapsed, expired, or was revoked, completed an aggregate of 10 contact hours (1.0 CEU) of qualifying continuing professional education.

C. Any licensee who falsely certifies attendance and/or completion of the required continuing education requirement will be subject to disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1221 (December 1996), amended LR 24:1502 (August 1998), LR 25:

§2567. Waiver of Requirements

The board may, in its discretion upon the recommendation of the Advisory Committee, waive all or part of the continuing professional education required by these rules in favor of a certified respiratory therapist or a registered respiratory therapist who makes written requests for such waiver to the board and evidences to the satisfaction of the board a permanent physical disability, illness, financial hardship or other similar extenuating circumstances precluding the individual's satisfaction of continuing professional education requirements. Any licensed respiratory therapist submitting a CEU waiver request is required to do so on or before the date specified for the renewal of the licensee's license by §2543. Any request received by the Board past the date for the renewal of the licensee's licensure will not be considered for waiver but, rather, in accordance with the provisions of §2565.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1222 (December 1996), amended LR 25:

§2569. Exceptions to the Continuing Professional Education Requirements

The continuing professional education requirements prescribed by this subchapter as requisite to renewal of licensure shall not be applicable to:

1. a registered respiratory therapist or a certified respiratory therapist employed exclusively by, or at an institution operated by the United States Government; or

2. a registered respiratory therapist or a certified respiratory therapist who has held an initial Louisiana license on the basis of examination for less than one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1222 (December 1996), amended LR 25:

Chapter 55. Respiratory Therapists

Subchapter A. General Provisions

§5501. Scope of Chapter

The rules of this Chapter govern the practice of respiratory care in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§5503. General Definitions

A. As used in this Chapter, unless the context clearly states otherwise, the following terms and phrases shall have the meanings specified:

Applicant—a person who has applied to the board for licensure as a licensed registered respiratory therapist or a licensed certified respiratory therapist.

Board—the Louisiana State Board of Medical Examiners.

Certified Respiratory Therapist—also known as Certified Respiratory Therapy Technician, prior to July 1, 1999, means one who has successfully completed the entry level examination or its successor administered by the National Board for Respiratory Care.

Course of Study—an accredited, recognized or approved program which leads to a degree or certification of completion within four years, enabling a student to be eligible for registry or certification in respiratory care.

Good Moral Character—as applied to an applicant, means that an applicant has not, prior to or during the pendency of an application to the board, been guilty of any act, omission, condition or circumstance which would provide legal cause under R.S. 37:3358 for the denial, suspension or revocation of respiratory care licensure; the applicant has not, prior to or in connection with his application, made any representation to the board, knowingly or unknowingly, which is in fact false or misleading as to material fact or omits to state any fact or matter that is material to the application; and the applicant has not made any representation or failed to make a representation or engaged in any act or omission which is false, deceptive, fraudulent or misleading in achieving or obtaining any of the qualifications for a license required by Subpart 2 of these rules.

License—the lawful authority of a registered respiratory therapist or a certified respiratory therapist to engage in the health specialty of respiratory therapy in the state of Louisiana, as evidenced by a license duly issued by and under the official seal of the board.

Licensed Respiratory Therapist—a person who is licensed by the board and has the lawful authority to engage in the practice of respiratory care in the state of Louisiana, only under the qualified medical direction and supervision of a licensed physician, as evidenced by certificate duly issued by and under the official seal of the board. The term "licensed respiratory therapist" shall signify both certified respiratory therapist and registered respiratory therapist.

Medical Gases—gases commonly used in a respiratory care department in the calibration of respiratory care equipment (nitrogen, oxygen, compressed air and carbon dioxide), in the diagnostic evaluation of diseases (carbon monoxide, nitrogen, carbon dioxide, helium and oxygen)

and in the therapeutic management of diseases (nitrogen, carbon dioxide, helium, oxygen and compressed air).

National Board for Respiratory Care—the official credentialing board of the profession or its successor.

Physician—a person who is currently licensed by the board to practice medicine in the state of Louisiana.

Registered Respiratory Therapist—one who has successfully completed the Advanced Practitioner Examination or its successor administered by the National Board for Respiratory Care.

Respiratory Care—the allied health specialty practiced under the direction, supervision and approval of a licensed physician involving the treatment, testing, monitoring, and care of persons with deficiencies and abnormalities of the cardiopulmonary system. Such therapy includes, but is not limited to, the following activities conducted upon written prescription or verbal order of a physician and under his supervision:

a. application and monitoring of oxygen, ventilatory therapy, bronchial hygiene therapy, cardiopulmonary rehabilitation and resuscitation;

b. insertion and care of airways as ordered by a physician;

c. institution of any type of physiologic monitoring applicable to respiratory care.

d. administration of drugs and medications commonly used in respiratory care that have been prescribed by a physician to be administered by qualified respiratory care personnel;

e. initiation of treatment changes and testing techniques required for the implementation of respiratory care protocols as directed by a physician;

f. administration of medical gases and environmental control systems and their apparatus;

g. administration of humidity and aerosol therapy;

h. application of chest physiotherapy;

i. the institution of known and physician-approved patient driven protocols relating to respiratory care under physician approval in emergency situations in the absence of immediate direction by a physician;

j. application of specific procedures and diagnostic testing as ordered by the physician to assist in diagnosis, monitoring, treatment, and research, including those procedures required and directed by the physician for the drawing of blood samples to determine acid-base status and blood gas values, the collection of sputum for analysis of body fluids, the measurement of cardiopulmonary functions as commonly performed in respiratory therapy, and the starting of intravenous lines for the purpose of administering fluids as pertinent to the practice of respiratory care under the supervision of a licensed physician;

k. supervision of other respiratory therapy personnel; and

l. transcription and implementation of the written and verbal orders of a physician.

Respiratory Therapy Practice Act or the Act—Acts 1985, Number 408, as amended, R.S. 37:3351-3361;

United States Government—any department, agency or bureau of the United States Armed Forces or Veterans Administration.

B. Respiratory care shall also include teaching patient and family respiratory care procedures as part of a patient's

ongoing program and consultation services or for health, educational, and community agencies under the order of a licensed physician.

C. Masculine terms wherever used in this chapter shall also be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:747 (June 1993), LR 25:

Subchapter B. Unauthorized Practice, Exemptions, and Prohibitions

§5505. Unauthorized Practice

A. No person shall engage in the practice of respiratory care in the state of Louisiana unless he has in his possession a current license or temporary license duly issued by the board under Subpart 2 of these rules.

B. No person shall hold himself out to the public, an individual patient, a physician, dentist or podiatrist, or to any insurer or indemnity company or association or governmental authority as a registered respiratory therapist or certified respiratory therapist, nor shall he directly or indirectly identify or designate himself as a respiratory therapist or licensed respiratory therapist, nor use in connection with his name the letters "LRT" (Licensed Respiratory Therapist), "LCT" (Licensed Certified Therapist), or any other words, letters, abbreviations, insignia, or signs tending to indicate or imply that the person is a registered respiratory therapist or a certified respiratory therapist or that the services provided by such person constitute respiratory care, unless such person possesses a current license or temporary license duly issued by the board under Subpart 2 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:747 (June 1993), LR 25:

§5507. Exemptions

A. The prohibitions of §5505 of this Chapter shall not apply to a person employed exclusively by, or at an institution operated by the United States Government when acting within the course and scope of such employment.

B. The prohibitions of §5505 of this Chapter shall not apply to a person acting under and within the scope of a license issued by another licensing agency of the state of Louisiana.

C. The prohibitions of §5505 of this chapter shall not apply to a person pursuing a "course of study" leading to registry or certification in respiratory care at an institution whose program is accredited, recognized or approved by an agency recognized by the Commission on Accreditation of Allied Health Education Programs and approved by the Louisiana State Board of Medical Examiners and who is designated by a title which clearly indicates his status as a student.

D. The prohibitions of §5507 of this Chapter shall not apply to a person not licensed as a respiratory therapist or in accordance with the provisions of these rules but who may

be employed in a pulmonary laboratory or physician's office to administer treatment confined to that laboratory or office under the direction and immediate supervision of a licensed physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended, by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§5509. Prohibitions

A. A licensed respiratory therapist shall not:

1. undertake to perform or actually perform any activities as described in §5503, definition or "Respiratory care," except under the written prescription or verbal order of a physician and under his supervision;

2. administer any drugs or medications except as dispensed by a pharmacist and prescribed by a physician or dispensed by a physician; or

3. perform any surgical incisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

Subchapter C. Supervision of Students

§5511. Scope of Subchapter

The rules of this Subchapter prescribe certain restrictions on and requirements for supervision of students pursuing a "course of study" as that term is defined in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), repromulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§5515. Supervision of Student

A. A person pursuant to a "course of study" leading to registry or certification in respiratory care shall engage in the practice of respiratory care only under the supervision of a licensed respiratory therapist or a physician who actively practices respiratory care, as provided in this Section.

B. A licensed respiratory therapist or a physician who undertakes to supervise a student shall:

1. undertake to concurrently supervise not more than four students;

2. personally evaluate every patient prior to the provision of any respiratory care treatment or procedure by a student;

3. assign to a student only such respiratory care measures, treatments, procedures and functions as such licensed respiratory therapist or physician has documented that the student by education and training is capable of performing safely and effectively;

4. provide continuous and immediate on-premises direction to and supervision of a student and be readily available at all times to provide advice, instruction, and assistance to the student and to the patient during respiratory care treatment given by a student;

5. not permit a student to perform any invasive procedure or any life-sustaining or critical respiratory care, including therapeutic, diagnostic or palliative procedures, except under the direct and immediate supervision, and in

the physical presence of, the supervising therapist and/or physician; and

6. provide and perform periodic evaluation of every patient administered to by a student and make modifications and adjustments in the patient's respiratory care treatment plan, including those portions of the treatment plan assigned to the student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:748 (June 1993), LR 25:

Subchapter D. Grounds for Administrative Action

§5517. Causes for Administrative Action

The board may refuse to issue or renew, or may suspend, revoke or impose probationary conditions and restrictions on the license or temporary license of any registered respiratory therapist or certified respiratory therapist, if the licensee or applicant for license has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:886 (September 1991), LR 25:

§5519. Causes for Action; Definitions; Unprofessional Conduct

A. As used herein and in R.S. 37:3358, "unprofessional conduct" by a registered respiratory therapist or a certified respiratory therapist shall mean:

1. conviction of a crime or entry of a plea of guilty or *nolo contendere* to a criminal charge constituting a felony under the laws of the state of Louisiana, of the United States or of the state in which such conviction or plea was entered;

2. conviction of a crime or entry of a plea of guilty or *nolo contendere* to any criminal charge arising out of or in connection with the practice of respiratory care;

3. perjury, fraud, deceit, misrepresentation or concealment of material facts in obtaining a license to practice respiratory care;

4. providing false testimony before the board or providing false sworn information to the board;

5. habitual or recurring abuse of drugs, including alcohol, which affect the central nervous system and which are capable of inducing physiological or psychological dependence;

6. solicitation of patients or self-promotion through advertising or communication, public or private, which is fraudulent, false, deceptive or misleading;

7. making or submitting false, deceptive or unfounded claims, reports or opinions to any patient, insurance company or indemnity association, company, individual, or governmental authority for the purpose of obtaining anything of economic value;

8. cognitive or clinical incompetence;

9. continuing or recurring practice which fails to satisfy the prevailing and usually accepted standards of respiratory care practice in this state;

10. knowingly performing any act which in any way assists an unlicensed person to practice respiratory care, or having professional connection with or lending one's name to an illegal practitioner;

11. paying or giving anything of economic value to another person, firm or corporation to induce the referral of patients to the registered respiratory therapist or certified respiratory therapist;

12. interdiction by due process of law;

13. inability to practice respiratory care with reasonable competence, skill or safety to patients because of mental or physical illness, condition or deficiency, including but not limited to deterioration through the aging process and excessive use or abuse of drugs, including alcohol;

14. refusal to submit to examination and inquiry by an examining committee of physicians appointed by the board to inquire into the licensee's physical and/or mental fitness and ability to practice respiratory care with reasonable skill or safety to patients;

15. practicing or otherwise engaging in any conduct or functions beyond the scope of respiratory care as defined by the Act or these rules;

16. the refusal of the licensing authority of another state to issue or renew a license, permit, or certificate to practice respiratory care in that state or the revocation, suspension or other restriction imposed on a license, permit, or certificate issued by such licensing authority which prevents, restricts or conditions practice in that state, or the surrender of a license, permit or certificate issued by another state when criminal or administrative charges are pending or threatened against the holder of such license, permit or certificate;

17. violation of the code of ethics adopted and published by the American Association for Respiratory Care;

18. demonstrating a lack of "good moral character" as defined in §5503.A; or

19. violation of any rules and regulations of the board, or any provisions of the Act, as amended, R.S. 37:3351-3361.

B. Denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon a licensee may be ordered by the board in a decision made after a hearing in accordance with the Administrative Procedure Act and the applicable rules and regulations of the board. One year after the date of the revocation of a license, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement but shall hold a hearing to consider such reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:886 (September 1991), LR :25:

Inquiries concerning the proposed amendments may be directed in writing to: Delmar Rorison, Executive Director, Louisiana State Board of Medical Examiners, at the address set forth below.

Interested persons may submit data, views, argument, information or comments on the proposed rule amendments,

in writing, to the Louisiana State Board of Medical Examiners, at Post Office Box 302050, New Orleans, Louisiana, 70191-0250 (630 Camp Street, New Orleans, Louisiana 70130). Written comments must be submitted to and received by the Board within 60 days from the date of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the Board within 20 days of the date of this notice.

Delmar Rorison
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**
**RULE TITLE: Respiratory Therapists—Licensing and
Practice**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is not anticipated that the proposed rule amendments will result in any additional costs to the Board of Medical Examiners aside from those costs associated with publication in the *Louisiana Register*, which we estimate to be approximately \$3,800.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is not anticipated that the proposed rule amendments will have any effect on the Board's revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

It is not anticipated that the proposed rule amendments will have any adverse costs and/or economic impact on the affected licensees.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

It is not anticipated that the proposed rules will have any significant impact on competition or employment in either the public or private sector.

Delmar Rorison
Executive Director
9907#007

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary**

Employee Drug Testing Policy

The Department of Health and Hospitals, Office of the Secretary, proposes to adopt the following rule in accordance with R.S. 49:1015.

The employees of the state of Louisiana are among the state's most valuable resources, and the physical and mental well-being of these employees is necessary for them to properly carry out their responsibilities. Substance abuse causes serious adverse consequences to users, impacting on their productivity, health and safety, dependents, and co-workers, as well as the general public.

The State of Louisiana has a long-standing commitment to working toward a drug-free workplace. In order to curb the use of illegal drugs by employees of the state of Louisiana, the Louisiana legislature enacted laws (R.S. 49:1015) which provide for the creation and implementation of drug testing programs for public employees. Further, the Governor of the state of Louisiana issued Executive Order MJF 98-38 providing for the promulgation by executive agencies of written policies mandating drug testing of employees, appointees, prospective employees and prospective appointees, pursuant to Louisiana Revised Statute 49:1001 et seq.

The Department of Health and Hospitals (DHH) fully supports these efforts and is committed to a drug-free workplace.

Proposed Rule

I. Applicability

To assure maintenance of a drug-free workforce, it shall be the policy of DHH to implement a program of drug testing, in accordance with Executive Order No. MJF 98-38, R.S. 49:1001, et seq., and all other applicable federal and state laws, as set forth below. This policy shall apply to all employees of DHH including appointees and all other persons having an employment relationship with this agency. Each prospective employee shall be required to submit to drug screening. Pursuant to R.S. 49:1008, a prospective employee who tests positive for the presence of drugs in the initial screening shall be eliminated from consideration for employment.

Drug testing pursuant to this policy shall be conducted for the presence of cannabinoids (marijuana metabolites), cocaine metabolites, opiate metabolites, phencyclidine, and amphetamines in accordance with the provisions of R.S. 49:1001, et seq. DHH reserves the right to test its employees for the presence of any other illegal drug or controlled substance when there is reasonable suspicion to do so.

II. Definitions

Controlled Substance—a drug, chemical substance or immediate precursor in Schedules I through V of R.S. 40:964 or Section 202 of the Controlled Substances Act (21 U.S.C. 812).

Designer (Synthetic) Drugs—those chemical substances that are made in clandestine laboratories where the molecular structure of both legal and illegal drugs is altered to create a drug that is not explicitly banned by federal law.

Employee—unclassified, classified, and student employees, student interns, and any other person having an employment relationship with the agency, regardless of the appointment type (e.g. full time, part time, temporary, etc.).

Illegal Drug—any drug which is not legally obtainable or which has not been legally obtained, to include prescribed drugs not legally obtained and prescribed drugs not being used for prescribed purposes or being used by one other than the person for whom prescribed.

Reasonable Suspicion—belief based upon reliable, objective and articulable facts derived from direct observation of specific physical, behavioral, odorous presence, or performance indicators and being of sufficient import and quantity to lead a prudent person to suspect that an employee is in violation of this policy.

Safety-Sensitive or Security-Sensitive Position—a position determined by the Appointing Authority to contain duties of

such nature that the compelling State interest to keep the incumbent drug-free outweighs the employee's privacy interests. A list of such positions within DHH is maintained by the DHH Human Resource Director. The list was determined with consideration of statutory law, jurisprudence, the practices of this agency and the examples of safety-sensitive and security-sensitive positions provided in the model policy document issued by the Division of Administration.

Under the Influence—for the purposes of this policy, a drug, chemical substance, or the combination of a drug, chemical substance that affects an employee in any detectable manner. The symptoms or influence are not confined to that consistent with misbehavior, nor to obvious impairment of physical or mental ability, such as slurred speech or difficulty in maintaining balance. A determination of influence can be established by a professional opinion or a scientifically valid test.

Workplace—any location on agency property including all property, offices and facilities (including all vehicles and equipment) whether owned, leased or otherwise used by the agency or by an employee on behalf of the agency in the conduct of its business in addition to any location from which an individual conducts agency business while such business is being conducted.

III. Policy Provisions

A. General Provisions

It shall be the policy of DHH to maintain a drug-free workplace and a workforce free of substance abuse. Employees are prohibited from reporting for work or performing work for DHH with the presence in their bodies of illegal drugs, controlled substances, or designer (synthetic) drugs at or above the initial testing levels and confirmatory testing levels as established in the contract between the State of Louisiana and the official provider of drug testing services. Employees are further prohibited from the illegal use, possession, dispensation, distribution, manufacture, or sale of controlled substances, designer (synthetic) drugs, and illegal drugs at the work site and while on official state business, on duty or on call for duty.

B. Conditions Requiring Drug Tests

1. DHH shall require drug testing under the following conditions. The Human Resource Director shall be involved in any determination that one of the above-named conditions requiring drug-testing exists.

a. Reasonable Suspicion. Any employee shall be required to submit to a drug test if there is reasonable suspicion (as defined in this policy) that the employee is using drugs.

b. Post-accident. Each employee involved in an accident that occurs during the course and scope of employment shall be required to submit to a drug test if the accident a) involves circumstances leading to a reasonable suspicion of the employee's drug use, b) results in a fatality, or c) results in or causes the release of hazardous waste as defined in R.S. 30:2173(2) or hazardous materials as defined in R.S. 32:1502(5).

c. Rehabilitation Monitoring. Any employee who is participating in a substance abuse after-treatment program or who has a rehabilitation agreement with the agency following an incident involving substance abuse shall be required to submit to random drug testing.

d. Pre-employment. Each prospective employee shall be required to submit to drug screening at the time and place designated by the DHH Security Coordinator, (the person within DHH responsible for administering the drug testing program) following a job offer contingent upon a negative drug-testing result. Pursuant to R.S. 49:1008, a prospective employee who tests positive for the presence of drugs in the initial screening shall be eliminated from consideration for employment.

e. Safety-Sensitive and Security-Sensitive Positions - Appointments and Promotions. Each employee who is offered a safety-sensitive or security-sensitive position (as defined in this policy) shall be required to pass a drug test before being placed in such position, whether through appointment or promotion.

f. Safety-Sensitive and Security-Sensitive Positions - Random Testing. Every employee in a safety-sensitive or security-sensitive position shall be required to submit to drug testing as required by the Appointing Authority, who shall periodically call for a sample of such employees, selected at random by a computer-generated random selection process, and require them to report for testing. All such testing shall, if practicable, occur during the selected employee's work schedule.

C. Confidentiality

All information, interviews, reports, statements, memoranda, and/or test results received by DHH through its drug testing program are confidential communications, pursuant to R.S. 49:1012, and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in an administrative or disciplinary proceeding or hearing, or civil litigation where drug use by the tested individual is relevant.

D. Responsibility

The Secretary is responsible for the overall compliance with this policy and shall submit to the Office of the Governor, through the Commissioner of Administration, a report on this policy and drug testing program, describing progress, the number of employees affected, the categories of testing being conducted, the associated costs of testing, and the effectiveness of the program by November 1 of each year.

E. Violations

Violation of this policy, including refusal to submit to drug testing when properly ordered to do so, may result in disciplinary actions up to and including termination of employment. Each violation and alleged violation of this policy will be handled on an individual basis, taking into account all data, including the risk to self, fellow employees, and the general public.

Interested persons may present their views, in writing by 4:30 P.M. on August 31, 1999, to Ms. Nancy Fleming, Human Resource Director, Department of Health and Hospitals, Post Office Box 1349, Baton Rouge, LA 70821. She is responsible for answering any inquiries regarding this proposed rule.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Employee Drug Testing Policy

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated implementation costs for this proposed rule is as follows: \$218,450 for SFY 99/00, \$218,350 for SFY 00/01, and \$218,350 for SFY 01/02. The first year cost includes \$100 to pay for publishing the rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated increase or decrease in revenues. The federal government has indicated that they will not participate in this program. Therefore, all of the costs will be state general funds.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is anticipated that 3,484 new hires and 5,250 current employees will be tested. The Department is not responsible for any treatment that would be incurred due to implementation of the rule. There is an economic gain in the private sector to the extent that the rule provides for collections and testing as well as any treatment that may occur.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The impact is minimal. Once the rule is in place and all employees and potential employees are aware of the rule, the number of employees and potential employees failing the test will be minimal. It is doubtful that any staff shortage or employment opportunities will be created by this rule.

David W. Hood
Secretary
9907#032

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

**Inpatient Hospital Reimbursement—
Medicare Part A Claims**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 et seq. This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing currently provides reimbursement for full co-insurance and deductibles for Medicare Part A claims for inpatient hospital services. Section 1902(a)(10) of the Social Security Act provides flexibility to States in the payment of Medicare cost-sharing for dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies States' flexibility in complying with the requirements to pay Medicare cost-sharing for QMBs and the protections against payment liability for this group of beneficiaries. Section 4714 states

that "a State is not required to provide any payment for any expenses incurred relating to payment for deductibles, co-insurance, or co-payments for Medicare cost-sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the State plan under this title for service if provided to an eligible recipient other than a Medicare beneficiary."

When a State's Medicaid rate for a Medicare covered item or service is the same as or less than Medicare's payment, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan is considered to be payment in full for the service. The beneficiary does not have any legal liability to make payment for the service.

Act 10 of the 1999 Regular Session of the Louisiana Legislature contains provisions limiting the payment of crossover claims for inpatient hospital services rendered to dually eligible Medicare/Medicaid recipients effective July 1, 1999. In accordance with this legislation, the Bureau proposes to adopt the following rule to limit the reimbursement for inpatient hospital services provided to dually eligible Medicare/Medicaid recipients to the Medicaid maximum payment. The effective date for this proposed rule July 1, 2000. However, the Medicaid reimbursement for inpatient hospital services rendered in small rural hospitals, as defined in state law, shall consist of payment of co-insurance and deductibles to bring total reimbursement up to the Medicare maximum payment.

Proposed Rule

The Department of Health and Hospitals, Bureau of Health Services Financing limits the Medicaid reimbursement for inpatient hospital services rendered to dually eligible Medicare/Medicaid recipients and Qualified Medicare Beneficiaries except those receiving services in a small rural hospital to the Medicaid maximum payment. Small rural hospitals, as defined in state law, are exempt from this limitation to the Medicaid maximum payment on payment of Medicare Part A claims for inpatient hospital services. This rule is adopted pursuant to Act 10 of the 1999 Regular Session of the Louisiana Legislature which contains provisions limiting the payment of crossover claims for inpatient hospital services rendered to dually eligible Medicare/Medicaid recipients effective July 1, 1999. The effective date for this rule is July 1, 2000.

If the Medicaid payment is reduced or eliminated as a result of applying the limit of the Medicaid maximum payment, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) is considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

Implementation of this rule is subject to approval by the Health Care Financing Administration (HCFA) as required for all Title XIX policy changes. If disapproved by HCFA, the policy prior to this change will remain in effect.

Interested persons may submit comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule is scheduled for Friday, August 27, 1999 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity submit data, views or arguments, orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Inpatient Hospitals Reimbursement— Medicare Part A Claims**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will reduce state program costs by approximately (\$6,926,707) for SFY 2000-2001, (\$7,134,591) for SFY 2001-2002, and (\$7,348,629) for SFY 2002-2003. Included in SFY 2000-2001 is \$160 (\$80 SGF and \$80 FED) for the state's administrative expense of promulgating this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will reduce federal revenue collections by approximately (\$16,419,231) for SFY 2000-2001, (\$16,911,890) for SFY 2001-2002, and (\$17,419,247) for SFY 2002-2003.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Hospitals shall receive a reduction in reimbursement for Medicare Part A claims for inpatient services. Small rural hospitals shall be exempt from this limitation. This proposed rule will result in a cost avoidance of approximately (\$23,346,098) for SFY 2000-2001, (\$24,046,481) for SFY 2001-2002, and (\$24,767,876) for SFY 2002-2003.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9907#051

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Minimum Licensure Standards for Hospices
(LAC 48:I.Chapter 82)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend the following rule governing the licensure and regulation of Hospice Agencies as authorized by R.S. 40:2181-2191 and in

accordance with R.S. 49:953B(1) et seq., the Administrative Procedure Act. Act 941 of the 1988 Regular Session of the Legislature enacted R.S. 40:2181-2191 relative to hospices. This measure provided for the licensing and regulation of all Hospices operating in the state of Louisiana, and empowered the Department to adopt rules and regulations consistent with Medicare Hospice guidelines to carry out the provisions of the Act. Effective December 20, 1998 the Department adopted a rule revising the regulations governing licensing of hospice agencies (*Louisiana Register*, Volume 24, No. 12).

The Department has determined that it is necessary to amend the promulgated regulations governing licensing of hospice agencies in order to reduce the negative impact upon operations of existing licensed providers without diminishing the quality of patient care. Therefore, the Department proposes to adopt the following amendments to the minimum licensure standards for Hospices.

Title 48

PUBLIC HEALTH - GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 82. Minimum Standards for Licensing of Hospice Agencies

§8203. Licensing

A. Except to the extent required by §8205A(1), it shall be unlawful to operate or maintain a hospice without first obtaining a license from the department. The Department of Health and Hospitals is the only licensing authority for hospice in the State of Louisiana.

B. - D. ...

E. Initial Licensure. All requirements of the application process must be completed by the applicant before the application will be processed by DHH.

1. No application will be reviewed until payment of the application fee.

E.2. ...

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 24:2257 (December 1998), LR 25:

§8205. Survey

A. Initial Survey. An initial on-site survey will be conducted to assure compliance with all hospice minimum standards.

1. Within 90 days after submitting its application and fee, the hospice must complete the application process, must become operational to the extent of providing care to two and only two patients, must be in substantial compliance with applicable federal, state, and local laws, and must be prepared for the initial survey. If the applicant fails to meet this deadline, the application shall be considered closed and the agency shall be required to submit a new application packet including the license application fee.

2. The initial survey will be scheduled after the agency notifies the department that the agency has become operational and is ready for the survey as provided in §8205A(1). In cases of a vast number of requests for surveys by different applicants, agencies will be surveyed according to the date the request is received by DHH.

3. If, at the initial licensure survey, the agency is in substantial compliance with all regulations, a Full license will be issued.

4. If, at the initial licensure survey, an agency has five or fewer violations of hospice minimum standards in an area other than personnel qualifications and/or patient care, the agency shall submit an acceptable plan of correction within ten (10) days from receipt of the Statement of Deficiencies. A follow-up survey may be conducted to assure compliance.

5. If, at the initial licensure survey, an agency has more than five violations of any minimum standards or if the violations are determined to be of such a serious nature that they may cause or have the potential to cause actual harm, DHH shall deny licensure and the agency may not re-apply for a period of two years from the date of the survey.

B. - C. ...

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 24:2257 (December 1998), LR 25:

§8217. Personnel Qualifications/Responsibilities

A. ...

A.1. Qualifications. The administrator must be a licensed physician, a licensed registered nurse, a social worker with a masters degree, or a college graduate with a bachelor's degree, and must have at least three years of documented management experience in health care service delivery. However, a person who was employed by a licensed Louisiana hospice as the administrator as of December 20, 1998 shall be exempt from these requirements as long as he/she remains employed by that hospice as the administrator.

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

O. Registered Nurse (RN). The hospice must designate a registered nurse to coordinate the implementation of the POC for each patient.

1. Qualifications. A licensed registered nurse must:

a. be currently licensed to practice in the State of Louisiana with no restrictions;

b. have at least two years' full time experience as a registered nurse (however, a person who was employed by a hospice as a registered nurse as of December 20, 1998 shall be exempt from this requirement as long as he/she remains employed by that hospice as a registered nurse); and

c. be an employee of the hospice. If the registered nurse is employed by more than one agency, he or she must inform all employers and coordinate duties to assure quality service provision.

O.2. - Q.3.p. ...

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 24:2257 (December 1998), LR 25:

§8241. Branch Offices

A. ...

B. No branch office may be opened unless the parent office has had full licensure for at least the immediately preceding 12 months and has a current census of at least 10 active patients.

C. - I.4. ...

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 24:2257 (December 1998), LR 25:

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P. O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Friday, August 27, 1999 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Minimum Licensure Standards for Hospices

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of this proposed rule will not result in an increase or decrease in state programmatic costs. However, \$200 (\$100 SGF and \$100 FED) will be incurred in SFY 1999 for the state's administrative expense of promulgating this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this rule will have no known effect upon revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There may be economic benefits to those employees who will continue in their current jobs as a result of the proposed changes. These employees will not be required to attend school and/or acquire work experience to meet the qualifications for their current job.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is estimated that employees currently in jobs will remain in their current jobs with the adoption of the proposed rule.

Thomas D. Collins
Director
9907#042

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Minimum Standards/Requirements for Substance Abuse/Addiction Treatment Facilities/Programs
(LAC 48:I.Chapter 74)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule governing the requirements for licensing Substance Abuse/Addiction Treatment Facilities/Programs as authorized by R.S. 40:1058.1 through 40:1058.9 and in accordance with the Administrative Procedure Act R.S. 49:950 et seq.

Act 1000 of the 1997 Regular Session of the Legislature authorized the Department of Health and Hospitals to promulgate rules in accordance with Louisiana R.S. 40:1058.2. These written rules are the Minimum Licensure Standards for Substance Abuse/ Addiction Treatment Facilities. Any facility that presents itself to the public as a provider of services related to the abuse/addiction of controlled dangerous substances, drugs or inhalants, alcohol, problem and compulsive gambling, or a combination of the above is required to have a valid and current license prior to admitting any client. Therefore, the Bureau proposes to adopt the following licensure standards for all substance abuse/addiction treatment facilities/programs in the State.

Any facility licensed as of the date that the final rule is published adopting the following standards shall be required to meet the standards described in this rule one year from adoption of the final rule. All facilities licensed after the final rule is published will be required to meet all licensure standards in this rule prior to receiving a license. All previous rules are hereby repealed, including the standards manual comprising the Minimum Standards for Licensing Alcoholism and Drug Abuse/Substance Abuse Programs in its entirety as published in January 1977 and January 1986. The Minimum Standards for Substance Abuse/Addiction Treatment Facilities/Programs are promulgated in the Louisiana Administrative Code format and supersedes all manuals and rules previously adopted.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule governing the requirements for licensing Substance Abuse/Addiction Treatment Facilities/Programs. All previous rules are hereby repealed and this rule shall replace and supersede rules previously adopted.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 74. Minimum Standards/Requirements for Abuse/Addiction Treatment Facilities/Programs

§7401. Definitions and Acronyms

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly states otherwise.

AADD—abuse/addiction disease/disorder

Abuse—any act or failure to act that caused or may have caused injury to a client knowingly, recklessly, or intentionally, including incitement to act. Injury may include, but is not limited to: physical injury, mental disorientation, or emotional harm, whether it is caused by physical action or verbal statement.

Adequate/Sufficient—reasonable, enough: e.g., personnel to meet the needs of the clients currently in the enrolled in a specific program.

Adolescent—an individual between the ages of 13 and 17 inclusive who has not been emancipated by marriage or judicial decree.

Advertise—to solicit or induce to purchase the services provided by a treatment facility.

Adult—an individual 18 years of age or older, or an individual under the age of 18 who has been emancipated by marriage or judicial decree. Persons aged 16 and above may voluntarily seek and receive substance abuse services without parental consent.

Assessment—core function of substance abuse counseling in which a counselor/program identifies and evaluates an individual's strengths, weaknesses, problems, and needs for the development of the treatment plan.

"At Risk"—identification by OAD of greater potential for the use/abuse of alcohol and other drugs.

ATOD—alcohol, tobacco, and other drugs.

Board(s)—entities responsible for licensure/certification for specific professions (e.g., nursing, counselors, social workers, physicians, etc.). State of Louisiana Boards are the only accepted credentialing organizations for all personnel.

Branch—off-site operation, either autonomous or semi-autonomous, that operates 24 hours or less per week.

Case Management—core function of substance abuse counseling in which services, agencies, resources, or people are brought together within a planned framework of action toward the achievement of established goals. It may involve liaison activities and collateral contracts with other providers/facilities.

Client Education—core function of substance abuse counseling in which information is provided to individuals

and groups concerning alcoholism and other drug abuse, positive lifestyle changes, and the available services and resources.

Client Orientation—core function of substance abuse counseling in which the client is informed regarding: (1) general nature and goals of the program, (2) rules governing client conduct and infractions that can lead to disciplinary action or discharge from the program, (3) availability of services, (4) costs, and (5) client's rights.

Client/Patient/Consumer—any person assigned or accepted for prevention or treatment services furnished by a licensed facility as specified.

Compulsive Gambling—persistent and recurrent maladaptive gambling behavior that disrupts personal, family, community, or vocational pursuits, and so designated by the court, or diagnosed by a licensed physician.

Consultation—professional oversight, advice, or services provided under contract.

Consultation with Professionals—core function of substance abuse counseling in which functional relationship with counselors and other credentialed health care professionals is provided as required to assure comprehensive quality care for the client.

Core Functions—essential and necessary elements required of every abuse/addiction treatment facility. Core functions are: Screening, Intake, Orientation, Assessment, Treatment Planning, Counseling, Case Management, Crisis Intervention, Client Education, Referral, Reports and Record Keeping, and Consultation with Professionals.

Counseling (Individual/Group) Services—core function of substance abuse counseling in which appropriate support is provided to the client by those professionals qualified to provide therapeutic services. Special skills are used to assist individuals, families, or groups in achieving objectives through: (1) exploration of a problem and its ramifications, (2) examination of attitudes and feelings, (3) consideration of alternative solutions, and (4) decision making and problem solving.

Counselor—qualified professional as described in this document.

Counselor in Training (CIT)—a person currently registered with LSBCSAC board and pursuing a course of training in substance abuse counseling including educational hours, practicum hours, and direct, on-site supervision of work experience hours by a facility-employed QPS/QPC.

Crisis Intervention Services—core function of substance abuse counseling in which appropriate assistance during emergencies including 24 hour telephone coverage by qualified counselor to provide telephone assistance to prevent relapse, to provide referral to other services, and to provide support during related crises. Facilities may have written contract with another facility to provide coverage only if the caller is automatically transferred or given directions to reach professional assistance, or receive a call from a professional within thirty minute time frame.

Department—the Louisiana Department of Health and Hospitals (DHH). The following is a list of pertinent sections:

1. Health Standards Section (HSS). Section of Bureau of Health Services Financing, DHH that surveys, licenses, and serves as the regulatory body for health care facilities in the state;

2. Office of Addictive Disorders (OAD). DHH office responsible for providing treatment and prevention services related to abuse/addiction disease/disorders;

3. Office of Public Health (OPH). DHH Office that establishes and enforces various legislative health codes;

4. Office of Planning and Review (OPR). DHH office which professionally reviews all floor plans and site plans prior to licensing to assure compliance with state laws and codes;

5. Program Integrity Section (PRS). Section of Bureau of Health Services Financing, DHH responsible for investigating fraud and abuse.

Doctorate-Prepared—terminology used in professional community to describe those who have completed Doctorate in Social Work or Counseling, but have not met the requirements for licensing by their respective State Boards.

Exploitation—any act or process to use (either directly or indirectly) the labor or resources of a client for monetary or personal benefit, profit, or gain of another individual or organization.

Facility—provider of services, including all employees, consultants, managers, owners, and volunteers as well as premises and activities.

Intake—core function of substance abuse counseling in which information is gathered about a prospective client. Information is given to a prospective client about the treatment facility and facility's treatment and services.

Joint Ventures—facilities funded/operated by both public and private sources. Joint ventures are classified as private entities.

Masters-Prepared—terminology used in the professional community to describe those who have completed Masters Degree in Social Work or Counseling, but have not met the requirements for licensing by their respective State Boards.

Medication Administration—preparation and giving of legally prescribed individual dose to client; observation and monitoring of client/client response to medication.

Medication Dispensing—compounding, packaging, and giving of legally prescribed multiple doses to client.

Minors—all persons under the age of 18 whose disabilities of minority have not been removed by marriage or judicial decree.

Office of State Fire Marshal (OSFM)—establishes and enforces various legislative building codes.

On Call—immediately available for telephone consultation and less than one hour from ability to be on duty.

On Duty—scheduled, present, and awake at the site to perform job duties.

OSFM—Office of State Fire Marshal, La. Dept. of Public Safety.

Primary prevention—focus on reducing the onset of incidences (rate of occurrences) of alcohol, tobacco, and other drug (ATOD) use of non-users, preventing the development of ATOD use problems, and enhancing individual strengths as an inoculant against ATOD use.

Program—a specific group of therapeutic services designed to deliver treatment/prevention to a defined client population.

Public—owned and operated by federal, state, or local government.

Referral—core function of substance abuse counseling in which appropriate services not provided by facility are

identified, and client/family is assisted to optimally utilize the available support systems and community resources.

Reports and Record Keeping—core functions of substance abuse counseling in which results of the assessment and treatment planning are recorded. Written reports, progress notes, client data, and discharge summaries and other client related documentation is recorded in the client record.

Screening—core function of substance abuse counseling that is the determination of whether a client meets the program's admission criteria. It uses information such as the person's reason for admission, medical and substance abuse history, and other needed information to determine client's need for treatment, and/or appropriateness of admission.

Sexual Exploitation—a pattern, practice, or scheme of conduct that can reasonably be construed as being for the purpose of sexual arousal or gratification or sexual abuse of any person.

Site/Premises—a single identifiable location owned, leased, or controlled by a facility where any element of treatment is offered or provided.

Staff—individuals who provide services for the facility in exchange for money or other compensation, including employees, contract providers, and consultants.

Standards—policies, procedures, rules, and other guidelines (i.e., standards of current practice) contained in this document for the licensing and operation of substance abuse/addiction treatment facilities.

Substance Abuse/Addiction Treatment/Prevention Facility—any facility which presents itself to the public as a provider of services related to prevention and/or treatment of the abuse/addiction of controlled dangerous substances, drugs or inhalants, alcohol, problem or compulsive gambling, or a combination of the above. Facility shall be licensed to provide treatment to clients diagnosed with abuse/addiction disease/disorders (AADD) and provide support and prevention intervention to families, the public, and to those individuals identified as having greater than normal risk for developing abuse/addiction disease/disorders.

Sub-unit—off-site operation, either autonomous or semi-autonomous, that operates more than 24 hours per week.

Supervision—Occupational oversight, responsibility and control over employee(s)/service delivery by critically watching, monitoring, and providing direction.

Treatment Level—a group of treatments/services designed to positively impact a specific type/degree of abuse/addiction.

Treatment Planning—core function of substance abuse counseling in which the counselor and the client: (1) identify and rank problems needing resolution, (2) establish agreed upon immediate objectives and long-term goals, and (3) decide on a treatment process, frequency, and the resources to be utilized.

Unethical Conduct—Conduct prohibited by the ethical standards adopted by DHH, state or national professional organizations or by a state licensing agency.

Unprofessional Conduct—Any act or omission that violates commonly accepted standards of behavior for individuals or organizations.

Variance or Waiver—Administrative decision by HSS/DHH Secretary or designated personnel qualified to make the decision that failure (for limited time period), to

meet a Minimum Standard cannot potentially cause harm to any client/citizen or interfere with quality treatment. Facility shall post all variances/waivers in conspicuous place.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1 through R.S. 40:1057.9 redesignated R.S. 40:1058.1 through R.S. 1058.9.

HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, Division of Management, Office of Licensing and Certification, LR:2:154 (May 1976), adopted by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR:18:1449 (December 1992), LR 25:

§7403. Licensure

A. Any facility which presents itself to the public as a provider of services related to the prevention and/or treatment for abuse/addiction of controlled dangerous substances, drugs or inhalants, alcohol, problem or compulsive gambling, or a combination of the above is required to have a valid and current license prior to admitting any client.

B. Each licensed facility must comply with the minimum requirements in order to remain licensed. In addition, each facility is required to have a copy of the minimum standards on-site, and all administrative and professional staff should be familiar with contents of this rule.

C. All facilities licensed after promulgation of these standards shall be required to meet all standards contained herein prior to licensure.

1. Hospitals, nursing homes, and federally-owned facilities are exempt from licensure.

2. State facilities are exempt from the following general requirements:

- a. licensure fees;
- b. budgetary/audit requirements;
- c. disclosure of ownership forms;
- d. planning, location requirements;
- e. governing body regulations; and
- f. liability insurance.

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HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, Division of Management, Office of Licensing and Certification, LR:2:154 (May 1976), adopted by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR:18:1449 (December 1992), LR 25:

§7405. Licensure Requirements

A. The facility shall not provide services without the appropriate license and shall advertise (or otherwise notify the public or other referral entities) only for services for which the facility is licensed to provide.

B. License Designation. A facility shall have written notification of restrictions, limitations, and services available to the public, community, clients, and visitors.

1. In-patient Facilities (24 hour facilities for adults, adolescent, or parents/dependent children)

- a. Detoxification
 - i. medically supported
 - ii. non-medical (social)
- b. In-patient Treatment (Primary)
- c. Residential Treatment (Primary); and
- d. Community-Based Care Facilities
 - i. halfway house
 - ii. three quarter house; and
 - iii. therapeutic community - long term residential.
- 2. Outpatient Facilities
 - a. Outpatient Counseling
 - b. Intensive Outpatient Treatment; and
 - c. Opiate Addiction Treatment
- 3. Primary Prevention Program—Non-treatment Designation
 - a. Youth Group
 - b. Community Education Only
- 3. Other (must be approved by OAD and HSS)
- 4. Additional Designations (conjointly approved by OAD/HSS in writing)

C. License Types

1. Full. A full license is issued only to those agencies that are in compliance with the minimum standards and all other requirements. The license is valid until the date of expiration unless revoked or suspended prior to the date of expiration, or denied renewal.

2. Provisional. A provisional license is issued to existing agencies that do not meet the criteria for full licensure. The termination of a license will occur if systemic changes fail to correct identified problems. A provisional license is valid for six months or until a designated termination date. Any license involved in an appeal process is automatically considered provisional.

D. Adherence Requirements. Each facility shall adhere to requirements throughout the period of licensure. Any period of non-compliance may result in sanctions, denials, or requiring corrective action.

E. Variance. Any variance granted by DHH/HSS shall:

- 1. be in writing;
- 2. cannot be retroactive;
- 3. be granted for a specific period of time, but less than one year; and
- 4. be listed on the facility license.

F. License Renewal. A license must be renewed at least annually. It is the responsibility of the facility to:

- 1. request a renewal packet from DHH/HSS if one is not received at least 45 days prior to license expiration;
- 2. complete all forms and return to DHH/HSS at least 30 days prior to license expiration; and
- 3. submit annual licensure fee with renewal packet.

NOTE: A provisional license shall not be re-issued as a full license until the expiration date, even if all corrections are made.

G. License Display. The current license shall be displayed on-site at each facility in full view of all clients and/or visitors. Any license issued by DHH supersedes all others and deems those previously issued as invalid. Any facility displaying and/or using an invalid or altered license will be sanctioned.

H. Satellites. Related facilities may share a name with the primary facility, if a geographic indicator is added to the end of the facility name. All satellite facilities must have a separate license from that issued to the parent facility.

1. Branches. Additional locations operating in the same or adjacent parish for 24 hours or less per week must meet the following conditions:

- a. OSFM/OPH approval;
- b. professional staff to provide services may or may not be also employees of parent facility;
- c. conjoint administrative staff and activities with parent facility;
- d. personnel records may be housed at parent facility;
- e. client records may be housed at parent facility;
- f. telephone system to forward calls to parent facility;
- g. initial survey is required prior to opening, but annual/renewal survey may be by attestation;
- h. written approval to operate at location will be issued from HSS when the following criteria are met:
 - i. full licensure of parent facility for at least one year;
 - ii. adequate professional staff to operate at two or more locations;
 - iii. identified need for services by OAD and
 - iv. submission of request for opening branch and required information.

2. Sub-unit. A second facility location operating more than 24 hours per week, and located in the same parish or a parish adjacent to the parish where the parent facility is located shall not be included in the same license as the parent facility. Separately licensed sub-units are required to meet the following additional criteria:

- a. separate qualified and full-time professional staff;
- b. conjoint or separate administrative staff and activities with parent facility;
- c. personnel records shall be housed on-site;
- d. client records shall be housed on-site.

3. Exception: Primary Prevention Programs may provide educational services at various public facilities, provided that the primary site is licensed.

I. Notification of Change Requirements. Any change listed below that is not reported in writing to DHH/HSS within 10 days is delinquent and subject to sanction. Written approval of changes by DHH is required to remain in compliance with licensure standards.

1. Change of Ownership

a. Include a copy of bill of sale, licensure fee, disclosure of ownership form, new application form, and information about relocation, name change, etc.

b. License is non-transferable; new owners must apply for a new license.

2. New Construction. All plans must have prior approval of the OSFM and OPR.

3. Renovations. All plans must have prior approval of the OSFM and OPR.

4. Address. Change of address requires issuance of replacement license. Prior approval is required, and is based on submitting requested information to HSS.

5. Change of Services. An application packet appropriate to the new service is required. An initial survey may be required prior to issuance of new license at the discretion of HSS.

6. Hours of operation. Written approval by DHH/HSS is required in advance of the change.

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§7407. Fees, Fines, and Assessments

A. Fees. All fees must be submitted to DHH in the form of a company or certified check or money order, and made payable to the Department of Health and Hospitals (DHH). All fees are non-refundable and non-transferable.

1. Fee Amounts. Current fee schedule is available upon request.

2. Initial Application. Fee for initial application process and initial licensure shall be submitted prior to consideration of licensure.

3. Annual Renewal. Fee is payable in advance of issuance of renewal license.

4. Change Fees. A fee must accompany any request requiring the issuance of a replacement license.

5. Late Fees. Any renewal or other fee is delinquent after the due date and an additional fee shall be assessed beginning on the day after the date due. No license will be issued until applicable fees are paid.

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§7409. Adverse Actions

A. DHH reserves the right to suspend, deny (initial or renewal), or revoke any license at the discretion of the Secretary or his/her designee. Facility owners and staff shall be referred to other entities such as Boards or state or federal enforcement agencies when there is suspicion of illegal, unprofessional or unethical behavior. Any involuntary termination of licensure or voluntary termination to avoid adverse action automatically disqualifies that facility and those associated with the facility from applying for licensure for a period of at least one year.

B. Provisional License Designation. Provisional license may be given for the following nonexclusive reasons:

1. more than five non-life-threatening violations of minimum standards during one survey;

2. more than three valid complaints in a two-year period;

3. documented incident that places patient at risk for harm;

4. repeated or continued noncompliance with any minimum standard;

5. incomplete or pending corrective plan of action or correction of violation.

C. Denial of Initial Licensure. DHH shall not accept application for an additional facility with common owners, managers, or staff unless the original facility is in full compliance for one year without interruption and is not under investigation by any other agency.

D. Revocation or Denial of Renewal of License. License may be revoked or denied for the following nonexclusive reasons.

1. cruelty or indifference to the welfare of the clients;

2. misappropriation or conversion of the property of the clients;

3. violation of any provision of this part or of the minimum standards, rules, and regulations, or orders promulgated hereunder.

a. providing services to more clients than authorized by license;

b. repeated failure to adhere to rules and regulations;

c. serious violation of standards or current professional standards of practice;

d. failure to submit corrective action plans for identified violations;

e. reasonable cause to suspect that client health/safety is jeopardized;

f. reliable evidence that facility:

i. falsified information on legal documents;

ii. failed to provide optimum therapy in accordance with current standards of practice; or

iii. has bribed, solicited or harassed any person to use the services of any particular facility.

g. failure to submit required fees in a timely manner.

h. failure to cooperate with survey/investigation by DHH/authorized agencies.

i. failure to employ a sufficient complement of and to appropriately utilize qualified professionals.

4. Permitting, aiding, or abetting the unlawful, illicit, or unauthorized use of drugs or alcohol within the facility.

5. Conviction or plea of *nolo contendere* by the applicant for a felony. If the applicant is an agency, the head of that agency must be free of such conviction. If a subordinate employee is convicted of a felony, the matter must be handled administratively to the satisfaction of DHH-HSS.

6. Documented information of past or present conduct or practices of facility which are detrimental to the welfare of the clients.

E. Appeal of Adverse Action

1. Notice. HHS shall give at least 30 days notice of denial of renewal or revocation of license unless DHH determines that the health and/or safety of clients is in jeopardy. In the event that DHH determines that the health and/or safety of clients is in jeopardy, clients will be removed from the facility immediately. No advance notice will be provided when health and/or safety are involved, and the facility may appeal within 30 days following the removal.

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HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, Division of Management, Office of Licensing and Certification, LR:2:154 (May 1976), adopted by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR:18:1449 (December 1992), LR 25:

§7413. Survey

A. All surveys shall be unannounced and may be in conjunction with other agency personnel and/or personnel from other local, state or federal agencies.

1. Initial. On-site survey of all aspects of the operation is required prior to the admission of any client for treatment at the facility. Regional manager may choose to give provider an approximate date of initial survey to include the "week of" but not the specific date of planned on-site visit.

2. Annual. On-site, unannounced survey of all aspects of the facility is performed annually to assure and promote continuous adherence to standards, discourage over-utilization of services, and serve as an adjunct to the OAD professional oversight. Annual survey for Prevention license may be accomplished by attestation provided that:

a. facility has had three consecutive years of deficiency-free surveys, and

b. Office of Addictive Disorders recommends attestation in writing.

3. Continued compliance. Assurance of continued compliance surveys may be performed without notice, particularly in facilities that had serious deficiencies or if HSS receives information that facility is not adhering to Standards.

4. Complaint Investigations. DHH shall determine the type and extent of investigation to be made in response to complaints in accordance with *Louisiana R.S. 40:2009.13* et seq.

a. May be an internal investigation with a report submitted to DHH/HSS.

b. May be on-site focused or complete survey by DHH/OAD and/or DHH/HSS and other local, federal, and state agencies as appropriate.

5. Focused on-site visit or request for submission of documentation for desk review to assure corrective actions have been completed as alleged in the submitted plan of corrections.

B. Survey Results. All survey results become available for public inspection sixty (60) days after the survey or on the date that an acceptable plan of correction is received from the facility, whichever is sooner.

1. If violations of Minimum Standards are minor and do not directly involve client care, the facility may be allowed up to sixty days to make all necessary corrections.

2. If violations of Minimum Standards are not minor or if they directly affect client, facility license shall be terminated or sanctioned.

3. Any violation noted on two consecutive survey/visits or not corrected within sixty (60) days is considered a repeat violation and shall be reason for termination or sanction.

C. Plan of Corrections. Written allegations of correction are submitted from facility to HSS to describe actions taken by the facility in response to violations.

1. Required Components/Elements

a. Actions taken to correct any problems caused by deficient practice directed to a specific client.

b. Actions taken to identify other clients who may also have been affected by deficient practice, and to assure that corrective action will have positive impact for all clients.

c. Systemic changes made to insure that deficient practice will not recur.

d. Quality assurance plan developed to monitor to prevent recurrence.

2. Miscellaneous

a. All components of the corrective action plan must be specific and realistic, including the dates of completion.

b. Plan must be submitted as directed by surveyor, usually within 10 days of the date of the survey, or the provider may be sanctioned.

c. Corrections must be completed within 60 days of survey unless directed to correct in less time due to danger or potential danger to clients/staff.

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§7415. Organization and Administration

A. Administration.

1. Quality and Adequacy. Facility administration shall be qualified and adequate to assure adherence to all licensing standards. Qualifications shall be determined by the complexity of the services being provided. Facility compliance with licensing standards shall determine adequacy of available administrative oversight.

2. Administrative records. Record keeping shall be in accordance with accepted standards to assure the development and implementation of facility specific policies and procedures to adhere to all licensing standards.

a. Personnel (staff providing direct care to clients)

i. Annual health screens

ii. Actual hours of work

iii. Orientation/training/in-services

iv. Disciplinary actions

v. Credentials with verification

vi. Verification of professional licensure/certification and renewals

vii. Job descriptions/Performance expectations.

b. Administrative Operations

i. Organizational chart

ii. Mission, description of services

iii. Payment methods in accordance with Wage and Hour Board

iv. Codes of conduct to ensure professional, ethical and legal operations

v. Facility practices that ensure employees have necessary administrative support to provide therapeutic milieu for clients

vi. Proof of general and professional liability insurance in the amount of at least, \$500,000

vii. Projected plan of operations based on the findings of the facility specific to continuous improvement program

viii. Written agreements with other entities to assure adherence to licensing standards and continuity of care.

ix. Written designation of facility director, alternate director, and program director.

3. Governing Body. All private providers shall have an identifiable governing body composed of adults who have legal authority over the policies and activities of the facility. Responsibilities include:

a. ownership of all facility operations;

b. documentation to identify all members including name, address, telephone numbers with current updates as indicated;

c. maintenance of written minutes of all meetings of the governing body, including, but not limited to, date, time, location, participants, topics discussed, decisions reached, and actions taken, committee reports, and any other pertinent information;

d. annual documented review and appropriate actions on all policies, procedures, facility rules, goals, grievances, budget, internal and external evaluations, (including all survey findings).

B. Organization

1. Duties. Facilities shall be organized so that administrative personnel does not perform any programmatic duties and/or make clinical decisions, unless licensed/certified to make clinical decisions. A qualified professional supervisor or qualified professional counselor shall be designated, in writing, as responsible for supervising all treatment services and programs.

2. Ownership

a. Public. Government Entities (local, state, and federal)

b. Private. For Profit or Non-profit

i. Individual

ii. Corporation

(a). individual;

(b). group of individuals;

(c). publicly owned stock.

iii. Church

iv. Council/Organization

v. Joint ventures/contractors

C. Facility Protocols. Each facility shall establish facility-specific, written policy to implement such policy in these areas:

1. General

a. Procedures to ensure the health, safety, and well-being of clients.

b. Procedures to ensure that clients receive optimum treatment in order to achieve recovery.

c. Criteria to assure access to care without over-utilization of services.

d. Protocols to assure uniform and quality assessment, diagnosis, evaluation, and referral to appropriate level of care.

e. Procedures to assure operational capability and compliance.

f. Procedures to assure that only qualified personnel are providing care within the scope of the core functions of substance abuse treatment.

g. Procedures to assure that delivery of services shall be cost-effective and in conformity with current standards of practice.

h. Procedures to assure confidentiality of client records.

2. Continuous Quality Improvement Program (CQIP)

a. Annual internal evaluation procedure to collect necessary data to formulate plan.

b. Implementation to correct identified deficiencies and to prevent recurrence.

c. Utilization review of 5% of active client records quarterly by professional staff.

d. Quarterly meetings involving staff committee (at least 3 individuals) to assess and choose which CQIP activities are necessary and set goals for the quarter, to evaluate the activities of the previous quarter, and to implement immediately any changes that would protect the clients from potential harm or injury.

e. Annual review of policies, procedures, financial data, client statistics, and survey data by governing board/regional administrator.

3. Research or Non-traditional Treatment Modalities. Approval for exceptional procedures, treatment modalities, etc. shall be approved in writing by the OAD director and monitored as required.

4. Required Facility Reports. The facility director shall verbally/facsimile report these incidents to HSS within 24 hours of discovery. State operated facilities are also required to follow OAD reporting policy.

a. Fire and/or natural disasters;

b. Any substantial disruption of program operation;

c. Any death or serious injury of a client that may potentially be related to program activities; and

d. Violations of laws, rules, and professional and ethical codes of conduct by facility personnel/volunteers.

5. Operational Requirements. The facility shall:

a. be fully operational for the business of providing substance abuse/addiction prevention/treatment during normal business hours and after hours as indicated/approved on original application or change notification approval;

b. be available as a community resource, and maintain current schedule of area support groups;

c. share space, telephones, or personnel with other entities only in compliance with Louisiana R.S. 40:2007.

d. have active clients who are receiving services at the time of any survey after the initial survey;

e. be able to accept referrals during hours of operation as specified on licensure application;

f. utilize staff to provide services based on the needs of their current caseload of clients;

g. have required staff on duty at all times during operational hours.

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§7417. Staff Qualifications/Requirements

A. Standards of Conduct

1. The facility and all of its personnel shall:
 - a. protect the health, safety, rights, and welfare of clients;
 - b. provide services designated on license;
 - c. adhere to all applicable laws, regulations, policies, and procedures;
 - d. maintain required licenses, permits and credentials; and
 - e. adhere to professional and ethical codes of conduct.
2. Neither the facility nor any of its personnel shall:
 - a. commit an illegal, unprofessional or unethical act;
 - b. assist or knowingly allow another person to commit an illegal, unprofessional, or unethical act;
 - c. knowingly provide false or misleading information;
 - d. omit significant information from required reports and records or interfere with their preservation;
 - e. retaliate against anyone who reports a violation or cooperates during a review, inspection, investigation, hearings or related activity; or
 - f. interfere with Department reviews, inspections, investigations, hearings, or related activity. This includes taking action to discourage or prevent someone else from cooperating with the activity.

B. General Requirements

1. Facility personnel shall report violations of laws, rules, and professional and ethical codes of conduct to DHH/HSS and to appropriate licensing Board when applicable. The facility shall maintain records and have written policies governing staff conduct and reporting procedures that comply with this section.
2. A facility shall employ sufficient and qualified staff to meet the requirements and responsibilities required by licensure as well as the needs of each client being served.
3. Any experience used to qualify for any position must be counted by using one year equals 12 months of full time work. At no time will any professional staff be considered full time at two facilities.
4. All counselors (including full-time, part-time, and those who also have other duties) must have caseloads appropriate to available time which shall be determined by the needs of the active clients, and the level of treatment being provided.
5. A person may hold more than one position if that person is qualified to function in both capacities, and the required hours for each job are separate and apart for each position.

6. Facility administration is responsible for assuring that all credentials are from accredited institutions, legal, and verified to deter the fraudulent use of credentials.

C. Personnel Qualifications/Responsibilities

1. Qualified Professional Supervisor (QPS)

a. Qualifications

i. The following professionals who are currently registered with their respective Louisiana Board:

- (a). Licensed Psychologist;
- (b). Board Certified Social Worker.

ii. The following professionals who are currently registered with their respective Louisiana Boards and who can demonstrate two years of professional level counseling experience or one year of professional level substance abuse counseling or 90 clock hours (six semester hours) of substance abuse training, including the twelve core functions from an accredited college or university or an educational provider approved by DHH may function as QPS. Documentation shall be available from the facility upon request. The professionals eligible to become QPS's are listed below:

- (a). Board Certified Substance Abuse Counselor (BSAC) or (LASACT);
- (b). Licensed Professional Counselor (LPC);
- (c). Licensed Physician (MD);
- (d). Registered Nurse (RN);
- (e). Board Certified Compulsive Gambling Counselor (BCCGC);
- (f). Masters-Prepared Social Worker/Counselor;
- (g). Masters-Prepared Counselor under the supervision of a licensed psychologist or board certified social worker (BCSW).

b. Responsibilities. The QPS shall:

- i. provide direct client care utilizing the core functions of the substance abuse counseling and/or specific functions related to professional license;
- ii. serve as resource person for other professionals counseling substance abuse clients;
- iii. attend and participate in care conferences, treatment planning activities, and discharge planning related to primary caseload and/or clients of professionals being supervised;
- iv. provide on-site and direct professional supervision of any counselor in training and treatment, including but not limited to activities such as individual/group counseling, or educational presentations;
- v. provide oversight and supervision of such activities as recreation, art/music, or vocational education to assure compliance with accepted standards of practice;
- vi. function as patient advocate in all treatment decisions affecting the client;
- vii. be designated as the Program Director (if employed full-time unless other QPS's are employed and available at the facility) and/or actively supervise QPC if program does not require fulltime supervisor;
- viii. assure that facility adheres to rules and regulations regarding all substance abuse treatment, e.g. group size, caseload, referrals, etc;
- ix. provide only those services which are appropriate to their profession.

2. Qualified Professional Counselor (QPC)
 - a. Qualifications. A QPC is a professional who is employed in the treatment of abuse/addiction disorders and who is currently licensed/certified by the appropriate Louisiana Board as one of the following professionals:
 - i. Board Certified Substance Abuse Counselor (BCSAC) or (LASACT);
 - ii. board Certified Social Worker (BCSW);
 - iii. licensed Professional Counselor (LPC);
 - iv. licensed Psychologist;
 - v. licensed Physician (MD);
 - vi. registered Nurse (RN);
 - vii. board Certified Compulsive Gambling Counselor (BCCGC);
 - viii. masters-prepared Social Worker/Counselor who is under supervision to become licensed or Doctorate-prepared psychologist.
 - b. Responsibilities. The QPC shall:
 - i. provide direct care to clients utilizing the core functions of substance abuse counseling and may serve as primary counselor to specified caseload;
 - ii. serve as resource person for other professionals and paraprofessionals in their specific area of expertise;
 - iii. attend and participate in client care conferences, treatment planning activities, and discharge planning;
 - iv. provide on-site and direct professional supervision of any paraprofessional or inexperienced professional;
 - v. function as the patient advocate in all treatment decisions affecting the client;
 - vi. prepare and write notes/other documents related to client recovery, e.g. assessment, progress notes, treatment plans, etc.; and
 - vii. provide only those services that are appropriate to their profession.
3. Board Certified Prevention Manager/Specialist
 - a. Qualifications. Prevention Managers/Specialists shall be certified as required by the LSBCSAC.
 - b. Responsibilities include:
 - i. program coordination;
 - ii. education and training;
 - iii. community organization;
 - iv. public policy;
 - v. planning and evaluation; and
 - vi. professional responsibility.
4. Counselor in Training (CIT)
 - a. Qualifications
 - i. registered with the professional licensing board and in good standing at all times;
 - ii. actively pursuing certification at all times; and
 - iii. designated in writing as CIT, performing according to written, training plan under the auspices of the facility.
 - b. Responsibilities. The CIT shall:
 - i. provide direct client care utilizing the core functions of substance abuse counseling only under the on-site supervision of facility employed QPS/QPC;
 - ii. not identify nor represent himself/herself as counselor;

- iii. not perform any duties of counselor independently, without on-site supervision of facility employed QPS/QPC;
 - iv. never identify themselves as a consultant to any substance abuse facility;
 - v. not have simultaneous, concurrent employment with more than one facility at any time.
 5. Support Professional Staff. Support professional staff includes employees, consultants, contract employees, or volunteers who provide services in the capacity of their profession, including but not limited to, pharmacists, dietitians, physicians, nurses, social workers, teachers, counselors, or psychologists.
 - a. Qualifications
 - i. currently unencumbered license/registration with appropriate Louisiana Board (may be approved specifically by licensing Board, if encumbered); and
 - ii. a professional as recognized by the certifying entity, rather than assistant, aide, technician, associate, etc.
 - b. Responsibilities
 - i. those within their respective Board's delineated scope of practice only;
 - ii. in-service, staff training, consultation to paraprofessionals and professionals and direct supervision, as needed to improve the overall quality of care being provided.
 6. Volunteer
 - a. Qualifications. Volunteers must be:
 - i. appropriately screened and supervised to protect clients and staff;
 - ii. oriented to facility, job duties, other pertinent information;
 - iii. appropriately trained to meet requirements of duties assigned;
 - iv. given a job description or written agreement; and
 - v. identified as volunteers.
 - b. Responsibilities include:
 - i. direct care activities only when qualified facility personnel present;
 - ii. errands, recreational activities;
 - iii. individual assistance to support services; and
 - iv. other appropriately assigned duties.
 7. Contract Staff Services. Formal written agreements with professionals or other entities to provide services which may or may not be directly offered by facility staff are required for contract services. Both parties shall review and document review of each agreement annually. The facility retains full responsibility for all services provided by contract, unless client is discharged from original facility and admitted to contract facility. All services provided by contract shall meet the requirements of these standards and be provided only by qualified providers (licensed if required).
 8. Medical Director. Every facility licensed for detoxification or treatment shall have a designated medical director. Primary prevention programs are not required to designate a medical director.
 - a. Qualifications. The Medical Director shall have current, valid license to practice medicine in Louisiana.

- b. Responsibilities
 - i. provide services required by facility to meet the Standards;
 - ii. provide oversight for facility policy/procedure and staff regarding the medical needs of the clients being served in accordance with the current standards of medical practice; and
 - iii. retains ultimate responsibility for directing the specific course of medical treatment.

D. Training

1. Orientation. Each employee shall complete at least eight hours of Orientation prior to providing direct client care/contact. The content of the basic orientation provided to all employees at the time of employment with annual review shall include the following:

- a. policies/procedures and objectives of the facility;
- b. duties and responsibilities of the employee;
- c. organizational/reporting relationships;
- d. ethics and confidentiality;
- e. client's rights;
- f. standards of Conduct required by the facility;
- g. information on the disease process and expected behaviors of clients;
- h. emergency procedures including disaster plan, evacuation;
- i. principals and practices of maintaining a clean, healthy and safe environment;
- j. additional information as appropriate to job duties, type of client, etc;
- k. universal precautions;
- l. violent behavior in the workplace;
- m. abuse/neglect;
- n. overview of Louisiana licensing standards; and
- o. prevention overview.

2. In-Service. This educational offering shall assist the direct care/contact workers to provide current treatment modalities, and serve as refresher for subjects covered in orientation. Documentation of attendance for at least 3 hours per quarter is required. Additional educational programs are encouraged.

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§7419 Health and Safety

A. Infection Control

1. Facility shall protect staff, clients, and visitors from the potential/actual harm of infectious disease by the following policies and procedures:

- a. universal precautions. Education, practice, and implementation shall be applied.
- b. infection control program to report, evaluate, and maintain documentation pertaining to the spread of infectious disease, including data collection and analysis,

corrective actions, and assignment of responsibility to designated medical staff person.

- c. strict adherence to all sanitation requirements.

2. Facility shall establish and maintain a clean and neat environment by the implementation of the following housekeeping policies and procedures:

- a. supplies/equipment shall be available to staff/clients.
- b. consistent and constant monitoring and cleaning of all areas of the facility shall be practiced.
- c. facility may contract for services necessary to maintain a clean and neat environment.
- d. directions shall be posted for sanitizing in kitchen and bathroom areas.

3. Domestic animals shall be:

- a. properly vaccinated; and
- b. managed in a way consistent with the goals of the program and the needs of the client, including those with allergies.

B. Sanitation

1. Food and waste shall be stored, handled, and removed in a way that will not spread disease, cause odors, or provide a breeding place for pests.

2. If there is evidence of pests, the facility shall contract for pest control.

3. Poisonous, toxic and flammable materials shall be labeled, stored, and used safely.

C. Safety

1. Environmental

a. The entire facility, including grounds, buildings, furniture, appliances, and equipment, shall be structurally sound, in good repair, clean, and free from health and safety hazards.

b. The facility shall comply with Americans with Disabilities Act (ADA).

c. The environment shall enhance client dignity and confidentiality.

d. The facility shall have adequate space, furniture, and supplies for the services described in the program description, including:

- i. an adequate number of accessible drinking units;
- ii. an adequate number of sanitized non-disposable or disposable hot/cold cups;
- iii. clean, comfortable and appropriately furnished areas for various activities.

e. The facility shall have private counseling space. Staff shall have office space that is not required for other simultaneous activities.

f. The facility shall prohibit firearms and double-edged, fixed-blade knives on-site.

g. Mobile homes shall not be used for client sleeping areas.

2. The facility shall respond effectively during a fire or other emergency. Every program shall:

- a. have emergency evacuation procedures that include provisions for the handicapped;
- b. hold fire drills on each shift at least quarterly and correct identified problems promptly;
- c. be able to clear the building safely and in a timely manner at all times;

- d. post exit diagrams conspicuously throughout the program site;
- e. post emergency numbers by all phones; and
- f. have adequate first aid supplies that are visible and easy to access at all times.

3. Facility shall take all precautions possible to protect the staff, clients and visitors from accidents of any nature.

4. Facility shall have a written facility specific disaster plan, and staff shall be familiar with the contents of the plan as well as the location.

D. Emergency Care. At least one employee on site at each facility shall have training in dealing with out-of-hospital accidents and medical emergencies until emergency medical personnel and equipment can arrive at facility. The accepted level of training is the First Responder Course curriculum approved by the National Highway Traffic Safety Administration or comparable certification or license. Facilities that have licensed nurses/physicians on duty during all hours of operation are exempt from this requirement.

E. Physical Plant Requirements

1. Required Inspections

a. The facility shall pass all required inspections and keep a current file of reports and other documentation needed to demonstrate compliance with applicable laws and regulations. The inspections must be signed, dated, and free of any outstanding corrective actions. The following inspections are required:

- i. annual fire marshal inspection;
- ii. annual inspection of the alarm system by a licensed contractor;
- iii. quarterly fire alarm system test by facility staff;
- iv. annual kitchen inspection by Office of Public Health,
- v. gas pipe pressure test once every three years by the local gas company or a licensed plumber.
- vi. annual inspection and maintenance of fire extinguishers by personnel licensed or certified to perform those duties; and
- vii. regular inspections of elevators.

b. The following documentation shall be on file in facility:

- i. certificate of occupancy as required by local authorities;
- ii. DHH approval of the water supply/system;
- iii. DHH approval of the sewage system; and
- iv. documentation that the liquefied petroleum supply has been inspected and approved.

2. Fire Notification/Protection Systems

a. A fire detection, alarm, and communication system required for life safety shall be installed, tested, and maintained in accordance with the facility's occupancy and capacity classifications.

b. Fire alarm systems shall be installed by agents registered with Office of State Fire Marshal.

c. Alarms shall be loud enough to be heard above normal noise levels.

d. Fire extinguishers shall be mounted throughout the facility as required by code and approved by Office of State Fire Marshal.

i. Each laundry and walk-in mechanical room shall have at least one portable A:B:C extinguisher, and each kitchen shall have at least one B:C fire extinguisher.

ii. Each fire extinguisher shall have the required maintenance service tag attached.

e. Staff shall conduct quarterly inspections of fire extinguishers for proper location, obvious physical damage, and a full charge on the gauge.

3. Exterior Space Requirements. A provider shall:

a. ensure that all structures on the grounds of the facility that are accessible to clients are maintained in good repair and are free from an excessive hazard to health or safety;

b. maintain the grounds of the facility in an acceptable manner and ensure that the grounds are free from any hazard to health or safety;

c. store garbage and rubbish securely in non-combustible, covered containers that are emptied on a regular basis;

d. separate trash collection receptacles and incinerators from client activity areas and locate all containers so as to avoid being a nuisance to neighbors;

e. keep fences in good repair;

f. fence off or have natural barriers around areas determined to be unsafe, including steep grades, cliffs, open pits, swimming pools, high voltage boosters, or high speed roads.

4. Interior Space Requirements

a. Group Rooms. Seating for each client shall be provided with appropriate furnishings.

b. Leisure/Craft Areas. Materials appropriate to the clients being treated at the facility shall be stocked.

c. Bathrooms. Minimum facilities include:

i. adequate operational fixtures to meet Louisiana State Plumbing Code. All fixtures must be functional and have the appropriate drain and drain trap to prevent sewage gas escape back into the facility;

ii. an adequate supply of hot water for the number of residents and the program schedule. Hot water temperature at point of service to client shall be between 105 and 120 degrees Fahrenheit;

iii. toilets shall have seats and be located to allow access without disturbing other clients during sleeping hours and/or treatment sessions;

iv. adequate supply of toilet paper, towels, and soap;

v. doors to allow for individual privacy;

vi. external emergency release mechanism;

vii. safe and adequate supply of cold running water;

viii. safety mirrors attached to the walls at convenient heights and other furnishings necessary to meet the clients' basic hygiene needs;

ix. functional toilets, wash basins, and other plumbing or sanitary facilities which shall be maintained in good operating condition, and shall be kept free of any materials that might clog or otherwise impair their operation.

d. Administrative and Counseling Space

i. Administrative office(s) for records, secretarial work and bookkeeping shall be separate and secure from client areas.

ii. Space shall be designated to allow for private discussions and counseling sessions.

e. Doors and Windows. Outside doors, windows and other features of the structure necessary for safety and comfort of clients shall be secured for safety within 24 hours after they are found to be in a state of disrepair. Total repair should be effected as soon as possible.

i. A provider provides insect screening for all opened windows. This screening shall be readily removable in emergencies and shall be in good repair.

ii. All doors can be readily opened from both sides.

iii. All windows open to an outside view or a patio/porch area and are available for use as an alternate means of escape, if needed.

f. Storage. A provider shall:

i. ensure that there are sufficient and appropriate storage facilities;

ii. secure all potentially harmful materials.

5. Exits

a. Exit doors and routes shall be lighted and unobstructed at all times.

b. There shall be an illuminated "EXIT" sign over each exit. Where the exit is not visible, there shall be an illuminated "EXIT" sign with an arrow pointing the way.

c. Rooms for 50 or more people have exit doors that swing out.

d. No door may require a key for emergency exit. Locked facilities shall have emergency exit door releases as described in the Life Safety Code and/or approved by the Office of State Fire Marshal.

e. Windows shall provide a secondary means of escape.

f. Every building shall have at least two exits that are well separated.

g. Every multiple-story building shall have at least two fire escapes (not ladders) on each story that are well separated. Fire escapes shall:

i. be made of non-combustible material;

ii. have sturdy handrails or walls on both sides; and

iii. provide a safe route to the ground.

h. Stairs and ramps shall be permanent and have non-slip surfaces.

i. Exit routes higher than 30 inches (such as stairs, ramps, balconies, landings, and porches) shall have full-length side guards.

6. Electrical Systems. All electrical equipment, wiring, switches, sockets and outlets are maintained in good order and safe condition. Any room, corridor, stairway and exit within a facility is sufficiently illuminated.

a. The facility shall have adequate lighting to provide a safe environment and meet user needs.

b. Lighting shall be provided outside the building and in parking lots.

c. Light bulbs shall have shades, wire guards or other shields.

d. Emergency lighting shall illuminate EXIT routes.

7. Ventilation

a. The facility shall not use open flame heating equipment or floor furnaces, unvented space heaters, or portable heating units.

b. Occupied parts of the building, including kitchen and laundry areas, shall be air conditioned and temperature should remain between 65 degrees and 85 degrees Fahrenheit.

c. The entire facility shall be adequately ventilated with fresh air. Windows used for ventilation shall be screened.

d. Provider shall take all reasonable precautions to ensure that heating elements, including exposed hot water pipes, are insulated and installed in a manner that ensures the safety of clients and staff.

8. Plumbing

a. Safe, clean, cold drinking water shall be readily available to all residents.

b. The plumbing systems shall be designed, installed, operated and maintained in a manner that is designed to provide an adequate and safe supply of water for all required facility operations and to facilitate the complete and safe removal of all storm water and waste water.

9. Finishes and Surfaces

a. Lead-based paint or materials containing asbestos shall not be used.

b. Floor coverings must promote cleanliness, must not present unusual problems for the handicapped and have flame-spread and smoke development ratings appropriate to the use area (e.g. client's room versus exit corridor).

c. All variances in floors shall be easily identified by markings, etc. to prevent falls.

F. Additional Physical Plant Requirements for Residential Facilities

1. Kitchens. Kitchens used for meal preparations by either staff or clients shall be appropriately sized and provided with the necessary equipment for the preparation, storage, serving and clean-up of all meals provided to the clients/staff. In addition, if clients prepare meals, additional equipment and space will be required. All equipment shall be maintained in working order.

a. Trash containers shall be made of metal or United Laboratories-approved plastic.

b. Trash containers in kitchens and dining area shall be covered.

2. Staff Quarters. Live-in staff shall have adequate, separate living space with a private bathroom (toilet, wash basin, and tub/shower).

3. Leisure. Allotted leisure space shall be adequate for the capacity designated on the license and approved by DHH-Engineering and Planning. Each living unit of any residential facility shall contain a space for the free and informal use of clients. This space shall be constructed and equipped to meet programmatic goals.

4. Dining Area. Space shall be provided that permits clients, staff and guests to eat together in small groups and is clean, well-lighted, ventilated and attractively furnished.

5. Bedrooms. No more than four clients may occupy a designated bedroom space unless the floor plan is approved by DHH sections of Engineering and Professional Review, Fire Marshal, OAD and HSS. Sleeping areas shall have at least:

a. 80 usable square feet per person in single-occupancy rooms;

b. 60 usable square feet per person in multiple-occupancy rooms (or 50 square feet per person if bunk beds are used). Bunk beds shall not be used for Inpatient Primary Treatment programs;

c. doors for privacy and a functional window;

d. adequate personal storage space for each client, including space for hanging clothes and adequate drawer space;

e. a ceiling height of at least seven feet six inches in a bedroom space of a size consistent with square footage requirements above, even if part of the room has a ceiling less than 7 feet six inches tall;

f. bed of solid construction, appropriate to size and age of client, that has a clean, comfortable, non-toxic fire-retardant mattress that fits bed. Cots or other portable beds are to be used in emergencies only;

g. clean sheets, pillow, bedspread and blanket provided by the facility as needed or requested by the client unless the request is unreasonable. All linens must be in good repair and systematically removed from use when no longer usable;

h. enough room above the uppermost mattress of any bed to allow the occupant to sit up;

i. a door/escape window leading directly to the outside of the building.

6. Bathrooms. There shall be at least one sink, one tub or shower, and one toilet for every eight residents.

a. Showers and tubs shall have no-slip surfaces and curtains or other safe enclosures.

b. Items required for personal hygiene shall be provided in residential facilities unless clients are already in possession of such items.

7. Miscellaneous

a. Personal appliances shall be in good working order and inspected for safety hazards.

b. All clients shall have access to laundry services at reasonable cost or properly maintained laundry facilities.

8. Emergency Power. Inpatient Primary Treatment facilities with capacity greater than 50 clients shall have a reliable, adequately sized emergency power system. The emergency power system is powered by a generator set or battery system, where permitted, to provide power during an interruption of normal electrical service.

9. Recreational Equipment. All 24-hour treatment facilities shall have access to reasonable outdoor recreational space and suitable recreational equipment.

10. Vehicles. Transportation shall be provided in a safe and reliable vehicle that is properly licensed, insured, and inspected, and driven by an appropriately licensed person. Vehicles must be adequately insured and operated in accordance with all applicable laws and regulations.

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§7421. Direct Service Management

A. Client's Rights. Involuntary hospitalization/commitment does not mean loss of your rights to make decisions about your life. The client shall have the right to expect the following inclusive but not exclusive rights:

1. assistance with healing of family relationships;

2. protection from unsafe and/or unskilled care by any person associated with the facility;

3. protection from unqualified persons providing services under the auspices of treatment;

4. consideration and respect toward the client, family and visitors when those people treat the facility staff with respect and consideration;

5. protection of personal property approved by the facility; and

6. protection from retaliation for exercise of the following rights.

B. Required Postings. The facility shall post a legible copy of the following documents in full view of clients, visitors, and employees:

1. the age appropriate Client Bill of Rights;

2. escape routes;

3. facility specific rules and responsibilities and grievance procedure;

4. current license and variances;

5. current activity schedule;

6. current survey findings.

C. Adult Client Bill of Rights. You have the right to:

1. a humane environment that provides reasonable protection from harm and appropriate privacy for your personal needs;

2. be free from abuse, neglect, and exploitation;

3. be treated with dignity and respect;

4. appropriate treatment in the least restrictive setting available that meets your needs;

5. be told about the program's rules and regulations before you are admitted;

6. be told before admission:

a. the condition to be treated;

b. the proposed treatment;

c. the risks, benefits, and side effects of all proposed treatment and medication;

d. the probable health and mental health consequences of refusing treatment; and

e. other available treatments which may be appropriate for you;

7. accept or refuse treatment after receiving this explanation;

8. change your mind at any time (unless specifically restricted by law);

9. a treatment plan designed to meet your treatment needs, and you have the right to take part in developing that plan;

10. meet with staff to review and update the treatment plan on a regular basis;

11. refuse to take part in research without affecting your regular care;

12. refuse unnecessary and/or excessive medication;

13. not to be restrained or placed in a locked room by yourself unless you are a danger to yourself or others;.

14. have personal information kept confidential and to be told about the times when the information can be released without your permission;

15. communicate with people outside the facility. This includes the right to have visitors, to make telephone calls, and to send and receive sealed mail. This right may be restricted on an individual basis by your doctor or the professional in charge of the program if it is necessary for your treatment or for security, but even then you may contact an attorney or DHH at any reasonable time;

16. be informed in advance of all estimated charges and any limitations on the length of services;

17. receive an explanation of your treatment or your rights while you are in treatment;

18. leave the facility within four hours of requesting release (if you consented to treatment), unless a physician determines that you pose a threat of harm to yourself and others;

19. make a complaint and receive a fair response within a reasonable amount of time;

20. complain directly to DHH at any reasonable time;

21. get a copy of these rights before you are admitted, including the address and phone number of DHH;

22. have your rights explained to you in simple terms, in a way you can understand, within 24 hours of being admitted.

D. Minor's Rights. In accordance with the *Louisiana Children's Code, Article 116*; you have the right to:

1. an attorney and the right to communicate with your attorney in a private place at all times;

2. a copy of your rights in a language you understand;

3. receive and send letters, to receive and make telephone calls, to receive visitors (at least weekly);

4. spend a reasonable amount of money on small items, such as snacks, and soft drinks;

5. wear your own clothes and keep personal things;

6. have a private space for your personal things;

7. be disciplined in a way that is appropriate. Restraint and seclusion cannot be used to punish or discipline you;

8. medicine that makes you feel better. If your medicine makes you feel bad, tell your nurse, doctor or client advocate;

9. treatment in a place that allows you to have the most freedom possible;

10. treatment plan that is set up to meet your individual needs;

11. leave the facility when your condition improves enough so that you can receive treatment in a less restrictive setting;

12. have a private doctor examine you at your own expense.

E. Grievance Procedure. The facility must have a grievance process and must indicate who the client can contact to express a grievance. Records of all grievances, steps taken to investigate, and results of interventions must be available to surveyors upon request.

F. Abuse, Neglect, and Exploitation

1. Reporting. All allegations of client abuse, neglect, and exploitation shall be reported verbally/facsimile within 24 hours, and confirmed in writing to HSS within seven days.

2. Abuse. Client abuse includes:

a. any sexual activity between facility personnel and a client;

b. corporal punishment;

c. nutritional or sleep deprivation;

d. efforts to cause fear;

e. the use of any form of communication to threaten, curse, shame, or degrade a client;

f. restraint that does not conform with these rules;

g. coercive or restrictive actions that are illegal or not justified by the client's condition taken in response to the client's request for discharge or refusal of medication or treatment; and

h. any other act or omission classified as abuse by Louisiana law.

3. Neglect. Neglect examples include:

a. failure to provide adequate nutrition, clothing, or health care;

b. failure to provide a safe environment free from abuse or danger;

c. failure to maintain adequate numbers of appropriately trained staff;

d. any other act or omission classified as neglect by Louisiana law.

4. Exploitation. Examples of exploitation include:

a. use of a client's personal resources, such as credit card, medical assistance card, or insurance card, to bill for inappropriate service;

b. use of the client's food stamps or other income to purchase food/services used primarily by others;

c. using the client to solicit money or anything of value from the public, or others.

5. Sexual exploitation. It may include sexual contact, a request for sexual contact, or a representation that sexual contact or exploitation is consistent with or part of treatment.

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§7423. Children/Adolescent Programs

A. Services are provided to adolescents or younger children on an individual basis as approved by OAD. Provisions in this section apply to facilities that are residential, outpatient, community-based, or primary prevention programs when service recipients are under 18 years of age. The following provisions are in addition to listed requirements for programs, and take precedence over conflicting requirements when services are provided to adolescents or children.

1. Treatment Services

a. The program's treatment services, lectures, and written materials shall be age-appropriate and easily understood by clients.

b. The treatment plan shall address adolescent needs and issues.

c. The program shall involve the adolescent's family or an alternate support system in the treatment process or document why this is not appropriate.

d. Staff shall not provide, distribute, or facilitate access to tobacco products.

2. Staffing. The following staffing requirements are minimum standards and do not restrict the facility from utilizing additional employees.

a. Any facility employee who provides direct care to children/adolescents shall meet the requirements of the *Louisiana Children's Code Article 116*. Specifically, the employee may have no documented history indicating the possibility that he/she would endanger the child. Facility shall make every effort to determine criminal history of employees.

b. The facility shall ensure that only "qualified professional staff" (Louisiana R.S. 40:1098.2) plan, supervise, or provide education or counseling or training in the emotional, mental health, and substance abuse problems to adolescents.

c. All direct care employees shall have training in human adolescent development, family systems, adolescent psycho-pathology and mental health, substance abuse in adolescents, and adolescent socialization issues.

d. All direct care employees and volunteers shall be trained and competent to use personal and physical restraint.

e. In residential programs, the qualified professional counselor ratio to clients shall be no higher than 1:8 during waking hours. A minimum of two staff persons shall be present at all times. A qualified professional counselor shall be on call at all times. Program sponsored activities away from the facility require staff to client ratio no higher than 1:5 with a minimum of two adults at all times.

f. Clients shall be under direct supervision at all times.

i. Onsite, staff shall be readily available at all times, preferably within eyesight or hearing distance. If clients are not within eyesight, staff shall conduct visual checks at least once every hour, including bed checks.

ii. Offsite, clients shall be within eyesight at all times.

3. Educational Resources. Programs for school age children shall provide Department of Education-approved

opportunity for clients to maintain grade level and continuity of education during any treatment lasting longer than 14 days unless treatment occurs during school vacation.

4. Special Considerations

a. Facilities shall address the special needs of adolescents and protect their rights.

b. Residential facilities shall have separate bedrooms and bathrooms for adults and adolescents and for males and females.

c. Adults and adolescents shall not be housed in the same area.

d. Adults and adolescents may be mixed for specific groups or activities when no conflict exists.

e. The facility shall obtain consent for admission and authorization to obtain medical treatment from parent or guardian prior to the time of admission for all clients under the age of majority.

f. The facility shall allow regular communication between an adolescent client and the client's family and shall not arbitrarily restrict any communications without clear, written, individualized clinical justification documented in the client record.

g. Staff shall not use tobacco products in the presence of adolescent clients.

h. The staff shall prohibit adolescent clients from using tobacco products on the program site or during structured program activities.

i. If functional status of client is not age appropriate, facility shall provide additional supervision to provide for safety of all clients.

B. Dependent Care describes those programs designed to provide substance abuse treatment to mothers with dependant children who remain with parent while the parent is in treatment.

1. Treatment Services

a. Weekly individual and group counseling or family therapy shall be conducted by qualified professional with appropriate experience.

b. Parenting classes shall be provided weekly. Attendance is required.

c. The program shall address the specialized needs of the parent and include services for children.

d. Education, counseling, and rehabilitation services shall address:

i. the effects of chemical dependency on a woman's health and pregnancy;

ii. parenting skills; and

iii. health and nutrition.

e. The program shall have a procedure to regularly assess parent-child interactions. Any identified needs shall be addressed in treatment.

f. Program staff shall provide access to family planning services.

2. Staffing. The following staffing requirements are minimum standards and do not restrict the facility from utilizing additional employees.

a. Qualified trained professionals shall provide constant supervision appropriate to age of each child.

b. The program shall provide or arrange for child care with a qualified provider while the parent participates in treatment activities. Before supervising children independently, the provider shall have infant CPR certification and at least eight hours training in the following areas:

- i. chemical dependency and its impact on the family;
- ii. child development and age-appropriate activities;
- iii. child health and safety;
- iv. universal precautions;
- v. appropriate child supervision techniques; and
- vi. signs of child abuse.

c. Every children's program shall have an employee or consultant who is available to provide staff training, evaluation of effectiveness of direct care staff, and to plan activities, etc. for at least one hour per week per child. This employee shall meet the following educational requirements:

- i. 90 clock hours of education and training in child development and/or early childhood education; and
- ii. one year of documented experience providing services to children.

d. When staff are responsible for children, the staff-to-child ratio shall not exceed 1:3 for infants (18 months and younger) and 1:6 for toddlers and children. Clients shall not supervise another parent's children without written consent from the legal guardian and staff approval.

4. Special Considerations

a. Staff shall not allow anyone except the legal guardian or a person authorized by the legal guardian to take a child away from the facility. If an individual shows documentation of legal custody, staff shall record the person's identification before releasing the child.

b. Facility shall have written policy/procedure regarding parent abuse and/or neglect of a child.

c. Residential programs shall not accept dependents over the age of 12 without specific variance approval of OAD and HSS.

d. Children over the age of six shall not share a bedroom with a member of the opposite sex who is not in the child's immediate family.

e. The program shall ensure that children are directly supervised by parents or qualified providers at all times.

f. The program shall have a written policy and a current schedule showing who is responsible for the children at all times.

g. The daily activity schedule shall include a variety of structured and unstructured age-appropriate activities.

h. The program shall provide a variety of age-appropriate equipment, toys, and learning materials.

i. School age children shall have access to school.

j. Standards protecting the health, safety, and welfare of clients also apply to their children.

k. Behavior management shall be fair, reasonable, consistent, and related to the child's behavior. Physical discipline is prohibited.

5. Safety Practices

a. The evacuation procedures shall include provisions for children approved by the fire marshal.

b. The program shall not allow children to use:

- i. climbing equipment or swings on or near concrete or asphalt;
- ii. toys that explode or shoot things;
- iii. other sharp or dangerous items; or
- iv. toys and equipment in disrepair.

c. The program shall have safeguards to prevent children from using toys that are dangerous because they are not age-appropriate.

d. The program site shall meet the additional physical plant requirements as required for children.

6. Health Practices

a. The program shall have procedures for isolating parents and children who have communicable diseases and providing them with appropriate care and supervision.

b. The program shall keep current immunization records for each child at the program site.

c. The program shall obtain a consent to obtain emergency medical care for each child at admission.

d. Each child shall have an assessment by a Medical Doctor and/or Advanced Practice Registered Nurse within 96 hours of admission. Copies of an assessment performed up to seven days before admission are deemed to meet this requirement.

e. The program shall provide potty chairs for small children and sanitize them after each use.

f. The program shall provide age-appropriate bathing facilities. Infants shall not be bathed in sinks.

g. Staff, volunteers, and parents shall use universal precautions when caring for children other than their own.

h. The program shall ensure that children are clean and appropriately dressed.

i. Staff shall check all diapers frequently, change without delay, and dispose of the diapers in a sealed container and sanitize the changing area.

j. The program shall provide an adequate diet for childhood growth and development, including two snacks per day.

k. Children's medication shall be given according to the label by the parent or a licensed health professional. The facility shall obtain written consent from the parent to administer the medication, as required. The facility shall assume full responsibility for the proper administration and documentation of medication.

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§7425. Primary Prevention Programs

A. Programs are planned, goal-oriented activities designed for the following purpose:

1. promote personal (emotional, intellectual, physical, spiritual and social) growth of individuals; and/or

2. strengthen those aspects of the community environment which preclude, forestall, or impede the development of alcohol and other drug abuse problems.

B. The following are types of prevention programs.

1. Youth groups; and

2. Community Education Centers. Educational programs provide educational services through qualified personnel for government agencies, community organizations, school systems (public and private), churches, businesses, medical and health systems, professionals and individuals. These types of programs relate to community and personal health issues concerning the prevention of substance use/abuse.

C. Programs/Activities Strategies

1. Primary Prevention includes the following activities:

a. Information Dissemination. Primarily one-way communication to reach into a community systematically to identify "at risk" persons and their families, to inform the community of available services, location of needed services, and how to access the system;

b. Education. Primarily two-way communication to improve critical life and social skills, to increase resistance skills, and to improve ability to make judgments regarding the use of alcohol and other drugs;

c. Alternative Activities. Opportunities are provided that exclude the use of alcohol, tobacco, and other drug use;

d. Problem Identification and Referral. Activity provides assessment of community's need for primary prevention and/or identification/referral of "at risk" individuals;

e. Community-Based Process. Activities are designed to enhance the ability of the community to prevent substance abuse;

f. Environmental. Establishes or positively impacts written and unwritten community standards, codes and attitudes toward substance use/abuse.

2. Referral services program staff will be trained to recognize the symptoms of substance abuse/addiction and referrals must be made only to appropriately licensed treatment programs.

D. Staffing. The following staffing requirements are minimum standards and do not restrict the facility from utilizing additional employees.

1. All persons providing services to children/adolescents shall meet the criteria in §7417 of this document and the *Louisiana Children's Code, Article 116*. Facility must employ/assign personnel to provide for the safety of the clients during all activities.

2. A Certified Prevention Manager shall provide supervision to all employees concerning programmatic activities.

3. At least one Certified Prevention Specialist shall be available on duty for every 25 clients if program is for youth groups; otherwise for events such as community education, no guidelines.

4. Volunteers who work with children/adolescents shall be screened to prevent potential harm or danger to participants.

5. Prevention professional services differ from those of Counselor in that prevention professional duties do not include intervention.

6. Prevention Specialist in Training (PSIT). A person currently registered with the Louisiana State Board of Certification for Substance Abuse Counselors (or other board designated as appropriate by DHH/HSS) in good standing at all times.

E. Client Functional Status. Clients must be appropriate to program design and presentation.

F. Models. Prevention Programs will adhere to a model approved by OAD and DHH/HSS to reduce substance abuse and associated problem behaviors. Providers shall adhere to the following:

1. Submit all required documentation for initial licensure as required in §7403 Licensure.

2. Maintain rosters of all clients with pre/post test scores.

3. Provide services during the hours approved at initial licensing and also provide programs after-school, holidays, summer months, and weekends for youth groups.

4. Programs design shall have been proven effective through research, targeted to a specific designated population, and based on a needs assessment that identifies the extent and type of existing problems in the community, the services available, and the unmet needs.

5. Services provided shall be monitored by the facility through observation, reporting, and recording of deliverables. Outcomes shall be measured by reasonable criteria related to program goals.

6. Periodic evaluations of program effectiveness (at least annually) shall document the effect of the program, and reasons for impact.

G. Community Education. Information is provided to the public related to abuse/addiction, either as outreach activities or as a resource center. Each facility shall:

1. Employ a Board Certified Prevention Manager/Specialist;

2. Submit the following for initial licensure:

a. credentials;

b. scheduled activities and locations;

c. program descriptions;

d. licensure fee with current, complete application; and

e. description of target population(s).

3. Provide all services in accordance with accepted standards of professional conduct;

4. Maintain roster of attendees, as well as documentation of all services provided;

5. Provide a plan for process and outcome evaluation.

H. Record Requirements. Each facility is required to be in compliance with core requirements. Therefore, all records should include the following:

1. Client Information

a. Admission and referral information;

b. Client information/ data, name, race, sex, birth date, address, telephone number, social security number, school/employer, and next of kin/emergency contact;

c. Medical limitations, such as major illnesses and allergies; and

d. Attendance, participation in services and/or activities.

2. Additional Client Information

a. client roster;

b. activity schedule;

- c. pre/post test scores;
- d. log of clients referred to or received from facilities for treatment or evaluation; and
- e. a release to obtain emergency care in case of illness or injury is needed for youth groups.

I. Special Considerations. All Primary Prevention Programs must meet any additional requirements of OADA, and be approved in writing by OADA prior to licensing by DHH/HSS.

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§7427. Detoxification Services

A. Types of In-patient Detoxification

1. Medically Supported. Professional medical and nursing coverage available as determined by the needs of clients admitted for detoxification in a non-hospital residential setting.

2. Non-medical. Semi-skilled observation, monitoring and treatment by trained para-professionals, for those clients who have been medically approved, and whose detoxification process can be predicted.

NOTE: Medical detoxification is not covered under this licensure as it involves professional level continuous observation, monitoring and treatment for those clients whose detoxification process cannot be predicted due to unstable physical condition or other relevant conditions. Louisiana has only hospital-affiliated medical detoxification programs.

B. Detoxification Staffing. The following staffing requirements are minimum standards and do not restrict the facility from utilizing additional staff.

1. Medically Supported Detoxification

a. Nurses shall be available as needed to provide nursing care as required for a client, to train para-professionals, to provide support, and to administer medications and treatments. If the facility does not administer medications or treatments, nursing services are not required.

b. Physicians shall be consultative to provide direction for facility staff, approval of facility client care procedures, and to provide approvals for clients admitted to a facility.

c. Other personnel consists of professional and other support staff who are adequate to meet the needs of the clients admitted to the facility.

2. Non-medical Detoxification

a. Physicians shall be consultative to provide direction for facility staff, approval of facility procedures.

b. Other personnel consists of professional and other support staff who are adequate to meet the needs of the clients admitted to the facility.

C. Admission Assessment. While it is desirable to have clients complete the admission assessment process, it is not required if the client is admitted on an emergency basis. Facilities are required to orient direct care employees to

monitor, observe and recognize early symptoms of serious illness and to access emergency services promptly.

D. Treatment Services. Treatment is deferred until detoxification has been completed or the client is physically and mentally competent to begin treatment. The facility shall be expected to have the following services available, either on-site or by written agreement:

- 1. counseling;
- 2. crisis Intervention;
- 3. toxicology (in medically supported detoxification units only);
- 4. dietary; and
- 5. referral.

E. Special Considerations

1. History. The program shall obtain enough medical and psycho-social information about the client to provide a clear understanding of the client's present status. The detoxification history shall be initiated within 24 hours of admission, and completed and filed in the client record within 72 hours of admission. If the client's physical condition prevents documentation within 24 hours, staff shall explain the circumstances in the client record and obtain the information as soon as possible.

- a. Alcohol and other drug use, past and present, amount, frequency, last use;
- b. Past psychiatric and chemical dependency treatment;
- c. Significant medical history and current health status;
- d. Current living situation;
- e. Current employment situation; and
- f. Current emotional state and behavioral functioning.

2. Medical Clearance/Screening

a. Medically Supported. Medical history and physical examination completed during the 24 hours preceding admission is acceptable, if it is approved by the program's physician or advanced practice nurse. A medical history shall be completed within 24 hours and a physician's examination within 72 hours, unless emergency occurs.

b. Non-medical. Medical screening upon arrival, by First Responder, or equal as reflected in §7419. Health and Safety, with telephone access to RN or MD for instructions for the care of the client.

3. Toxicology/Drug Screening

a. Medically Supported. Physician may waive drug screening if and when client signs list of drugs being abused and understands that his/her dishonesty could result in severe medical reactions during detoxification process.

b. Non-medical. Clients who require drug screening shall be transferred to Medically Supported or Medical Detoxification Program until stabilized.

4. Stabilization Plan. Qualified professional shall identify the client's short term needs based on the detoxification history, the medical history, and the physical examination, if available and prepare a plan of action until client becomes physically stable.

5. Detoxification Plan

a. Medically Supported. The detoxification plan shall be reviewed and signed by the physician and the client, and shall be filed in the client's record within 24 hours of admission with updates as needed.

b. Non-medical. The detoxification plan shall be reviewed and signed by the counselor and the client, and shall be filed in the client's record within 24 hours of admission with updates as needed.

6. Detoxification Notes. The program shall implement the detoxification plan and document the client's response to and/or participation in scheduled activities. Notes shall include:

- a. the client's physical condition, including vital signs;
- b. the client's mood and behavior;
- c. client statements about the client's condition and needs; and
- d. information about the client's progress or lack of progress in relation to detoxification goals; and
- e. additional notes shall be documented as needed.

7. Physician's Orders when indicated.

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§7429. Treatment Program Requirements

A. Treatment Protocols

1. All services shall be delivered according to a written plan and a posted activity schedule. The treatment program shall:

- a. be age and culturally appropriate for the population served;
- b. demonstrate effective communication and coordination;.
- c. provide for appropriate utilization of services;
- e. be an environment that enhances the positive self-image of clients and preserves their human dignity;
- f. administer medication only when prescribed or approved by the staff Medical Doctor or Advanced Practice Registered Nurse (APRN);
- g. require professional participation in all required components of the treatment program;
- h. assure that the hours of scheduled treatment activity meet requirements of the program license; and
- i. have qualified staff and write policies and procedures to assure that all medications and treatments are provided to the client safely and properly utilizing current standards of practice.

2. Every client shall have a medical history and screening by MD/RN upon admission, with subsequent physical examination if indicated within 72 hours of admission.

3. Clients shall have access to HIV counseling and testing services directly or through referral. Such counseling and testing shall be voluntary, anonymous/confidential, and not limited by ability to pay.

4. The program shall make testing for tuberculosis and sexually transmitted diseases available to all clients unless the program has access to test results obtained during the

past year. The services may be provided directly or through referral as long as appropriate follow-up referral/care is also provided.

5. The psycho-social assessment and treatment plan shall be reviewed and countersigned by licensed social worker or psychologist.

6. Transfer between facilities to provide continuum of care requires compilation of client data rather than completing medical history/examination/physician orders, psycho-social assessment, treatment plan, and other pertinent information upon admission to inpatient or outpatient care. See §7427.D. Treatment Services, and E. Special Considerations.

B. Treatment Admission

1. The minimum requirements for formal acceptance of a prospective client into a treatment facility are:

- a. availability of appropriate level of care;
- b. legal authority or voluntary admission;
- c. availability of professionals to provide required services;
- d. history and diagnosis of abuse/addiction disorder by licensed physician/qualified Advanced Practice Registered Nurse as currently defined in the Diagnostic and Statistical Manual for Mental Disorders (DSM); and
- e. written documentation that client/family consents to treatment and understands the diagnosis and treatment modality.

2. Admission Process. Must be performed at each facility, confidentially and efficiently primarily by qualified professional, including patient/family education/orientation of facility policies/procedures, related to:

- a. visitation;
- b. family involvement;
- c. safety;
- d. authorization to provide treatment;
- e. potential problems;
- f. projected duration of treatment;
- g. consequences of non-compliance;
- h. treatment methodology; and
- i. any other pertinent information.

3. Re-admissions. Each facility shall have written re-admission standards which address criteria, length of stay, authorization to make exceptions, and crisis intervention.

4. Fees. Each facility shall have written fee policies which include schedule, method of payment, fee determination policy, and consequences for non-payment.

C. Discharge/Transfer Criteria. The following conditions create need for discharge or transfer:

1. maximum benefit or completion of program;
 - a. non-compliance;
 - b. death/illness;
 - c. non-payment;
 - d. dangerous behavior;
 - e. inability of client to participate;
 - f. inability of facility to provide needed services; or
 - g. progression to another level of treatment.

2. Each program shall develop and follow appropriate written criteria to decide when clients will be discharged or transferred to another level. The criteria shall describe:

- a. indicators used to determine satisfactory completion of the level;

b. circumstances under which clients may be referred or transferred to another level or facility; and

c. circumstances under which clients may be discharged before completing the program.

D. Discharge Process. Written, client specific plan that provides reasonable protection and continuity of services, and includes:

1. client transfer or referral/assignment to outside resources, continuing care appointments, crisis intervention assistance, and discharge summary;

2. documented attempts to involve family or an alternate support system in the discharge planning process;

3. planning before the client's scheduled discharge;

4. individual goals or activities to sustain recovery; and

5. signature of the client and consenting person/guardian.

6. Discharge Summary. When client is being transferred to another level of treatment, two working days are allowed for completion. In other situations 30 days are allowed. The plan must be written, client specific, and include:

a. needs and problems identified at the time of admission (may be attached);

b. services provided;

c. assessment of the client's progress towards goals;

d. circumstances of discharge; and

e. evidence that continuity of care recommended following discharge.

7. Request for Discharge. When such a request is received, the facility shall:

a. not hold a voluntary client against the consentor/guardian's will;

b. have written procedures for handling discharges and discharge requests that comply with applicable statutes;

c. not try to keep a client in treatment by coercion, intimidation, or misrepresentation;

d. not say or do anything to influence the client's decision that is not justified by the client's condition.

E. Transfer Process.

1. Sender Requirements

a. Transfer all client information within 24 hours of transfer;

b. Notify the receiving facility (in writing) simultaneously with arrival of client any information that will be needed to care for client before transfer information arrives; and

c. Request/receive approval from receiving facility prior to transfer.

2. Receiver Requirements

a. provide client with orientation to facility; and

b. update all information received in transfer.

F. Client Record Standards. The facility is required to maintain a clinical record according to current professional standards for each client.

1. This record shall contain all pertinent past and current medical, psychological, social and other therapeutic information, including the treatment plan. No unauthorized person shall be permitted access to the clinical records. Safeguards shall be in place to prevent unauthorized access, loss, and destruction. Client record can be copied and/or transferred from one facility to another provided that client

signs authorization for transfer of record and provided that confidentiality of information is strictly in adherence with *42 CFR, Part 2*.

2. Client records shall be maintained at the facility where the client is currently active and for six months after discharge. Records may then be transferred to a centralized location for maintenance in accordance with standard practice and state and federal laws.

3. Confidentiality. Records shall be:

a. inaccessible to anyone not trained in confidentiality and/or is granted access by legal authority such as surveyors, investigators, etc.;

b. not shared with any other entity unless approved in writing by client, except in medical emergencies; and

c. kept in compliance with *42 CFR, Part 2*.

4. Record-keeping Responsibility. A trained person shall be designated as responsible for the client records.

5. Contents. Client record shall accurately document treatment provided and client response in accordance with professional standards of practice at all times.

G. Client Record Contents for Treatment Programs.

1. The minimum requirements for treatment programs' record retention is as follows:

a. admission and referral information;

b. client information/ data - name, race, sex, birth date, address, telephone number, social security number, school/employer, and next of kin/emergency contact;

c. medical limitations, such as major illnesses, allergies; and

d. attendance, participation in services/activities.

2. Additional Requirements for Client Treatment Records Contents

a. Physician's orders;

b. Psycho-social history/evaluation. A QPC/QPS shall document a psycho-social history that provides a thorough understanding of the client's history and present status including:

i. circumstances leading to admission;

ii. alcohol and other drug use, past and present (including amount, frequency, route of administration, and time/date of last use);

iii. past psychiatric and chemical dependency treatment;

iv. significant medical history and current health status;

v. family and social history;

vi. current living situation;

vii. relationships with family of origin, nuclear family, and significant others;

viii. education and vocational training;

ix. employment history (including military) and current status;

x. legal history and current legal status;

xi. emotional state and behavioral functioning, past and present; and

xii. strengths, weaknesses, and needs.

c. Treatment plan. The plan is a written list of the client's problems and needs based on admission information and updated as indicated by progress or lack of progress. Additionally, the plan shall:

i. contain input from primary counselor and client within 72 hours after admission, then information

from other disciplines added as client is evaluated and treated;

ii. be reviewed and revised as required, or more frequently as indicated by client needs;

iii. contain client-specific, measurable goals that are clearly stated in behavioral terms;

iv. contain realistic and specific expected achievement dates;

v. contain how facility will provide strategies/activities to help the client achieve the goals;

vi. be followed consistently by all staff members; and

vii. contain complete, pertinent information related to the mental, physical, and social needs of the client; and

viii. be generically approved by OAD.

d. Diagnostic laboratory and other pertinent information, when indicated.

e. Progress Notes. In accordance with current professional standards of practice, progress notes shall:

i. document implementation of the treatment plan and results;

ii. document services provided to the client. This may be done by filing a copy of the program schedule in the client record and documenting the client's level of participation in the progress notes;

iii. be completed weekly by the QPS/QPC to document progress toward stated treatment plan goals unless client is seen on a less frequent basis in accordance with the treatment plan; and

iv. be verified and co-signed by QPS/QPC when prepared or written by CIT.

f. Client Contact Report. The staff member involved in the incident shall prepare and file a written report.

g. Other pertinent information related to individual client as appropriate.

H. Required Program Services

1. Programs may use an outside source to provide any of the services listed below. However, the facility retains responsibility for the service. Any contracted services are subject to written approval by OAD and agreement must be renewed annually.

2. Assessment/Evaluation. Collection of data from client and/or family/others sufficient to formulate an individualized and client-specific treatment plan for referral to appropriate level of care includes:

a. physical examination when one is indicated by the M.D./nursing assessment/screening process;

b. laboratory examinations as required to prevent spread of contagious/communicable disease, as indicated by physical examination or nursing assessment, including drug screening when history is inconclusive or unreliable;

c. nursing assessment/medical history and screening interview;

d. psycho-social evaluation by professional, reviewed and countersigned by licensed social worker or psychologist;

e. intake screening to include: vocational, economic, educational, criminal/arrest information; substance use/abuse history and current situation with regard

to frequency, amount, and length of use, change in the amount, frequency, etc., and treatment history when applicable; consequences of use/abuse;

f. appropriate determination regarding treatment modality with referral to appropriate facility.

3. Counseling Session. Documented interaction between qualified professional personnel (QPS/QPC) and client or client and significant others. Documentation includes date, time, length, issues addressed, and individual response/progress. CITs who have documented evidence of at least 20 hours of training (including orientation and the twelve core functions of substance abuse counseling) and 60 hours of direct supervision by QPS/QPC may perform counseling functions when the QPS/QPC is on duty and available for immediate assistance if needed. Counseling sessions last at least 30 minutes in one of the following scenarios:

a. Individual;

b. Group. All counseling groups shall be homogenous and no more than 12 clients; or

c. Family.

4. Crisis Intervention. Twenty-four hour/day telephone coverage shall be provided by qualified personnel to assist clients with crisis care and follow-up assistance to access appropriate services if needed.

5. Education (Healthy Living). Education is provision of information to individuals and/or groups concerning alcohol and other drug abuse, positive lifestyle changes, and the available services and resources. Educational group size is not restricted and may be offered as outreach program. Program shall:

a. follow a course outline that identifies lecture topics, activity schedule, and major points to be discussed.

b. include benefits of participation in appropriate self-help groups; and

c. not identify the activity as a counseling session.

6. Therapy. Therapy is professional level services by appropriately licensed personnel (BCSW or psychologist or psychiatrist) to treat children, adolescents, or clients/family members who have complex problems or who are dually diagnosed with abuse/addiction disorder and mental illness.

7. Referral. Facility shall have appropriate resource information regarding local agencies to provide support and other services to client/family upon need/request and/or procedures to access such as vocational services, community services, and organizations to support recovery such as transitional living services, transportation, and vocational services. Additionally, facility will be expected to:

a. provide access to appropriate health care and mental health services;

b. refer pregnant clients who are not receiving prenatal care to an appropriate health care provider and monitor follow-through; and

c. refer clients to ancillary services necessary to meet treatment goals.

8. Toxicology Services. Programs are required to have appropriate Clinical Laboratories Improvement Amendments (CLIA) certification for testing or written protocols for collection of specimens in accordance with current standards of practice and be approved by the testing

laboratory. The minimal set of substances required to be screened for toxicology are subject to annual approval by OAD.

9. Dietary (required for 24 hour facilities only). Services are provided under the direction of a qualified dietitian, who is available for telephone consultation whenever client is admitted and has physician orders for dietary restrictions/supplements.

a. General requirements. The facility shall provide:

i. meal break after five consecutive hours of scheduled activities;

ii. an OPH approved kitchen with continuous conditions/procedures to maintain all foods at temperatures and under conditions to assure safe, sanitary handling;

iii. nutritious meals of adequate quality and quantity to meet the needs of each client, including religious and dietary restrictions;

iv. at least three meals daily, with no more than 14 hours between any two meals;

v. at least an evening snack;

b. Dietitian shall:

i. approve menus and provide written guidelines for substitutions in advance;

ii. provide staff in-service training as needed to assure quality meal service;

iii. provide information to professional staff regarding dietary needs of specific clients and be available for consultation when necessary.

c. Facility shall:

i. serve meals in a relaxed atmosphere that promotes utilization of newly learned skills in socialization and communication;

ii. maintain sanitation of dishes;

iii. ensure that all dishes, cups and glasses used by clients are free from chips, cracks or other defects; and

iv. ensure that animals are not permitted in food storage, preparation, and dining areas.

d. Facility retains responsibility to assure that meal preparation/service with client participation meets all requirements listed above and to supervise adequately to ensure compliance.

i. The program shall define duties in writing and have written instructions posted or easily accessible to clients.

ii. If menu planning and independent meal preparation are part of the client's treatment program, a licensed dietitian shall:

(a). approve the client training curriculum; and

(b). provide training or approve a training program for staff who instruct and supervise clients in meal preparation.

e. Meal preparation/service may be provided by contract service. However, facility is responsible for ensuring that all standards above are met.

10. Pharmaceutical. When any medication is administered and/or dispensed on-site, facility shall have written agreement with licensed pharmacist or licensed physician to provide on-site service and consultation and evaluation of medication policy and procedure of facility at least annually and to provide monthly on-site consultation.

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§7431. Outpatient Counseling Facilities

A. Outpatient Counseling Programs provide non-residential treatment services for clients who require ongoing support on a regular or irregular basis, such as:

1. Continuing Care for those who have completed primary treatment and require minimal support to avoid relapse.

2. Early Intervention for those who have been identified as substance abusers and referred for education, activities, or support services designed to prevent progression of disease.

3. Initial Point of entry/reentry. Activities related to assessment, evaluation, diagnosis and assignment of level of care are provided, including transfer between facilities and/or treatment modalities, relapse assessment, and assignment to level of care.

4. Combination of the above

NOTE: Facility license is not required for individual or group practice of Licensed Professional Counselors/ therapists providing the above services under the auspices of their individual license(s).

B. Outpatient Staffing. The following staffing requirements are minimum standards and do not restrict facility from employing additional staff.

1. Supervisor (QPS). Supervisor is present for a minimum of 1 hour/week/counselor.

2. Counselor (QPC). Caseload size is based on needs of the active clients to ensure effective, individualized treatment and rehabilitation. Approval by OADA is required in writing when caseload exceeds 50 active clients. For this standard, "active" is defined as being treated at least every 90 days.

3. Nursing. Any facility administering medications must have licensed registered nurse. If a registered nurse or physician is on-duty/on-call in accordance with the definitions in Section 7405., a licensed practical nurse may administer medications.

4. Physician. Sufficient hours on-duty and on-call during hours of operation are required to provide medical direction as needed to assure quality care is provided.

5. Licensed psychologist or licensed social worker. Adequate coverage to provide review of psycho-social and treatment plans, and additionally as required to meet active client needs.

C. Client Functional Status. Clients must function independently in outpatient setting with appropriate support.

D. Special Considerations. When these services are court ordered, facility will provide all services in accordance with these licensing standards, maintain court related information, and initiate necessary communications to facilitate the court referral process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1 through R.S. 40:1057.9 redesignated R.S. 40:1058.1 through R.S. 1058.9.

HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, Division of Management, Office of Licensing and Certification, LR:2:154 (May 1976), adopted by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR:18:1449 (December 1992), LR 25:

§7433. Intensive Outpatient Treatment Facility

A. Outpatient treatment facilities increase the levels of responsibility for clients to apply knowledge and to practice skills in structured and non-structured settings. Organized and structured therapeutic regimen of day/evening treatment sessions for at least nine hours per week on three or more days per week.

B. Outpatient Facility Staffing. The following are minimum staff requirements and do not restrict the facility from utilizing additional employees.

1. Supervisor (QPS). Supervision is present for sufficient hours (greater than 10) to direct program activities to assure that activities are therapeutic, and additionally, one hour per week per counselor on staff.

2. Counselor (QPC). Counseling groups shall not exceed 12 clients, but may be smaller in keeping with the needs of the clients. Counselor shall be on site during all hours of operation.

3. Nursing. Any facility administering medications must have licensed registered nurse. If a registered nurse or physician is on-duty/on-call in accordance with Section 7405, a licensed practical nurse may administer medications.

4. Physician. Sufficient hours on-duty and on-call shall be available during hours of operation to provide medical direction and medical services as needed to assure quality care is provided.

5. Licensed psychologist or social worker. Presence is required as indicated by active client needs to review psycho-social assessments and treatment plans.

C. Client Functional Status. Clients can function with limited supervision within their existing environment or in environments designed to provide support, but cannot independently maintain stability for at least 72 hours.

D. Outpatient Treatment Facility Requirements

1. Treatment plan review shall be documented in progress notes weekly by counselor, and by other disciplines as needed to assure continuity of care.

2. Medical screening shall be performed by registered nurse or physician, and referred for physical examination if indicated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1 through R.S. 40:1057.9 redesignated R.S. 40:1058.1 through R.S. 1058.9.

HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, Division of Management, Office of Licensing and Certification, LR:2:154 (May 1976), adopted by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR:18:1449 (December 1992), LR 25:

§7435. Opiate Addiction Treatment Programs

A. Opiate addiction treatment programs use the medical model to detoxify and maintain the chronic opiate addict with synthetic narcotic until client can achieve recovery through a spectrum of counseling and other supportive/rehabilitative services. Each facility is required to independently meet the requirements of the protocols established by OAD/State Methadone Authority.

B. Treatment Phases/Specific Requirements.

1. Initial treatment. Intensive assessment and intervention lasts from 3 to 7 days in duration. Services to be provided are:

a. physical examination and medical assessment prior to initial administering of any medication;

b. individual counseling as indicated by daily nursing assessment;

c. initial treatment plan includes initial dose of medication and plan for treatment of critical health or social issues; and

d. client orientation.

2. Early stabilization. Beginning on the third to seventh day of treatment (following initial treatment) through 8 weeks duration, the following shall be provided:

a. frequent monitoring of client's reaction to medication;

b. individual counseling comprised of at least four individual counseling sessions during this phase;

c. development of treatment plan within thirty days with input by all disciplines, client and significant others; and

d. random monthly drug/alcohol screens.

3. Long-term treatment. This stage follows the end of early stabilization and lasts for an indefinite period of time. Services to be provided are:

a. annual physical examination in accordance with Center for Disease Control guidelines;

b. random monthly drug/alcohol screens until client has negative screens for one year, then approximately every ninety days. Clients who are allowed six days of take-home medication shall be tested every month;

c. counseling (individual or group). Number and type are determined by indicators and recommendations of the treatment team. Clients with repeated episodes of inappropriate behavior or multiple positive drug screens require reassessment and consideration for referral to more appropriate treatment modality;

d. semi-annual screening and assessment by nursing staff with referral to MD if necessary;

e. continuous evaluation of client's use of medication/treatment from other sources to prevent untoward reactions and to promote continuity of care;

f. documented review of treatment plan every ninety days by treatment team; and

g. progress notes addressing response to treatment at least every 30 days.

4. Medically supervised withdrawal with continuing care. This service is provided if and when appropriate. Services to be provided are:

a. counseling of the type and quantity determined by the indicators and the reason for detoxification; and

b. discharge planning with continuity of care to assist client to function without support of the medication and treatment activities.

C. Additional Opiate Treatment Services.

1. Toxicology Services. Random, periodic testing shall be conducted for drugs and alcohol at least once a month during the first year of treatment. After 12 months of negative urine screens, random testing shall occur at least every 90 days. Patients who receive six days of medication for take-home use shall be tested every month.

2. Counseling Services. Type and quantity shall be based on the assessment and recommendations of the treatment team and shall meet the following requirements:

a. written documentation shall support decisions of the treatment team including indicators such as positive drug screens, maladjustment to new situations, inappropriate behavior, criminal activity;

b. counseling may be provided in small (not to exceed 12 clients) homogenous groups provided that group counselor is familiar with client and documents all contacts in the client record;

c. written criteria determines when a client will receive additional counseling and/or take home medication privileges when different from state guidelines.

D. Opiate Treatment Facility Staffing. The following are minimum staffing requirements and do not restrict the facility from utilizing additional employees.

1. Licensed Pharmacist shall be:

a. accountable for the dispensing of all medications;

b. responsible for reconciliation of administration and dispensing inventory records at least every thirty days; and

c. responsible for maintaining medication records for at least three years.

2. Nursing Services. All medications shall be administered under the supervision of a registered nurse or physician. A licensed practical nurse cannot administer medication unless registered nurse or physician is on duty or on call in accordance with §7405.

3. Supervisor (QPS). On call as needed and present on duty at least one hour per week for each counselor on staff.

4. Counselor (QPC). Caseload is determined by the needs of the clients in the counselor's caseload and the counselor's available time to provide individual and group counseling. Any caseload greater than 50 clients per counselor must have written approval of State Methadone Authority/HSS.

5. Physician. Sufficient hours on-duty and on-call are required during hours of operation to provide medical direction and medical services as needed to assure quality care is provided.

E. Special Considerations

1. Any program that fails to maintain any required licensure shall be also terminated immediately.

2. State Methadone Authority shall approve all applications before submission to DHH/HSS for initial licensure.

F. Admission criteria

1. verification by MD that methadone treatment is medically necessary;

2. minimum age requirement of 18 years for admission, except with parental consent; and

3. referring medical history and diagnosis of chronic opiate addiction, as currently defined in the Diagnostic and Statistical Manual for Mental Disorders (DSM).

G. Take-Home Medication Privilege

1. Considerations for take-home medication shall include:

a. negative drug/alcohol screens for at least 90 days;

b. regularity of clinic attendance;

c. absence of serious behavioral problems;

d. absence of known criminal activity;

e. stability of home environment and social relationships;

f. assurance that take home medication can be safely stored;

g. whether the benefit to the patient outweighs the risk of diversion.

2. Exceptions to the above requirements must be documented and justified by the physician, approved by the State Methadone Authority and federal agencies as required, and can only be granted for emergencies and severe travel hardships.

3. Take-home medication privileges shall be granted on the following schedule:

a. after 90 days in treatment with clinic attendance at least 3 times per week, no more than a 2-day supply of take-home medication;

b. after 2 years in treatment with clinic attendance at least 2 times per week, no more than a 3-day supply of take-home medication;

c. after 3 years in treatment with clinic attendance at least weekly, no more than a 6-day supply of take-home medication.

4. Transport devices for take home medications shall be child-proof, clean, sanitary, and legally and clearly labeled appropriately at all times.

H. Client Record. In addition to general client record documentation, the client record shall contain regular documentation as appropriate (but at least every 30 days) of the client's status, including:

1. adequacy of dose;

2. results of 5 most recent drug urine screens with action taken for positive results;

3. physical status and use of prescription medication;

4. employment/vocational needs;

5. legal and social status;

6. overall client stability;

7. contact notes/progress notes; and

8. other relevant information as required by §7427.

Detoxification Services.

I. Training. In addition to Orientation as described in §7417. Staffing Qualifications/Requirements all direct care employees shall receive training and demonstrate knowledge that includes:

1. symptoms of opiate withdrawal;

2. drug urine screens and collections, policies and procedures;

3. current standards of practice regarding opiate addiction treatment;

4. poly-drug addiction; and

5. information necessary to assure care is provided within accepted standards of practice.

J. Temporary Transfers or Guest Dosing. The facilities involved shall do the following:

1. receiving facility shall verify dosage prior to administering medication;

2. sending facility shall verify dosage and obtain approval/acceptance from receiving facility prior to client's transfer.

K. Synthetic narcotic programs shall comply with applicable local, state and federal rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1 through R.S. 40:1057.9 redesignated R.S. 40:1058.1 through R.S. 1058.9.

HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, Division of Management, Office of Licensing and Certification, LR:2:154 (May 1976), adopted by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR:18:1449 (December 1992), LR 25:

§7437. Primary Residential Treatment Facilities

A. Residential Treatment Programs shall include:

1. use of the psycho-social model to provide continuous monitoring, observation, and treatment modalities using the twelve-step program design;

2. at least 25 hours of structured treatment activities per week including counseling and educational activities. At least three additional hours must be organized social and/or recreational activities.

B. Residential Treatment Staffing. The following staffing requirements are minimum standards and do not restrict the facility from utilizing additional employees.

1. Supervisor (QPS). Shall be on duty as needed, and provide at least one hour per week for each counselor on staff, but at least 10 hours per week to assure close supervision and individualized treatment.

2. Counselor (QPC). Caseload shall not exceed 1:15. Size of counseling groups shall be determined by the needs of clients, but shall not exceed 12 clients. Counselor shall be on-duty whenever counseling is being provided. If counseling is needed after customary hours, counselor shall be available to be on-duty.

3. Physician. Sufficient hours on-duty and on-call twenty-four hours per day, to provide medical direction and medical services as needed to assure quality care is provided.

4. Licensed social worker or psychologist. Adequate to provide therapy to those clients who have complex problems and to review and countersign psycho-social assessments and treatment plans.

C. Special Considerations. Facility must provide at least 25 hours of structured treatment activities per week for each client including counseling and educational services. At least three hours must be organized social and/or recreational activities.

D. Special Requirements. Treatment plan review shall be documented in progress notes at least weekly, and by other disciplines at least once during the first two weeks of treatment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1 through R.S. 40:1057.9 redesignated R.S. 40:1058.1 through R.S. 1058.9.

HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, Division of Management, Office of Licensing and Certification, LR:2:154 (May 1976), adopted by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR:18:1449 (December 1992), LR 25:

§7439. Inpatient Primary Treatment

A. Inpatient Primary Treatment Programs shall include:

1. use of the medical model to provide continuous monitoring, observation, and treatment modalities using the twelve-step program design or other models;

2. at least 25 hours of structured treatment activities per week including counseling and educational activities. At least three additional hours must be organized social and/or recreational activities.

B. Types of In-patient Facilities. Providers are 24 hour facilities for adults, adolescents, or parents/dependent children. Services provided are:

1. Detoxification. Provides immediate acute care for intoxication, but not serious medical problems. See §7421; and

2. In-patient Primary Treatment. Provides non-acute therapeutic regime including medical and psychiatric care, as needed.

C. Primary Inpatient Treatment Staffing. The following staff requirements are minimum standards and do not restrict the facility from utilizing additional employees.

1. Supervisor (QPS). Sufficient hours (greater than 15) to direct program activities to assure that activities are therapeutic and in addition, one hour per week per counselor on staff.

2. Counselor (QPC). Size of counseling groups shall be determined by needs of the clients, but shall not exceed 12 clients. Counselor shall be on site at least 40 hours per week.

3. Nursing. Registered nurse as determined by the needs of the clients being admitted and to meet the current standards of practice for client care. One registered nurse is required at least forty hours per week. Additional nursing functions may be supplemented by licensed practical nurses, if a registered nurse or physician is on-duty/on-call in accordance with §7405.

4. Physician. Sufficient hours on-duty and on-call twenty-four hours per day to provide medical direction and medical services as needed to assure quality care is provided.

5. Licensed social worker or psychologist. Adequate availability is required to provide therapy to those clients who have complex problems and to review and countersign psycho-social assessments and treatment plans.

D. Client Functional Status. Clients may require psychiatric and/or medical/nursing care in addition to substance abuse services.

E. Special Requirements. Treatment plan review shall be documented in progress notes weekly by all disciplines involved in care of client to assure continuity of care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1 through R.S. 40:1057.9 redesignated R.S. 40:1058.1 through R.S. 1058.9.

HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, Division of Management, Office of Licensing and Certification, LR:2:154 (May 1976), adopted by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR:18:1449 (December 1992), LR 25:

§7441. Community-Based Programs

A. Community Based Programs shall include:

1. transitional living, support and counseling, room and board, social and recreational activities and vocational opportunities;

2. structured, drug-free environment to allow client to maintain or to improve upon the gains made during prior treatment or currently being made in treatment;

3. opportunities for the client to focus on re-socialization and to gradually resume responsibilities associated with independent living;

4. provision of services in Halfway and Three Quarter Houses.

B. Community Based Program Staffing. The following staff requirements are minimum standards and do not restrict the facility from utilizing additional employees. If clients require additional services/supervision, facility is expected to employ professional staff as needed.

1. Supervisor (QPS). Available for consultation, in addition to one hour per week per counselor.

2. Counselor (QPC). One full-time (or FTE) is required for every 25 residents unless clients require closer supervision. Counselor must be on-duty when majority of clients are awake and on-site.

3. House Manager. Supervisor of facility operations 24 hours per day and non-treatment, direct care person who supervises activities of the facility when the professional staff is on call, but not on duty. This person is required to have adequate orientation and skills to assess situations related to relapse and to provide access to appropriate medical care when needed.

C. Client Functional Status. Clients are capable of increasing life responsibilities.

D. Special Considerations. Treatment plan review shall be documented in progress notes monthly by all disciplines involved in care of client to assure continuity of care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1 through R.S. 40:1057.9 redesignated R.S. 40:1058.1 through R.S. 1058.9.

HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, Division of Management, Office of Licensing and Certification, LR:2:154 (May 1976), adopted by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR:18:1449 (December 1992), LR 25:

§7443. Therapeutic Community (Long Term Residential)

A. Therapeutic Community programs shall:

1. provide highly structured environments designed to treat those clients who have demonstrated pattern of recidivism or a need for long term residential treatment;

2. provide graduated levels of increasing responsibility, functional capacity, autonomy, privilege, and authority to promote emotional and interpersonal growth through experience or expectation, accountability, support, evaluation, and both favorable and unfavorable consequences for behavior.

B. Therapeutic Community Program Staffing. The following staffing requirements are minimum standards and do not restrict the facility from utilizing additional employees.

1. Supervisor (QPS). Must be on-site a minimum of 1 hour/week/counselor.

2. Nursing. One registered nurse shall be on duty at least forty hours per week. Additional nursing functions may be supplemented by licensed practical nurses, if registered nurse or physician is on call twenty-four hours per day.

3. Physician. Sufficient hours on-duty and on-call twenty-four hours per day to provide medical direction as needed to assure quality care is provided.

4. Psychiatrist. Sufficient hours on-duty and on-call as needed to provide services to clients.

5. Licensed social worker (BCSW). At least one full-time per 20 clients and additional availability as needed to meet the needs of the clients.

6. Counselor (QPC). As needed to provide substance abuse counseling.

C. Special Considerations. The tiered level of structure in the therapeutic environment promotes emotional and interpersonal growth through experience or expectations, accountability, support, evaluation, and both favorable and unfavorable consequences for behavior. Societal principles and standards are reinforced with the client. Structure and discipline promote consequential thinking regarding cause and effect. Graduated level system allows individual to achieve increasing responsibility, functional capacity, autonomy, privilege, and authority as he/she progresses.

E. Client Functional Status. Upon admission, clients have had arrests or other problems living in society, attending school, earning a living, and/or functioning as a productive member of society.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1 through R.S. 40:1057.9 redesignated R.S. 40:1058.1 through R.S. 1058.9.

HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, Division of Management, Office of Licensing and Certification, LR:2:154 (May 1976), adopted by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and

Hospitals, Bureau of Health Services Financing, LR:18:1449 (December 1992), LR 25:

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P. O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Friday, August 27, 1999 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Minimum Standards/Requirements for
Substance Abuse/Addiction Treatment
Facilities/Programs**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Implementation of this proposed rule will not result in an increase or decrease in state programmatic costs. However, \$4,658 (\$2,498 SGF and \$2,160 FED) will be incurred in SFY 1999 for the state's administrative expense of promulgating this proposed rule, the final rule, and for printing the new substance abuse licensing standards. All currently licensed facilities will receive the new licensing standards free of charge.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

A remittance of \$50 for a licensing packet, which will include the new standards, shall continue to be required for new facilities applying for licensing. However, the number of new facilities applying for licensing cannot be determined at this time.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This rule establishes the minimum licensing standards required for all substance abuse/addiction treatment facilities/programs. Any existing substance abuse/addiction treatment facilities/programs that cannot meet these standards will have its license revoked. Adoption of these standards will assure the quality of care provided by substance abuse/addiction treatment facilities/programs thus clients will benefit from this effort. There is insufficient data available on substance abuse facilities/programs operating in Louisiana to project a fiscal impact.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The proposed minimum licensure standards may cause some providers to choose to discontinue providing substance abuse/addiction treatment facilities/program care, resulting in a reduction in the number of current operating providers. However, it is anticipated that new substance abuse/addiction treatment facilities may be licensed, thereby increasing employment opportunities for Louisiana residents as the

facilities hire qualified staff. There is insufficient data available on substance abuse facilities/programs operating in Louisiana to project a fiscal impact.

Thomas D. Collins
Director
9907#048

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Pharmacy Program—Average Wholesale Price (AWP)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and in accordance with the Administrative Procedure Act, R.S. 49:953(B) et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing published a rule effective April 20, 1990, regarding the reimbursement of drugs in the Louisiana Medicaid Pharmacy Program (*Louisiana Register*, Volume 16, No. 4). This rule established standards for payment for pharmacy services which included the definition of "Estimated Acquisition Costs" as the modified average wholesale price of the drug dispensed, identified by the manufacturer number, product number, and package number usually purchased by a provider, from a supplier whose products are generally available to all pharmacies and reported in one or more national compendia. Repackaged drug products supplied through co-ops, franchises, or other sources not readily available to other providers shall not be used to estimate provider acquisition cost. In such instances, the average wholesale price for the drug product used by the repackager identified by the manufacture number, product number, and largest reported package size in one or more national compendia shall be utilized by the agency to estimate acquisition cost. "Modified" as it is used in this rule is defined as the lower of: 1) Average Wholesale Price (AWP) minus 10.5 percent for single source drugs (brand name), multiple source drugs which do not have a State Maximum Allowable Cost (MAC) or Federal Upper Limit and those prescriptions subject to MAC overrides based on the physician's certification that a brand name product is medically necessary; 2) Louisiana's Maximum Allowable Cost limitations or 3) Federal Upper Limits.

Act 10 of the 1999 Regular Session of the Louisiana Legislature contains provisions amending the reimbursement methodology for prescription drugs under the Medicaid Program effective July 1, 1999. In accordance with this legislation, the Bureau proposes to adopt the following rule to limit payments for prescription drugs by amending the Estimated Acquisition Cost formula from AWP minus 10.5 percent for single source drugs (brand name), multiple source drugs which do not have a State Maximum Allowable

Cost (MAC) or Federal Upper Limit and those prescriptions subject to MAC overrides based on the physician's certification that a brand name product is medically necessary to AWP minus 10.5 percent for independent pharmacies and 13.5 percent for chain pharmacies. Chain pharmacies are defined as five or more Medicaid enrolled pharmacies under common ownership. All other Medicaid enrolled pharmacies are defined as independent pharmacies. The effective date for this proposed rule is July 1, 2000.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing limits payments for prescription drugs to the lower of: 1) Average Wholesale Price (AWP) minus 10.5 percent for independent pharmacies (all other Medicaid enrolled pharmacies) and 13.5 percent for chain pharmacies (five or more Medicaid enrolled pharmacies under common ownership); 2) Louisiana's Maximum Allowable Cost limitation plus the Maximum Allowable Overhead Cost; 3) Federal Upper Limits plus the Maximum Allowable Overhead Cost; or 4) provider's usual and customary charges to the general public. General public is defined as all other non Medicaid prescriptions including third-party insurance, pharmacy benefit management and cash. This rule is adopted pursuant to Act 10 of the 1999 Regular Session of the Louisiana Legislature which contains provisions amending the reimbursement methodology for prescription drugs under the Medicaid Program effective July 1, 1999. The effective date for this rule is July 1, 2000.

Interested persons may submit written comments to the following address: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, P. O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Friday, August 27, 1999 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity submit data, views or arguments, orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Pharmacy Program—Average Wholesale Price (AWP)**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will reduce state program costs by approximately (\$909,373) for SFY 2000-2001, (\$935,474) for SFY 2001-2002, and (\$963,538) for SFY 2002-2003. Included in SFY 2000-2001 is \$80 for the state's administrative expense of promulgating this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will reduce federal revenue collections by approximately (\$2,155,696) for SFY 2000-2001, (\$2,221,712) for SFY 2001-2002, and (\$2,288,363) for SFY 2002-2003. Included in SFY 2000-2001 is \$80 for the federal share of promulgating this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will not impact independent pharmacies. However, chain pharmacies will receive a reduction in reimbursements for prescribed drugs dispensed. This proposed rule will result in a cost avoidance of approximately (\$3,065,229) for SFY 2000-2001, (\$3,157,186) for SFY 2001-2002, and (\$3,251,901) for SFY 2002-2003.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9907#052

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Regulation 68—Patient Rights Under Health Insurance Coverage in Louisiana (LAC 37:XIII.Chapter 91)

(Editor's Note: The following rules, which appeared on pages 1178 through 1182 of the June 20, 1999 *Louisiana Register*, are being republished in their entirety to correct the hearing date.)

In accordance with the provisions of LSA-R.S. 49:953 of the Administrative Procedure Act, LSA-R.S. 22:3, R.S. 22:2014, and R.S. 22:2021(C), the Department of Insurance is proposing to adopt the following regulation regarding the rights of patients with health insurance coverage in Louisiana. This regulation is necessary to establish reasonable requirements for health insurance coverage that assures compliance with state statutory requirements under Title 22 of the Louisiana Revised Statutes of 1950. More specifically, this regulation is necessary to implement and enforce the following provisions: LSA-R.S. 22:2(G), 22:4, 22:215.9, 22:215.11, 22:215.13, 22:215.17 22:215.18, 22:215.19 22:2004, 22:2005, 22:2013, 22:2016 22:2018, 22:2020, 22:2021 and 22:2022.

Title 37 INSURANCE

Part XIII. Regulations

Chapter 91. Regulation 68—Patient Rights Under Health Insurance Coverage in Louisiana

§9101. Purpose

A. The purpose of this regulation is to clarify the rights of insureds and requirements for health insurance coverage approved under Title 22 of the Louisiana Revised Statutes of

1950. Title 22 of the Louisiana Revised Statutes of 1950 establishes the statutory requirements that health insurance coverage must meet to be issued for delivery in Louisiana. The statutory requirements also establish the intent of the legislature to afford patients with health insurance coverage, basic rights to access covered benefits without undue delays or denials based on arbitrary determinations of medical necessity. The statutory requirements also establish the legislative intent to prohibit the use of a health insurance coverage requirement or procedure that impinges on the ability of the insured patient to receive appropriate medical advice and/or treatment from a health care provider.

B. To carry out the intent of the legislature and assure full compliance with the provisions of applicable statutory requirements, this regulation sets forth the patient rights under health insurance coverage policies or plans issued for delivery in this state.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 22:3 and R.S. 22:2014

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

§9103. Definitions

Emergency Medical Condition—means the sudden and, unexpected onset of a health condition that requires immediate medical attention, where failure to provide such medical attention could reasonably be expected to result in death, permanent disability, serious impairment to bodily functions, serious dysfunction of a bodily organ or part, or could place the person's health in serious jeopardy.

Formal Managed Care Plan—basic health coverage provided by a Health Maintenance Organization licensed to operate in Louisiana. The term does not include health insurance coverage that does not meet the same quality standards that are applied to Health Maintenance Organizations. The term does not apply to any health insurance coverage or employer benefit plan that advertises or markets coverage as "managed care" but is not required to comply with the statutory consumer protections required of formal managed care plans operated by Health Maintenance Organizations in Louisiana.

Geographic Area—a Parish.

Health Care Professional—a physician duly licensed to practice medicine by the Louisiana State Board of Medical Examiners, or other health care professional duly licensed, certified, or registered as appropriate in Louisiana, or an acute care hospital licensed to provide medical care in this state.

Health Insurance Coverage—means benefits consisting of medical care, provided directly, through insurance or reimbursement, or otherwise and including items and services paid for as medical care, under any hospital or medical service policy or certificate, hospital or medical service plan contract, preferred provider organization, or health maintenance organization contract. This term shall not mean limited benefit insurance as defined in LSA-R.S. 22:6(2)(b)(i) or any short term health insurance exempt from guaranteed renewal by PL 102-191, the Health Insurance Portability and Accountability Act of 1996.

Incentive Arrangement—any payment or contractual obligation included in a general payment plan, capitation contract, shared risk arrangement, or other agreement between a managed care organization and a health care provider that is tied to utilization of covered benefits.

Managed Care Plan—has the same meaning as set forth under LSA-R.S. 22:215.18A(3) and (4). This includes health insurance policies and health maintenance organization coverage. The term does not include supplemental insurance or limited benefit coverage for out of pocket expenses that is exempt from being classified as creditable coverage under Part VI-C of Chapter 1 of Title 22 of the Louisiana Revised Statutes of 1950.

Service Area—the geographic area or areas of the state served by a managed care plan.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 22:3 and R.S. 22:2014

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

§9105. Applicability and Scope

Except as otherwise specifically provided, the requirements of this regulation apply to all health insurance coverage issued for delivery in the state of Louisiana that is otherwise subject to the statutory requirements of Part VI-C of Chapter 1 of Title 22 of the Louisiana Revised Statutes of 1950.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 22:3 and R.S. 22:2014

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

§9107. Patient Rights Under Policies or Plans of Health Insurance Coverage

A. Prohibition on the Use of Gag Clauses—Applies to HMO Coverage. Patients have a right to talk freely with health care professionals about their health, medical conditions, and any treatment options that are available, including those not covered by their health plan. LSA-R.S. 22:215.18(B) prohibits a managed care plan from adopting any requirement that interferes with the ability of a health care professional to communicate with a patient regarding his or her health care. This statutory protection also includes communications regarding treatment options and medical alternatives, or other coverage arrangements. The managed care plan is only allowed to prohibit a health care professional from soliciting alternative coverage arrangements for the purpose of securing financial gain by the health care professional.

B. Prohibition on Incentives to Restrict, Delay or Deny Medically Necessary Care—Applies to HMO and Major Medical Insurance Coverage. Patients have a right to receive medically necessary and appropriate services covered under a managed care plan. LSA-R.S. 22:215.19 prohibits managed care plans from offering any financial incentives to health care professionals to deny, reduce, limit, or delay specific, medically necessary, and appropriate services.

C. Holding Managed Care Plans Liable for their Actions, Omissions, or Activities—Applies to HMO and Major Medical Insurance Coverage. Managed care plans are responsible for their actions, activities or omissions that result in harm to the patient. LSA-R.S. 22:215.18(G) prohibits managed care plans from transferring their liability related to activities, actions or omissions of the plan to a health care professional treating the insured. This right does not relieve health care professionals of their responsibilities to appropriately practice within the scope of license, certification, or registration.

D. Guaranteed Direct Access to Obstetricians/Gynecologists—Applies to HMO and Major

Medical Insurance Coverage. Women have a right to see an Obstetrician or Gynecologist for routine care. LSA-R.S. 22:215.17 requires health insurance coverage to include direct access to these health care professionals without prior authorization. In addition, health insurance coverage is required to include up to two annual routine visits and follow up treatment within sixty days of either visit if a related condition is diagnosed or treated during the visits. This requirement also applies to pregnancy related care if covered by the policy or plan.

E. Requirement for Appropriate Access to Covered Medical Services—Applies to HMO Coverage

1. Formal managed care plans operated by health maintenance organizations are required to maintain an adequate number of health care professionals to serve plan participants. Covered services must be provided within a reasonable period of time once ordered or prescribed. LSA-R.S. 22:2004, 2005, 2013, 2016, and 2021 establish requirements for HMO plans to document that their networks of primary care physicians and specialists are adequate. HMOs are allowed to use point of service options to expand networks and assure access to plan participants.

2. Other health insurance coverage is only allowed to offer managed care as a coverage option. These plans must offer traditional payment of medical claims based on the terms of the policy for deductibles and co-insurance.

F. Confidentiality of Medical Records—Applies to HMO Coverage

1. Any data or information pertaining to the diagnosis, treatment, or health of any enrollee or potential enrollee obtained from such persons or from any provider by any formal managed care plan shall be held in confidence and shall not be disclosed to any person except:

- a. to the extent that it may be necessary to carry out the purposes of operating a formal managed care plan as permitted by law;
- b. upon the express consent of the enrollee or potential enrollee;
- c. pursuant to statute or court order for the production of evidence or the discovery thereof;
- d. in the event of a claim or litigation between such person and the formal managed care plan wherein such data or information is pertinent.

2. A formal managed care plan shall be entitled to claim any statutory privileges against such disclosure which the provider who furnished such information to the formal managed care plan is entitled.

G. Prohibit Unreasonable Denial of Emergency Care—Applies to HMO and Major Medical Insurance Coverage

1. Any managed care plan that includes emergency medical services shall provide coverage and shall subsequently pay health care professionals for emergency medical services provided to a covered patient who presents himself/herself with an emergency medical condition.

2. No health insurance plan shall retrospectively deny or reduce payment to health care professionals for emergency medical services of a covered patient even if it is determined that the emergency medical condition initially

presented is later identified through screening not to be an actual emergency, except in the following cases:

- a. material misrepresentation, fraud, omission, or clerical error;
- b. any payment reductions due to applicable co-payments, co-insurance, or deductibles that may be the responsibility of the covered patient;
- c. cases in which the covered patient does not meet the emergency medical condition definition, unless the covered patient has been referred to the emergency department by the insured's primary care physician or other agent acting on behalf of the health insurance plan.

H. Appeal/Grievance Procedures for Denials of Coverage—Applies to HMO and Major Medical Insurance Coverage

1. Formal managed care plans operated by health maintenance organizations are required to have an administrative appeal or grievance process for patients. LSA-R.S. 22:2022 requires these plans to submit their appeal/grievance procedures to the Department of Insurance to verify the process or procedures used are reasonable and meet the intent of the statute.

2. In addition, where any insured patient is denied benefits under a health insurance coverage plan, a request can be made to the Department of Insurance for investigation of the denial. Where the denial is valid, the insured is so notified. Where the denial is erroneous, the health insurance coverage plan is required to institute corrective action and may be subject to fines and penalties if a statutory violation has occurred.

I. Guaranteed Continuation Of Group Insurance—Applies To HMO and Major Medical Insurance Coverage

1. LSA-R.S. 22:215.13 guarantees Louisiana residents who lose their eligibility for coverage under a group health insurance policy or plan, the right to maintain such coverage in force for up to 12 months. This guaranteed continuation of group health insurance does not include accident only coverage, specific disease coverage, limited benefit coverage for dental, vision care or any benefits provided in addition to the basic hospital, surgical, or major medical benefits of the policy. This means that additional or optional insurance coverage purchased is not guaranteed to be provided during this 12-month continuation period. This continuation of group coverage right is guaranteed for up to one year so long as the following conditions are met:

- a. the individual is not eligible for any other group health coverage plan or government sponsored health plan, such as Medicare and Medicaid;
- b. the individual timely pays the full monthly premium to keep coverage in force;
- c. the individual was not terminated from coverage for fraud or failure to pay any required contribution for the group insurance, and continues to meet the group policy's terms and conditions other than membership in that original group;
- d. all dependents covered under the group policy or plan continue to be covered;

e. the group policy has not been terminated or the employer has withdrawn participation in a multiple employer group policy; and

f. the individual continues to reside within the service area of the plan in the event that such group coverage is provided by a Health Maintenance Organization.

2. This right is not automatic and requires the employee or member who is losing coverage to make a written election of continuation on a form furnished by the group policyholder and pay for the first month's coverage prior to the date that coverage is being terminated. Written notification of termination must be provided to the individual in advance to allow election of this right.

3. Special continuation rights are provided to a surviving spouse of an individual who was covered by a group health insurance policy or plan at the time of death and is age 55 or older. Under Louisiana law the surviving spouse is guaranteed the right to continue such group coverage in effect until eligible for any other group coverage. The surviving spouse is also allowed to provide coverage to all dependents that were covered under the deceased spouse's policy or plan at the time of death so long as they remain eligible under the policy.

J. Guaranteed Renewal of Health Insurance Coverage—Applies to HMO and Major Medical Insurance Coverage

1. Under Louisiana law, once health insurance coverage has been purchased, the insurer cannot cancel the coverage unless one of the following conditions exists:

a. failure to pay premiums or contributions in accordance with the terms of the policy;

b. failure to comply with a material plan provision relating to employer contribution or group participation rules;

c. performance of an act or practice that constitutes fraud or the intentional misrepresentation of a material fact under the terms of coverage;

d. the policyholder no longer resides, lives, or works in the service area in the event the coverage is provided under a formal managed care plan operated by a Health Maintenance Organization;

e. the policyholder's coverage is purchased through a bona-fide association plan and the policyholder is no longer eligible to participate in such association;

f. the insurance company is no longer offering the type of coverage purchased and offers to replace the policy with any other type of similar coverage being marketed within 90 days of renewal; or

g. the insurance company is leaving the market and will no longer be selling any group and/or individual health insurance products in Louisiana for a period of at least five years. In such instances the insurer must give each policyholder 180 days advance notice in writing before the policy is terminated. All termination notices must be filed and approved by the Department of Insurance prior to issuance.

K. Limits on Preexisting Medical Condition Exclusions from Coverage—Applies To HMO and Major Medical Insurance Coverage. Under Louisiana law, a health insurance plan is allowed to exclude certain medical conditions from coverage for a limited period of time. All policies now being sold are prohibited from excluding

coverage for specific preexisting medical conditions for more than 12 months. Regardless of the type of coverage (group or individual), health plans are not allowed to apply an exclusion of coverage based on a preexisting medical condition for more than 12 months.

1. Group Coverage. The medical conditions that can be excluded from coverage are limited to those that were diagnosed or treated during the six month period prior to the day coverage begins under the policy. Any condition that was not being treated during the prior six months cannot be excluded from coverage.

2. Individual Coverage. The medical conditions that can be excluded from coverage are limited to those that were diagnosed, treated or reasonably should have been treated during the twelve month period prior to the day coverage begins under the policy. Any condition that was not diagnosed, treated, or reasonably should have been treated during the prior twelve months cannot be excluded from coverage.

L. Guaranteed Portability Protections—Applies to HMO and Major Medical Insurance Coverage

1. Individuals who are moving their health coverage from one employment situation to another or from one group plan to another are guaranteed the following rights provided they have enrolled in the new plan within 63 days of termination from the prior plan:

a. if the new plan imposes a 12-month preexisting exclusionary period, the individual must be given one month's credit for each month of continuous coverage under the prior plan. If the individual had 12 or more months of continuous coverage under the prior plan, the preexisting exclusionary period has been satisfied. If the individual had 6 months of continuous coverage under the prior plan, the preexisting exclusionary period is reduced by 6 months;

b. if the new employer imposes an exclusionary or waiting period for employees before coverage can begin, such periods do not count as a break in coverage for applying portability rights;

c. during any exclusionary or waiting period, no premiums can be charged to the individual;

d. during any exclusionary or waiting period the individual may maintain their prior coverage if eligible under state continuation of coverage rights, federal COBRA rights, or through purchase of an individual policy;

e. individuals, who had at least 18 months of prior coverage under a group plan, have exhausted or are not eligible for state continuation rights or COBRA rights, are guaranteed access to individual health insurance coverage through the Louisiana Health Insurance Association.

2. Any Louisiana resident who has individual health insurance coverage is guaranteed credit for prior individual coverage when replacing coverage if the insurance plan is applying the prior insurance policy's lifetime benefit usage against the replacement policy. Residents can waive credit for prior coverage to avoid any reduction in the lifetime benefit limit of the replacement coverage. However, state law no longer allows the sale of any policy of insurance that excludes coverage in excess of 12 months.

M. Prohibiting Discrimination Against Individuals Based on Health Status—Applies to HMO and Major Medical Insurance Coverage

1. State and federal law prohibit any group health coverage plan from discriminating against individuals based on their health status. This means that an individual's medical status cannot be used to determine eligibility to join a group health plan with certain exceptions. Plans are specifically prohibited from adopting any rules for eligibility or continued eligibility based on any of the following health status related factors:

- a. health status;
- b. medical condition, including both physical and mental illness;
- c. claims experience;
- d. receipt of health care;
- e. medical history;
- f. genetic information;
- g. evidence of insurability, including conditions arising out of acts of domestic violence; and
- h. disability.

2. A plan's rules for eligibility to enroll under a plan also include rules defining any applicable waiting periods for such enrollment. This means that the plan may only apply exclusionary or waiting period uniformly based on date of hire for all eligible employees. No exclusionary or waiting periods are allowed after coverage begins and premiums are being collected from the insured.

N. Prohibition on Use of Prenatal and Genetic Tests by Health Insurance Plans—Applies to HMO and Major Medical Insurance Coverage. State law prohibits health insurance plans from requiring any individual to take genetic tests or prenatal tests prior to being offered coverage. Plans are also prohibited from requesting release of any genetic or prenatal test results or using such information in the determination of benefits or rates for an insured.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 22:3 and R.S. 22:2014.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

§9109. Patient Responsibilities

Under Louisiana law, formal managed care plans operated by health maintenance organizations are held to a higher standard than other health insurance coverage plans that include managed care options. All materials provided by a health insurance coverage plan should be carefully reviewed prior to making a purchasing decision. Managed care requirements under each health insurance coverage plan may vary significantly. For this reason, all patient requirements should be carefully reviewed to assure there is no misunderstanding regarding how medical coverage will be provided.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 22:3 and R.S. 22:2014.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

A public hearing on the proposed regulation will be held on August 31, 1999 in the Plaza Hearing room of the Louisiana Department of Insurance located at 950 North Fifth Street, Baton Rouge, LA, at 8:30 a.m. All interested persons will be afforded an opportunity to make comments.

Interested persons may submit oral or written comments to Claire Lemoine, Senior Attorney, Division of Health, Department of Insurance, Box 94214, Baton Rouge, LA 70804-9214, telephone (225) 219-4771. Comments will be

accepted through the close of business at 4:30 p.m., August 31, 1999.

James H. "Jim" Brown
Commissioner

9907#069

NOTICE OF INTENT

Department of Labor Office of Workers' Compensation

Workers' Compensation—Hearing Rules
(LAC 40:I.5501-6627, 6637, 6639, 6662, and 6663)

Notice is hereby given, in accordance with R.S. 49:950, et seq., that the Louisiana Department of Labor, Office of Workers' Compensation, pursuant to authority vested in the Director of the Office of Workers' Compensation by R.S. 23:1310.1 and in accordance with applicable provisions of the Administrative Procedure Act, proposes to amend and reenact rules governing the procedure before the workers' compensation court, LAC 40:I, Subpart 2, Chapters 55 through 65 and Chapter 66, Sections 6601 through 6627, 6637 and 6639 and to enact Chapter 66, Sections 6662 and 6663, to provide for the procedural rules for the workers' compensation court. The proposed rules which are set forth below amend and reenact Chapters 55 through 65 and Chapter 66, Sections 6601 through 6627, 6637 and 6639 and enact Chapter 66, Sections 6662 and 6663.

In a cooperative endeavor with all users of the workers' compensation system, the Louisiana Department of Labor conducted a complete revision of the procedural rules of the workers' compensation court. Such revisions required the merger of previously enacted sections and the repeal of the merged sections. The rule establishes the procedural rules of the hearing section of the Office of Workers' Compensation Administration.

Title 40

LABOR AND EMPLOYMENT

Part I. Workers' Compensation Administration

Subpart 2. Hearing Rules

Chapter 55. General Provisions

Subchapter A. Definitions

§5501. Purpose; Definitions

A. The purpose of these Rules is to govern the practice and procedures before the Workers' Compensation Court which is a statewide court having jurisdiction of claims for workers' compensation benefits, the controversion of entitlement to benefits and other relief under the workers' compensation act. These rules are designed to facilitate the equitable, expeditious and simple resolution of workers' compensation disputed claims filed with the Court.

B. As used in these rules, unless otherwise indicated the following words shall have the following meanings:

Claimant—may, as the context requires, refer to the injured employee, the employer, the insurance carrier, the group self-insurance fund, the health care provider, or a dependant.

Court—shall mean the Office of Workers' Compensation court within the Office of Workers' Compensation Administration of the Louisiana Department of Labor.

Director—shall mean the director of the Office of Workers' Compensation Administration of the Louisiana Department of Labor.

Judge—shall mean a workers' compensation judge.

Mediator—shall mean a workers' compensation mediator.

Office—shall mean the Office of Workers' Compensation Administration of the Louisiana Department of Labor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:264 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter B. Jurisdiction

§5503. Jurisdiction Authority

Jurisdiction over workers' compensation matters is conferred upon the Office of Workers' Compensation Administration pursuant to Louisiana Constitution Article V, §16(A)(1) and R.S. 23:1310.3, et. seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5505. Jurisdiction over Subject Matter and Persons

Jurisdiction of the workers' compensation judges shall be governed by R.S. 23:1310.3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter C. Commencement

§5507. Commencement of a Claim

A. "Form LDOL-WC-1008" shall be the form to initiate a claim or dispute arising out of Chapter 10 of Title 23 of the Louisiana Revised Statutes of 1950.

B. Any claim may be initiated with the director, office of worker's compensation administration, or the district office of proper venue by delivery or by mail addressed to the office of worker's compensation administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5509. Delay for Answering

A. A defendant shall file his answer within fifteen days after receipt of the citation from the mediator and in accordance with Code of Civil Procedure Articles 1001, 1005 and 1006. The defendant shall certify that a copy of the answer was sent to all parties to the claim.

B. The filing of the answer shall be deemed timely when the answer is filed as provided in R.S. 23:1310.3(D).

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5511. Service

Service of process in a workers' compensation claim shall be by certified mail, at mediation by the mediator, or any other manner provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5513. Persons Authorized

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter D. Venue

§5515. Proper Venue

Proper venue in a workers' compensation claim shall be governed by R.S. 23:1310.4 and Code of Civil Procedure Articles 44 and 121. When a claim has been filed in a district of improper venue, the judge shall, in the interest of justice, transfer the claim to a district of proper venue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5521. Waiver of Objections to Venue

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5523. Action Brought in Improper Venue; Transfer

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:265 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter E. Recusation of Judges

§5525. Procedure for Recusal of a Workers' Compensation Judge

A.1. Any party to a workers' compensation claim may file a written motion for recusal of the judge to whom the matter is assigned specifying the grounds for recusation. This motion shall be filed prior to trial or hearing unless the party discovers the facts constituting the ground for recusation thereafter. In such case, the motion shall be filed immediately after the facts are discovered, but in no case after judgment. Upon receipt of the motion, the judge shall withdraw without further proceedings and authority and immediately refer the matter to the Chief Judge for

appointment of an ad hoc judge for contradictory hearing on the motion. Such hearing shall be held in an expedited manner and in no event later than fourteen days following filing of the motion.

2. Qualification for appointment as an ad hoc judge shall be governed by the provisions of R.S. 23:1310.1(B).

B. Grounds for recusal shall be as provided in Code of Civil Procedure Article 151.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5527. Grounds

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5529. Recusation on Court's Own Motion

A judge may recuse himself after notifying the chief judge, whether a motion for recusation has been filed by a party or not, in any claim in which a ground for recusation exists prior to a judgment being rendered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:266 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5531. Authority of Judge or Mediator until Rescued

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:266 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter F. Power and Authority

§5533. General

A. Workers' compensation judges shall have the power to enforce any lawful order and the discretionary authority to use necessary sanctions, including dismissal, in order to control the orderly process of the hearing, enforce orders, and these rules.

B. Except as provided in Section 5709, a workers' compensation judge or mediator shall not refer any claimant to an attorney for representation in a workers' compensation matter unless ordered to appoint an unrepresented party by a court of competent jurisdiction. The court shall have available a list of attorneys, compiled by the Director, who have indicated a willingness to handle workers' compensation matters.

C. All workers' compensation judges shall be subject to the Code of Judicial Conduct, Civil Service Rules, the Louisiana Code of Governmental Ethics and the LSBA Code of Professional Conduct. All workers' compensation mediators shall be subject to the Civil Service Rules, the Louisiana Code of Governmental Ethics, and the LSBA Code of Professional Conduct.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.3(E).

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:266 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5535. Contempt

A. Contempt of court is any act or omission tending to obstruct or interfere with the orderly administration of justice, or to impair the dignity of the court or respect for its authority.

B. Contempt proceedings in a workers' compensation proceeding shall be governed by R.S. 23:1310.7(B). This procedure is favored and shall be construed to accomplish the just, speedy, and orderly process of the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:266 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5537. Procedure

A person accused of committing contempt of court may be found guilty and punished only after application to the district court as provided in R.S. 23:1310.7(B). The allegation may issue on the court's own motion or on motion of a party to the claim and shall state the facts alleged to constitute the contempt. A person accused of committing a contempt of court shall be served with a certified copy of the motion, in the same manner as a subpoena, at least forty-eight hours before the time assigned for trial of the rule in the district court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:266 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter G. Clerks

§5539. District Clerk; Pleadings Filed; Docket Books

Each workers' compensation district and the Records Management division shall have a clerk(s), who shall be an ex officio notary public. The supervisor of the Records Management division shall be the custodian of all records and documents for that district or the Office and no such records, documents, or paper shall be withdrawn.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:266 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter H. Bailiffs

§5541. Security

A. The term "Bailiff" shall refer to any peace officer or duly commissioned reserve officer assigned by the Director to maintain order at each workers' compensation court.

B. The bailiff may in his discretion inspect any object carried by any person entering the premises. No one shall enter or remain in the premises without submitting to such an inspection if requested to do so.

C. Unless authorized by the Judge, no camera, recording equipment or other type of electrical or electronic device shall be brought into the premises.

D. No person shall be admitted to or allowed to remain in the premises with any object that might be employed as a

weapon unless he or she has been authorized in writing by the Director to do so, or unless he or she is a peace officer or duly commissioned reserve officer.

E. The bailiff shall enforce the whole of this rule, and pursuant to his authority as a peace officer or duly commissioned reserve officer, shall be authorized in his discretion to take any legal action necessary to preserve the order and security of the premises.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:266 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter I. Attorneys and Other Persons Before the Court

§5543. Workers' Compensation Courtroom Decorum

A. The following shall be observed in the opening of workers' compensation court and general courtroom decorum:

1. The bailiff shall open each session of workers' compensation court with an appropriate recitation and order.

2. No tobacco in any form will be permitted at any time.

3. No food or beverage shall be brought into the courtroom.

B. As officers of the workers' compensation court, attorneys are reminded of their obligations to assist in maintaining the dignity of the court. All attorneys and other officers of the court shall dress appropriately. For gentlemen, this means a coat and tie. For ladies, this means appropriate professional attire.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:267 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5545. Attorneys

In all hearings before the Workers' Compensation Judge the parties may appear in person or by counsel licensed to practice law in the State of Louisiana. Corporate entities, unincorporated associations, insurance companies and own-risk carrier shall appear only by such counsel. Counsel who will appear before the Workers' Compensation Judge on behalf of a party in any proceeding shall notify the Office of Workers' Compensation of their appearance by filing an entry of appearance or other appropriate pleading and shall be bound by Code of Civil Procedure Article 371.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:267 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5547. Withdrawal of Counsel

A. When an attorney seeks to obtain an ex parte order to withdraw as counsel for a party, he shall include in his application the last known address of the claimant along with a statement that he has given written notice to the party he was previously representing that he is no longer of counsel to him and of the status of the case on the court's docket. The attorney shall certify to the court that he has given notice to all counsel of record at the same time and in

the same manner as notification to the court. A copy of such written notice and certification shall be attached to the application for the ex parte order for withdrawal. An attorney who has been permitted by ex parte order to withdraw shall give notice of same to all parties.

B. Counsel of record who withdraws or is discharged prior to submission of the case, and desires to assert a claim for fees, must attach a statement to that effect and set forth the period of time during which his client was under his or her representation. Counsel shall also file a lien form, to be developed by the Director, identifying any lien he may have on the pending claim for payment of attorney fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:267 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Chapter 57. Actions

Subchapter A. General Provisions

§5701. Prescription; Filing Procedure

A. Prescription periods shall be as set forth in R.S. 23:1031.1(E),(F),(I), 1209, and 1234. Time limits shall be calculated from the date of mailing as shown by the post mark, other proof of mailing, or the date a facsimile transmission is received.

B. Filing shall be deemed complete at the time that a facsimile transmission is received. A facsimile, when filed, has the same force and effect as the original. If the party fails to comply with the requirements of Paragraph (3) of Subsection C, of this Section, a facsimile filing shall have no force or effect.

C. Within five days, exclusive of legal holidays, after the district office or the records management division have received a facsimile transmission, the party filing the document shall forward the following to the district office or records manager:

1. The original signed document;
2. The applicable filing fee, if any; and
3. A transmission fee of \$5.00 (five dollars).

D. Upon receipt in the office, the pleading or forms and any other correspondence shall be stamped with the date of receipt by the appropriate court personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:267 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5703. Prematurity

Prematurity in a workers' compensation claim shall be governed by R.S. 23:1314.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:267 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5705. Abandonment

A. A claim may be dismissed by an ex parte order of the judge for lack of prosecution for the following reasons:

1. Where no service of process and/or mediation has occurred within sixty (60) days after the Form LDOL-WC-1008 has been filed;

2. Where no responsive pleadings have been filed and no default has been entered within sixty (60) days after service of process;

3. Where a claim has been pending six (6) months without proceedings being taken within such period. This provision shall not apply if the claim is awaiting action by the workers' compensation court; or

4. Where a party fails to appear for a properly noticed conference or trial.

B. Any formal discovery as authorized by these rules and served on all parties whether or not filed of record, including the taking of a deposition with or without formal notice, shall be deemed to be a step in the prosecution or defense of an action.

C. Dismissal under this Rule shall be without prejudice. Any order of dismissal shall allow for reinstatement of the action within thirty (30) days for good cause shown.

D. The failure of an attorney or pro se litigant to keep the workers' compensation court apprised of an address change may be considered cause for dismissal for failure to prosecute when a notice is returned to a party or the workers' compensation court for the reason of an incorrect address and no correction is made to the address for a period of thirty (30) days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:268 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5707. Class Actions

No class action will be permitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of workers' Compensation Administration, LR 25:268 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter B. Settlement

§5709. Joint Petition Settlements; Appointment of Counsel

A.1. A lump sum or compromise settlement shall be presented to the presiding judge in a pending disputed claim or to any judge in an undisputed claim for approval on Form LDOL-WC-1011 and upon joint petition of the parties. The employer/insurance carrier must also submit Form LDOL-WC-1007 if it has not been filed previously with the office.

2. A hearing in open court with all parties present shall be required when one or more parties is not represented by counsel. Appearance by the parties and/or their representative may be waived if all parties are represented by counsel. In special circumstances and in the interest of judicial economy, the judge may allow the unrepresented party to waive his appearance and permit the party to appear by telephone. Appearance by the represented parties and/or their representative may be waived in written form.

B. When one or more parties is not represented by counsel, the judge may appoint an attorney to assist the court in determining whether the settlement does substantial justice and is in the best interest of all parties. In such cases the court may approve an attorney's fee to be paid out of the proceeds of the settlement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:268 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5711. Conversion of Payments to Lump Sum Settlements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:268 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Chapter 58. Pleadings

Subchapter A. General

§5801. Pleadings Allowed

The pleadings allowed in workers' compensation claims, whether in a principal or incidental action, shall be in writing and shall consist of petitions, exceptions, written motions, answers, and Office of Workers' Compensation Administration forms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:268 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5803. Signing of Pleadings

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:268 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter B. Supplemental/Amended Pleadings

§5805. Amendment of Claim and Answer

Amendment of a claim and answer shall be governed by Code of Civil Procedure Article 1151.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:268 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5807. Supplemental Pleadings

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R. S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:269 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter C. Form

§5809. Forms

The Office of Workers' Compensation Administration shall prepare and adopt such forms for use in matters before the Office of Workers' Compensation Administration as it may deem necessary or advisable. Whenever Office of Workers' Compensation Administration forms are prescribed and are applicable, they shall be used. A photo ready copy of any form may be procured upon request to any District Office or the office of the Director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:269 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5811. Format of Documents

A. Any pleading or other document submitted to the Director or to any judge shall be typed or printed legibly on 8 x 11" paper and shall bear the name and signature of the person who prepared it, the firm name, if applicable, the complete address including the zip code, the telephone and facsimile number, including the area code and the docket number, if one has been assigned to the claim. All attorneys shall note their bar roll number on all documents and correspondence.

B. Copies of all correspondence and any other instruments sent to the Office of Workers' Compensation Administration shall be sent at the same time and in the same manner by the party originating the correspondence to all other parties of record in the case and a certificate to that effect shall be attached to the original and filed with the office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:269 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter D. Mediation

§5813. Informal Mediation

A. Within 15 days of receipt of a claim in a district of proper venue but with not less than 5 days notice to the parties, unless the parties agree to meet at an earlier date, the district office shall set the matter for an informal mediation conference with a mediator. The notice may be given by telephone, but shall be confirmed by United States Mail. The notice shall indicate the date, time, and place of the conference. Upon filing of the LDOL-WC-1008 any party to the claim and/or their representative may request a copy of the Form 1008 filed in the case. No such request shall be denied by an employee of the Office of Workers' Compensation Administration.

B. The purpose of the informal mediation conference shall be to mediate and encourage resolution of the dispute. As such the conference is designed for employees, employers and/or adjusters or claims managers. Within 24 hours of receipt of notice of the informal mediation conference, the employer shall notify his workers' compensation insurer or adjuster, in case of a self-insured, of the date, time and place of the conference.

C. The informal mediation conference may be held by telephone if agreed to by all parties to the claim and they are represented by an attorney or authorized claims representative. Notice should be given that such agreement has been reached no later than five (5) days prior to the mediation. The defendant must have available at the time of the mediation a facsimile machine to accept service. Telephone mediations shall not be permitted in claims where a party is unrepresented; except in special circumstances or in the interest of justice, the mediator may allow a party to appear by telephone. All parties to a telephone mediation shall provide the mediator with all information required by Subsection D of this Section prior to the scheduled mediation.

D. If available, the parties shall bring or mail to the office prior to the conference two (2) legible copies of the following: LDOL-WC-Form 1007, current medical bills and reports, information on workers' compensation benefits previously paid, wage records, vocational rehabilitation records and any other documents relevant to the issues of the claim. If the employer has failed to timely file a completed 1007, the employer shall be assessed a fine in accordance with LAC 40:109. Nothing contained in the Form LDOL-WC-1007 shall be considered as an admission of any fact contained therein.

E. No stenographic report shall be taken at the informal mediation conference and no witnesses shall be called. All statements made at the mediation conference shall be privileged and shall not be admissible in any subsequent hearing or trial.

F. Continuances of the mediation conference may be permitted for good cause shown by written request to the mediator no later than three days prior to the conference, unless exigent circumstances exist. The request shall state the reasons the continuance is necessary, that all parties have been notified of the request, and whether all parties agree to the continuance

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:269 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5815. Mediation Ordered by Judge

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:269 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5817. Conclusion of Informal Mediation Conference

A. When it becomes apparent during the course of a mediation conference that agreement on all issues cannot be reached, the mediator shall issue a report stating the result of the conference and, at the initial conference, immediately issue citations to all defendants. The report shall be issued to the parties immediately following the conference or mailed within (5) days thereof.

B. If in the mediator's judgment a follow-up mediation conference would be beneficial and would likely resolve the dispute, a date shall be set for the conference. The scheduling of an additional conference(s) shall not delay issuance of citation to the defendant(s).

C. Following a mediation conference, at which agreement is reached on all issues in dispute, a report embodying the agreement shall be issued to the parties and the judge within five (5) days thereof. The report may require dismissal of the claim or the filing of an LDOL Form 1011 within a specified period of time. Failure to timely comply with the agreement will result in issuance of citations to all defendants. When all issues in dispute are resolved at any mediation conference, the Office of Workers' Compensation Administration may waive payment of the \$30.00 filing fee.

D. If any proper party defendant is present or represented at the informal mediation conference, formal citation and service of process shall be made upon that defendant or its representative at that time. If the defendant(s) is participating by telephone, citation shall be waived and service shall be accepted by facsimile. A signed waiver form shall be returned within twenty-four hours after the conclusion of the mediation by facsimile transmission. The original signed waiver form shall be forwarded to the court no later than five days after the mediation. The original document(s) shall be mailed to the defendant(s) no later than five days following the completion of the mediation. Citation and service of process shall be proper upon any representative of the defendant appearing at the mediation conference. The affidavit of the mediator or waiver of service signed by the defendant or its authorized representative in any subsequent proceeding shall be prima facie evidence that service has been made in accordance with this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:269 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5819. Failure to Attend; Sanctions

A. If any party fails to appear at any informal mediation conference after proper notice, the judge, upon report from the mediator, may fine the delinquent party an amount not to exceed \$500.00, which shall be payable to the Office of Workers' Compensation Administrative Fund. In addition, the judge may assess against the party failing to attend, costs and reasonable attorney's fees incurred by any other party in connection with the conference. If the claimant fails to appear after proper notice, the judge may dismiss the claimant's case without prejudice. The penalties provided for in this Section shall be assessed by the judge only after a contradictory hearing which shall be held prior to the hearing on the merits of the dispute unless waived upon joint motion of the parties. Appearance by the parties and/or their representative may be waived in written form. The judge may entertain such action by telephone conference with all parties participating. Such telephone conference shall be initiated by the party requesting the telephone conference.

B. When a party without reasonable excuse, fails to appear for the informal mediation conference; the judge may apply to the District court as set forth in Section 5535 for contempt proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.3(B)(2).

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:270 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter E. Petition

§5821. Required Elements

The required elements of a workers' compensation claim shall be as provided in R.S. 23:1311.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:270 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter F. Exceptions

§5823. Exceptions; Time for Pleading; Trial; Evidence; Effects of Sustaining

Exceptions shall be governed by Code of Civil Procedure Articles 921, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:270 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5825. Trial of Exceptions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:270 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5827. Evidence on Exceptions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:270 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5829. Effects on Sustaining Exceptions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:270 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter G. Motions

§5831. Motion or Rule Day

A. Each district office shall designate a specific day of the week for the hearing of rules, motions, exceptions and arguments. A list of the rule days for each district shall be available in any district office.

B. The judge may require the parties to submit briefs in connection with any exception, rule, or motion. Briefs should be submitted forty-eight (48) hours prior to the hearing on the exception, rule or motion. A copy of the brief shall be served upon all counsel of record at the same time and in the same manner as submitted to the court.

C. In advance of the date set for the hearing of an exception, motion or rule, any counsel may notify the court that he waives his appearance and is willing to submit the matter on briefs. At the time set for the hearing, any person may waive oral argument.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:270 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5833. Written Motion Required; Exception

An application to the court for an order, if not presented in some other pleading, shall be by motion which, unless made during trial or hearing or in open court, shall be in writing. The written motion shall state the grounds therefor and the relief or order sought.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:270 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5835. Ex Parte and Contradictory Motions

Ex parte and contradictory motions shall be governed by Code of Civil Procedure Articles 963, et seq. A contradictory hearing with the adverse party may be held unless waived upon joint motion of the parties. Appearance by the parties and/or their representative may be waived in written form. The judge may entertain such motion by telephone conference with all parties participating. Such telephone conference shall be initiated by the party requesting the telephone conference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:270 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5837. Motion to Strike

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:271 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5839. Motion for Summary Judgement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:271 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5841. Same; Affidavits

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:271 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Chapter 59. Production of Evidence

Subchapter A. General

§5901. Discovery and Attendance of Witnesses

The hearing process shall be available to aid any party in pursuit of discovery and to compel attendance of witnesses or production of evidence. The judge on his own motion at any conference may order the production of discoverable material and make any other order facilitating discovery. Copies of discovery documents are to be mailed to all parties and shall not be filed in the record of the proceedings unless attached as an exhibit to a motion or ordered by the judge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:271 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5903. Objections to Evidence

Except as otherwise provided in Title 23 or by these rules, objection to any evidence shall be governed by the Louisiana Code of Evidence and Code of Civil Procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:272 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5905. Protective Orders

Upon motion by a party or by a person from whom discovery is sought, and for good cause shown after contradictory hearing, the judge may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense. The judge may entertain such motion by telephone conference with all necessary parties participating. Such telephone conference shall be initiated by the party requesting the telephone conference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:272 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter B. Subpoena

§5909. Issuance; Service

A. Subpoenas issued in connection with any workers' compensation matter shall be served by the party requesting issuance of the subpoena, and may be served by certified mail return receipt requested or any other manner provided in Section 5511. Proof of service shall be the responsibility of the party requesting the subpoena. Once issued and served, a subpoena may be canceled by the requesting party only after written notice to the opposing side. It shall be the responsibility of the requesting party to provide written notification of cancellation to all opposing parties as well as the person under subpoena.

B. In order to be enforceable, subpoenas for hearing shall be served seven (7) days prior to the scheduled hearing date; subpoenas to compel attendance of medical experts shall be served ten (10) days prior to hearing. Subpoenas for hearing may be issued after expiration of these time limits only by leave of court for good cause shown or upon written consent of all parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:272 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5911. Exceptions

A. No official of the Social Security Administration shall be subject to subpoena under these rules except for good cause shown.

B. An independent medical examiner shall be subject to subpoena only as provided in R.S. 23:1317.1.

C. The subpoena of the director or any other employee of the Office of Workers' Compensation Administration shall be governed by R.S. 23:1318.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:272 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5913. Subpoena of Confidential Records

The subpoena of confidential records shall be governed by R.S. 23:1293(A)(1) and 1310.15.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:272 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter C. Discovery

§5915. Scope of Discovery

Discovery shall be governed by Code of Civil Procedure Articles 1421, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:272 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5917. Supplementation of Responses

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:273 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter D. Depositions

§5921. General; When Taken

The taking of a deposition shall be governed by Code of Civil Procedure Articles 1437, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:273 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5923. Notice; Time and Place; Subpoena Duces Tecum

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:273 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5925. Depositions in Advance of Hearing;

Perpetuation of Testimony

Depositions in advance of hearing shall be governed by R.S. 23:1319.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:273 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5927. Deposits of Medical Personnel

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:274 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5929. Objections

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:274 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter E. Interrogatories

§5931. General

Interrogatories shall be governed by Code of Civil Procedure Articles 1457, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:274 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter F. Production of Documents

§5933. Production of Documents; General; Medical Evidence

A. In general, the production of documents shall be governed by Code of Civil Procedure Articles 1461, et seq. and R.S. 23:1127.

B. Within ten (10) days of receiving a copy of another party's medical report, the recipient shall advise the judge in writing if there is an objection to the admission of the report in evidence. A copy of the objection shall be mailed to all parties of record in the suit. Unless the judge and all parties are timely notified of the objection, the recipient of the report shall be deemed to have waived the right to object and the report shall be admitted into evidence for all purposes at the trial. When a timely objection is received, the judge may set a hearing on the motion, or rule on the matter at the trial on the merits. The judge further has the discretion to order, after a contradictory hearing, a deposition of the doctor if necessary to clarify a report or to obtain additional information, during the discovery period or at the trial on the merits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:274 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5935. Production of Documents; Persons Not Parties

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:274 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5937. Requests for Medical Records

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR

25:274 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5939. Objections; Medical Evidence

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:274 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter H. Admissions

§5941. Requests for Admission

Requests for admission shall be governed by Code of Civil Procedure Articles 1466, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:275 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter H. Medical Examinations

§5943. Independent Medical Examinations; Report; Deposition of Examiner; Objections

A. The procedure for requesting an independent medical examination shall be as provided in R.S. 23:1317.1.

B. Objections to the independent medical examination shall be made on form LDOL-WC-1008 and shall be set for hearing before a judge within thirty days of receipt. No mediation shall be scheduled on disputes arising under this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:275 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5945. Required Report

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:275 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5947. Deposition of Examiner

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:275 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5949. Objections

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:275 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5951. Cancellation of Independent Medical Examinations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:275 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5953. Right of an Employee to Written Report of Medical Examination.

Entitlement of an employee to the written report of a medical examination shall be as provided in R.S. 23:1125.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:275 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter I. Motion to Compel

§5955. Motion for Order Compelling Discovery

Motion for order compelling discovery shall be governed by Code of Civil Procedure Articles 1469, et seq. and R.S. 13:3715.1 and Section 5963.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:275 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5957. Order Compelling Discovery of Medical Records

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:276 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter J. Sanctions

§5959. Withheld Medical Report

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:276 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5961. Refusal to Obey Subpoena

When a person who, without reasonable excuse, fails to obey a subpoena, the judge may apply to the judge of the appropriate district court as set forth in Section 5535 for contempt proceedings against such person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:276 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5963. Failure to Comply With Order Compelling Discovery

Failure to comply with order compelling discovery shall be governed by Code of Civil Procedure Article 1471. In addition, the judge may make an application for contempt proceedings as set forth in Section 5535 except in cases of an order to submit to a physical or mental examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:276 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§5965. Health Care Providers; Penalties

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:276 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Chapter 60. Pretrial Procedure

§6001. Scheduling Conference

A. Within sixty days following receipt of the answer a judge shall conduct a scheduling conference for the purpose of setting pre-trial deadlines. Such conference shall be held by telephone.

B. Issues to be considered and determined at the scheduling conference shall include:

1. The necessity or desirability of amendments to pleadings.
2. Discovery anticipated by the parties.
3. Deadlines for amendments to pleadings; completion of discovery and scheduling of pre-trial motions.
4. Scheduling of the pre-trial conference and if the mediator's schedule permits, the scheduling of a Section 6009 mediation.
5. Scheduling of the trial.
6. Such other matters as may aid in the disposition of the action.

C. At the conclusion of the scheduling conference and no longer than fourteen days following the conference, a scheduling order, developed by the director, shall be issued by the judge setting forth the actions taken and deadlines set at the conference. Such order shall control the subsequent course of the claim, unless modified to prevent manifest injustice upon motion of a party or by order of the court.

D. The judge in his discretion may waive the requirement of a pre-trial conference. If so waived, the pre-trial statement required by Section 6007 shall be filed as ordered by the judge. The pre-trial conference should be held no less than forty-five days prior to trial.

E. The trial date should not be more than six months from the scheduling conference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:276 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6003. Statement of Evidence

A. Each party to the dispute shall file a statement of evidence with the appropriate district office ten (10) days prior to the scheduling conference.

B. The statement of evidence shall be signed by the party, its representative, or counsel preparing it and shall set forth:

1. A list and brief description of all exhibits to be offered into evidence. Exhibits to be used for impeachment or rebuttal need not be included on the list. Impeachment evidence shall include, but not be limited to, witnesses, documents, photographs, or films. Proposed stipulations as to exhibit authenticity and/or admissibility shall be noted on the exhibit list.

2. A list of witnesses each party may call and a short statement as to the nature but not to the content of their testimony, and whether their testimony will be offered live or by deposition. Except for the witnesses listed, no other witnesses may be called to testify except for good cause shown. This requirement shall not apply to impeachment and rebuttal witnesses.

3. Outstanding discovery and depositions to be taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:276 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6005 Pretrial Conference

A. Each party to the dispute shall file a pre-trial statement with the appropriate district office ten (10) days prior to the pretrial conference. The pre-trial statement shall update and finalize all items originally submitted statement of evidence pursuant to Section 6003.

B. The party or counsel who prepared and submitted the pre-trial statement to the workers' compensation court should attend the pretrial conference. Any substitute permitted by the court to attend the conference shall be knowledgeable of all aspects of the case and shall possess the necessary authority to commit his client or associate regarding changes, stipulations, compromise/settlements, and trial dates.

C. The pretrial conference shall be held by telephone.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:277 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6007. Pre-trial Statement

A. The pre-trial statement shall include:

1. Stipulations agreed to by all parties.
2. Issues to be litigated.
3. Contentions.
4. A list and brief description of all exhibits to be offered at trial.
5. A list of all witnesses to be called at trial.
6. Desirability of mediation.

B. Amendments to the pre-trial statement shall only be by written motion and permitted only for good cause shown.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor Office of Workers' Compensation Administration, LR 25:277 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6009. Pre-Trial Mediation

If scheduled, the pre-trial mediation conference should be held no later than fifteen days prior to the scheduled trial date. The judge shall set the matter for a mediation conference with the mediator who originally heard the claim or a duly qualified mediator in the absence of the original mediator. The notice may be given by telephone, but shall be confirmed in written form. The judge shall provide notice of the date, time, and place of the conference to all parties at the same time and in the same manner. The rules of

mediation found in Sections 5813 - 5819 shall apply except that the parties shall appear in person. Only two mediation conferences may be held pursuant to this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:277 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Chapter 61. Hearings

Subchapter A. Expedited Hearings

§6101. Examination of an Injured Employee

The examination of an injured employee shall be governed by R.S. 23:1121 and 1124.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:277 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter B. Continuance

§6103. General

A. Continuances shall be as provided in Code of Civil Procedure Articles 1601, et seq.

B. A continuance shall not be granted for the absence of a subpoenaed witness if the subpoena was not issued in accordance with Section 5909 of these rules.

C. A continuance will not be entertained based upon a conflict in the schedule of any party or attorney if the conflict arose after the date of the scheduling conference, except for good cause shown or in cases of criminal assignments.

D. If uncontested, the moving party shall certify to the court that he has spoken to opposing counsel, that no opposition exists and that all witnesses have been timely notified of the continuance. The uncontested motion shall be granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:277 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6105. Form Required

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:277 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6107. Preemptory Grounds

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:277 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Chapter 62. Trial

Subchapter A. Trial Procedure

§6201. General

Only those issues listed in the pretrial statements shall be litigated at trial. No new issues shall be raised except by

written order of the judge for good cause or upon mutual agreement of the parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:278 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6203. Trial on the Merits

The trial of a workers' compensation claim shall be governed by R.S. 23:1317.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:278 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6205. Cumulative Medical Testimony

The introduction of medical testimony in a hearing or trial shall be governed by R.S. 23:1124.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:278 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6207. Evidence Held Inadmissible

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:278 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6209. Testimony of Medical Personnel

Expert medical testimony may be admitted by:

A. Reports of any health care provider certified as a true copy in accordance with the Louisiana Revised Statutes 13:3715.1.

B. Deposition.

C. Oral examination in open court proceedings; however, no more than two physicians may present testimony for either party except by order of the judge.

D. Any other manner provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:278 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter B. Dismissal

§6211. Dismissal; Voluntary; Involuntary

Dismissal shall be governed by Code of Civil Procedure Articles 1671, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:278 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6213. Involuntary Dismissal

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:278 (February

1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter C. Assessment of Costs

§6215. Assessment of Costs

The determination of whether costs shall be assessed against a party shall be governed by R.S. 23:1310.9.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Chapter 63. Judgments

Subchapter A. General

§6301. Submission of Evidence

A case or other matter shall be considered as having been fully submitted for decision immediately upon the conclusion of trial or hearing or final submission of all evidence. The parties shall file in to the record all evidence at the time of trial or hearing unless an extension is granted by the court, for good cause shown. In instances where the judge allows briefs, the parties shall be allowed a maximum of fifteen working days from the conclusion of the trial or hearing to file post trial memoranda.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6303. Completion of Trial; Pronouncement of Judgment

A. The procedures for completion of trial and pronouncement of judgement shall be governed by R.S. 23:1310.5(A)(1) and 1201.3(A). All such orders, decisions, or awards shall be rendered no later than thirty calendar days after conclusion of trial.

B. Written reasons shall only be rendered if requested in written form by any party to the claim within ten days of the signing of the judgment. The written reasons shall be issued by the judge not later than thirty days following the request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:279 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter B. Default

§6305. Default; General Provisions; Scope of Judgment

The general rule regarding default in a workers' compensation claim shall be governed by R.S. 23:1316 and 1316.1 and Code of Civil Procedure Article 1703.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6307. Confirmation of Judgement by Default

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR

25:279 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6309. Scope of Judgement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter C. Modification

§6311. General

The modification of an award shall be governed by R.S. 23:1310.8(A)(1) and (B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6313. Amendment of Judgment

Amendments of judgment shall be governed by Code of Civil Procedure Article 1951.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6315. Request for Modification

Any party to the claim may apply for modification pursuant to Section 6311 by filing a Form LDOL-WC-1008. If the original decision or award was made by a District Court Judge, the party seeking the modification shall furnish the workers' compensation judge with the appropriate evidence and documents from the district proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6317. Exception

A motion for new trial shall not be permitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Chapter 64. Appellate Procedure

§6401. General

All appeals shall be taken in accordance with the procedures set forth in R.S. 23:1310.5 and, where not in conflict, the Louisiana Code of Civil Procedure and the relevant rules of the appropriate circuit court of appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6405. Payment of Appellate Costs

Payment of appellate costs shall be governed by Code of Civil Procedure Articles 2126, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6407. Record on Appeal; Preparation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:280 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6409. Same; Preparation and Delivery of Transcript

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:280 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6411. Same; Contempt

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:280 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Chapter 65. Special Disputes

Subchapter A. Attorney Fees

§6501. Disputed Attorney Fees

When a dispute arises among several attorneys as to the identity of claimant's counsel of record, or when several successive attorneys lay claim to a fee in the same case, the judge shall decide the issues raised and allocate the fee allowed in proportion to the services rendered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of labor, Office of Workers' Compensation Administration, LR 25:280 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6503. Attorney Fees; Application, Review and

Approval

A. Whenever the judge renders an award of penalties or attorney fees due to the conduct of the other party under any provision authorized by the Workers' Compensation Act, the judgment shall state the specific acts or omissions of the party which gave rise to the award of a penalty or attorney fee. When attorney fees are awarded due to the conduct of a party the judgment shall state the basis for the amount of the award.

B. Attorney fee claims under R.S. 23:1141 for allowable portions of periodic payments of indemnity benefits recovered by claimants shall only be authorized after approval by the presiding judge upon filing of a motion for such fees filed by the claimant's attorney.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:281 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6505. Reserved.

Subchapter B. Offsets

§6507. Offsets

A. A request for offsets pursuant to R.S. 23:1225 made in connection with a disputed claim shall be made by filing Form LDOL-WC-1008 or by responsive pleading. An order shall be issued recognizing the entitlement to the offset for social security benefits from the date of judicial demand, and setting the amount of the offset after a determination of the character of the disability, the right to the offset, and calculation of the offset. A contradictory hearing may be set by the judge for this determination. Notice shall be provided to the claimant or his representative prior to issuance of the order. The order shall be served by certified mail upon all parties and the Social Security Administration. Such offsets may be taken upon receipt of proof of service of the order upon the Social Security Administration by the Office of Workers' Compensation Administration.

B. A request for offsets pursuant to R.S. 23:1225 made in connection with a claim not in dispute may be made by motion on form LDOL-WC-1005(A) or by letter, filed in the appropriate district office. When properly filed, the motion or letter requesting an offset may be granted ex parte from date of filing. Such offsets shall not be taken unless the social security offset has been removed. No fee shall be charged in connection with a request made under this Subsection.

C. A unilateral reverse offset shall not be recognized by this office after March 20, 1993. A unilateral offset under any other Subsection of R.S. 23:1225 shall not be recognized by this office after January 1, 2000.

D. Information concerning receipt of social security benefits and the amounts thereof shall be obtained on Form LDOL-WC-1004, which shall be properly executed by an official designated by the Social Security Administration.

E. An official of the Social Security Administration shall not be subject to subpoena under this rule unless for good cause shown.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:281 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter C. Financial and Compliance Hearings

§6509. Financial and Compliance Hearings

A. An informal mediation conference shall be held within fifteen days of the filing of an appeal for financial and compliance matters.

B. If a resolution is not reached, a hearing on the appeal held pursuant to R.S. 23:1171 shall be held within 15 days of the conclusion of the informal mediation conference, and shall be conducted in accordance with the provisions of the Administrative Procedure Act.

C. Suspensive appeals of a determination of the financial and compliance officer will not be entertained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:281 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Chapter 66. Miscellaneous

Subchapter A. General

§6601. Other Applicable Rules

Unless otherwise provided for in these rules, any practice or procedure not in conflict with either the Workers' Compensation Act or these rules will be guided by practice and procedure provided for in the Louisiana Code of Civil Procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Department of Labor, Office of Workers' Compensation Administration, LR 25:281 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6603. Local rules prohibited

Local rules by any district office of the Office of Workers' Compensation Administration are prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:281 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6605. Fees

The clerks for the Office of Workers' Compensation Administration shall be entitled to demand and receive the following fees in a Workers' Compensation dispute:

- A. Filing of 1008 or 1011 - \$30.00
- B. Service of Process on Secretary of State - \$25.00
- C. Copies of any paper in any suit record - \$0.25 per page
- D. For each certification - \$1.00
- E. Filing by facsimile transmission - \$5.00
- F. Cost of preparation of record for appeal - available upon request from the district offices.
- G. Cost of service by certified mail - available upon request from the district offices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, LR 25:281 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6607. Posting of Docket

The clerk of the district office shall keep a docket upon which shall be entered all matters set for mediation, hearing, or trial. The docket shall be posted in a conspicuous location of the district office on the first work day of each week for that week.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:282 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter B. Costs

§6609. General

A. The awarding of costs shall be governed by R.S. 23:1317(B) and Code of Civil Procedure Article 1920.

B. The costs of preparing an appeal shall be initially sustained by the appellant. In the case of pauper, the costs incurred by the Office of Workers' Compensation Administration in preparing the transcript shall be sustained

by the Office of Workers' Compensation Administration only where the pauper is the losing party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:282 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6611. Medical Costs

The determination of all medical reimbursement shall be based upon the reimbursement schedule in effect at the time the services are rendered. Every attempt to resolve disputes over medical reimbursement shall be made by applying said schedule(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:282 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter C. Waiver of Costs for Indigent Party

§6613. Waiver of Costs for Indigent Party

Waiver of costs for indigent party shall be governed by Code of Civil Procedure Articles 5181, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:282 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6615. Restrictions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:282 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6617. Affidavits of Poverty; Documentation; Order

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:282 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6619. Traverse of Affidavits of Poverty

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:282 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6621. Account and Payment of Costs

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:283 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6623. Compromise; Dismissal of Proceedings Prior to Judgement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:283 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6625. Unsuccessful Party Condemned to Pay Costs

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:283 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter D. Severability of Sections

§6627. General

If any provision or item of a section, or the application thereof, is held to be invalid, such invalidity shall not affect other provisions, items, or applications of the section which can be given effect without the invalid provision, item or application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:283 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Subchapter E. Forms

* * *

§6637. Motion for Recognition of Right to Offset; Form LDOL-WC-1005A

Attached hereto and designated as "Attachment Number 5".

STATE OF LOUISIANA
DEPARTMENT OF LABOR
OFFICE OF WORKERS' COMPENSATION

_____* SS#:_____
VERSUS * DOCKET NO:_____
_____* DISTRICT:_____

MOTION FOR RECOGNITION OF RIGHT TO SOCIAL SECURITY OFFSET

NOW INTO COURT as undersigned comes _____, employer/insurer in the referenced case, and requests the Workers' Compensation Judge to enter an order recognizing its right to take the reverse offset, since the claimant in this matter is receiving permanent total disability benefits under the Louisiana Workers' Compensation Act in addition to benefits under 42 U.S.C. Chapter 7, Subchapter II, entitled Federal Old Age, Survivors, and Disability Insurance Benefits.
SIGNED this the _____ day of _____, 19__.

(PRINT NAME)
Agent for _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:293 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6639. Order Recognizing Right to Offset; Form LDOL-WC-1005B

Attached hereto and designated as "Attachment Number 6".

STATE OF LOUISIANA
DEPARTMENT OF LABOR OFFICE OF WORKERS' COMPENSATION

_____* SS#:_____
VERSUS * DOCKET NO:_____
_____* DISTRICT:_____

ORDER RECOGNIZING RIGHT TO SOCIAL SECURITY OFFSET

This matter is before the Workers' Compensation Judge on the motion of the employer/insurer for recognition of its right to claim the social security reverse offset in this case. The Workers' Compensation Judge finds that the claimant is receiving permanent total disability benefits under the provisions of the Louisiana Workers' Compensation Act in addition to benefits under 42 U.S.C. Chapter 7, Subchapter II, entitled Federal Old Age, Survivors, and Disability Insurance Benefits. The Workers' Compensation Judge further finds the under that provisions of L.R.S. 23:1225(A) the employer/insurer has claimed and is entitled to a reduction in the Workers' Compensation benefits paid to claimant in the amount of _____.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the employer/insurer is hereby allowed to offset the Workers' Compensation benefits paid to claimant in the amount of _____, beginning on _____, 19__, the date of employer/insurer's judicial demand.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Social Security Administration reverse its social security offset effective _____, 19__, the date of employer/insurer's judicial demand.

READ, RENDERED AND SIGNED this _____ day of _____, 19__ at _____ Parish, Louisiana.

WORKERS' COMPENSATION JUDGE

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:293 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

* * *

§6662. Attorney Fee Notice of Lien; Form LDOL-WC-1027

Attached hereto and designated as "Attachment Number 16".
DOCKET NO.: _____

CLAIMANT: _____
REPRESENTATIVES: _____
EMPLOYER: _____

NOTICE OF LIEN

Pursuant to Section 5547(B) of the hearing rules of the Office of Workers' Compensation Administration, _____ serves notice upon this Honorable Court and all parties to the above entitled claim that (he/she/it) represented the claimant from (date) to (date) and hereby asserts a lien on the proceeds of the claim for unpaid attorney fees.

Respectfully submitted,

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

§6663. Scheduling Order; Form LDOL-WC-1028

Attached hereto and designated as "Attachment Number 17".

CLAIMANT DOCKET NUMBER:
OFFICE OF WORKERS' COMPENSATION
VERSUS
EMPLOYER DISTRICT _ - _____
STATE OF LOUISIANA
SCHEDULING ORDER

On _____, a scheduling conference was held pursuant to Section 6001 of the hearing rules of the Office of Workers' Compensation Administration.

PRESENT:

_____ representing _____
_____ representing _____
_____ representing _____

IT IS ORDERED:

1. Amendment to pleadings:
2. Discovery anticipated by the parties:
3. All amendments to pleadings are to be filed by _____.
4. The cut-off date for discovery is _____.
5. All pre-trial motions are to be filed by _____.
6. The pre-trial conference is scheduled on _____ at ____ M.
7. The pre-trial mediation will be held on _____.
8. Trial is scheduled for _____.

IT IS FURTHER ORDERED that a pre-trial statement shall be filed ten days prior to the pre-trial conference. The attorneys who will try the case shall participate in the pre-trial conference unless prior to the conference the Judge grants permission for other representatives to attend. Whoever participates in the conference must be familiar with the case and have authority to discuss the possibilities of settlement and stipulations. _____, LOUISIANA, THIS ____ DAY OF _____, 199_

Judge
Office of Workers' Compensation
District _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:

Garey Forster
Secretary of Labor

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Worker's Compensation—Hearing Rules**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will not result in any implementation costs (or savings) to the state or local governmental units other than those costs directly associated with the publication of these rules. The rules are a recodification of existing procedures and practices, which have not been rewritten since 1990; and will allow for a set of complete and consistent procedures for use by all offices. There is no anticipated impact on local governmental units before the Hearings Section for resolution of disputed workers' compensation claims.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no direct effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no cost or economic benefits to directly affected persons or nongovernmental groups. This is simply a recodification of the existing procedures and practices.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule(s) should not affect compensation among the participants in the workers' compensation system. However, a more accountable and accessible resolution process for disputed workers' compensation claims would create a more productive and cost effective workplace, whether public or private for the increased safety of employees throughout the state.

Garey Forster
Secretary of Labor
9907#031

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation**

Fees (LAC 43:XIX.Chapter 7)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Conservation hereby proposes to amend the established fees.

Title 43

NATURAL RESOURCES

**Part XIX. Office of Conservation - General Operations
Subpart 2. Statewide Order No. 29-R-99/00**

Chapter 7. Fees

§701. Definitions

Annual Inspection Fee—repealed.

* * *

[See Prior Text *Application Fee—Application to Process Form R-4*]

BOE—annual barrels oil equivalent. Gas production is converted to BOE by dividing annual mcf by a factor of 7.

Capable Gas—natural and casinghead gas not classified as incapable gas well gas or incapable oil well gas by the Department of Revenue and Taxation.

Capable Oil—crude oil and condensate not classified as incapable oil or stripper oil by the Department of Revenue and Taxation.

Class I Well—a Class I injection well used to inject hazardous, industrial, or municipal wastes into the subsurface, which falls within the regulatory purview of Statewide Order Nos. 29-N-1 or 29-N-2.

Class I Well Fee—an annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, on permitted Class I wells in an amount not to exceed \$336,000 for Fiscal Year 1997-1998, and may increase by a sum not to exceed 3 1/2% annually for Fiscal Years 1998-1999 and 1999-2000.

Class II Well—a Class II injection well which injects fluids which are brought to the surface in connection with conventional oil or natural gas production (Status 63,67), for annular disposal wells (Status 64), for enhanced recovery of oil or natural gas (Status 41, 42, 43), and for storage of hydrocarbons which are liquid at standard temperature and pressure (Status 44, 45). For purposes of administering the exemption provided in LSA-R.S. 30:21(B)(1)(c), such exemption is limited to operators who operate Class II wells serving a stripper oil well or an incapable gas well certified pursuant to R.S. 47:633 by the severance tax division of the Department of Revenue and Taxation and located in the same field as such Class II well.

Class II Well Fee—an annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, on non-exempted Class II wells in an amount not to exceed \$493,000 for Fiscal Year 1997-1998, and may increase by a sum not to exceed 3 1/2% annually for Fiscal Years 1998-1999 and 1999-2000.

* * *

[See Prior Text *Emergency Clearance*]

Production Fee—an annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, by oil and gas operators on capable oil wells and capable gas wells based on a tiered system to establish parity between the producing wells. The tiered system shall be established annually by rule on annual volumes of capable oil and capable gas production in an amount not to exceed \$1,918,600 for Fiscal Year 1997-1998, and may increase by a sum not to exceed 3 1/2% annually for Fiscal Years 1998-1999 and 1999-2000. Incapable oil, stripper oil, incapable gas well gas and incapable oil well gas shall be exempt from this fee.

* * *

[See Prior Text *Production Well-Type B Facility*]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:542 (August 1988), amended LR 15:551 (July 1989), LR 21:1249 (November 1995), LR 24:758 (March, 1998), LR 24:2127 (November 1998), LR 25:

§703. Fee Schedule for Fiscal Year 1999-00

A. Application Fees

Application for Unit Determination	\$210
Application for Substitute Unit Well	\$210
Application for Public Hearing	\$630
Application for Multiple Completion	\$105
Application to Commingle	\$210
Application for Automatic Custody Transfer	\$210
Application for Noncommercial Injection Well	\$210
Application for Commercial Class I Injection Well	\$1,050
Application for Commercial Class I Injection Well (Additional Wells)	\$525
Application for Commercial Class II Injection Well	\$525
Application for Commercial Class II Injection Well (Additional Wells)	\$262
Application for Permit to Drill - Minerals: 0' - 3,000'	\$105
Application for Permit to Drill - Minerals: 3,001' - 10,000'	\$525
Application for Permit to Drill - Minerals: 10,001' +	\$1,050
Application to Amend Permit to Drill - Minerals	\$105
Application to Amend Permit to Drill - Injection or Other	\$105
Application for Surface Mining Exploration Permit	\$52
Application for Surface Mining Development	\$78

Operations Permit	
Application for Surface Mining Permit	\$1,837
Application to Process Form R-4	\$26
Application to Reinstate Suspended Form R-4	\$52
Application for Emergency Clearance Form R-4	\$52

B. Regulatory Fees

1. Operators of each permitted Type A Facility are required to pay an annual Regulatory Fee of \$5,250 per facility. Such payments are due within the timeframe prescribed by the Office of Conservation.

2. Operators of each permitted Type B Facility are required to pay an annual Regulatory Fee of \$2,625 per facility. Such payments are due within the timeframe prescribed by the Office of Conservation.

3. Operators of record of permitted Class I wells are required to pay \$8,280 per well.

4. Operators of record of nonexempt permitted Class II wells are required to pay \$425 per well.

C. Production Fees. Operators of record of capable oil wells and capable gas wells are required to pay according to the following annual production fee tiers:

	Annual Production (Barrel Oil Equivalent)	Fee (\$ Per Well)
Tier 1	0	10
Tier 2	1 - 5,000	50
Tier 3	5,001 - 15,000	150
Tier 4	15,001 - 30,000	250
Tier 5	30,001 - 60,000	400
Tier 6	60,001 - 110,000	550
Tier 7	110,001 - 9,999,999	675

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:543 (August 1988), amended LR 15:552 (July 1989), LR 21:1250 (November 1995), LR 24:758 (March 1998), LR 24:2128 (November 1998), LR 25:

§705. Failure to Comply

A. Operators of operations and activities defined in §701 are required to timely comply with this Order. Failure to comply within 30 days past the due date of any required fee payment will subject the operator to civil penalties under the provisions of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, as well as penalties provided in other sections of Title 30, including LSA- R.S. 30:18.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:1251 (November 1995), LR 24:759 (March 1998), LR 24:2128 (November 1998), LR 25:

§707. Severability and Effective Date

A. The fees set forth in §703 are hereby adopted as individual and independent rules comprising this body of rules designated as Statewide Order No. 29-R-99/00, and if any such individual fee is held to be unacceptable, pursuant to LSA-R.S. 49:968(H)(2), or held to be invalid by a court of law, then such unacceptability or invalidity shall not affect the other provisions of this order which can be given effect without the unacceptable or invalid provisions, and to that end the provisions of this order are severable.

B. This Order (Statewide Order No. 29-R-99/00) supercedes Statewide Order No. 29-R-98/99.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:21:1251 (November 1995), LR 24:759 (March 1998), LR 24:2128 (November 1998), LR 25:

Comments and views regarding the proposed fees will be accepted until 4:30 p.m., Wednesday, September 1, 1999. Comments should be directed, in writing, to Philip N. Asproditis, Commissioner of Conservation, P.O. Box 94275, Baton Rouge, LA 70804-9275.

A public hearing will be held at 9:00 a.m., Wednesday, August 25, 1999, in the Conservation Auditorium, located on the First Floor, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, Louisiana.

Philip N. Asproditis
Commissioner of Conservation

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Fees

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no implementation costs (savings) to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Statewide Order No. 29-R-99/2000 will result in collection of approximately \$2.7 million by the Office of Conservation. Local governmental units will not be affected.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Statewide Order No. 29-R-99/2000 will result in the collection of \$2.7 million of production fees during FY 99/2000. Fees will be paid by operators of capable oil and capable gas wells, Class I injection wells and non-exempt Class II injection wells.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no effect on competition and employment.

Philip N. Asproditis Commissioner 9907#055	Robert E. Hosse General Government Section Director Legislative Fiscal Office
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NOTICE OF INTENT

**Department of Public Safety and Corrections
Corrections Services**

**Forfeiture of Good Time; Penalty Schedule
(LAC 22:I.333 and 359)**

In accordance with the Administrative Procedure Act LSA-R.S. 49:953(B) and in order to implement LSA-R.S. 15:571.4, the Department of Public Safety & Corrections, Corrections Services hereby gives notice of intent to repeal and promulgate LAC 22:I.333 regarding forfeiture of good time for escape or battery of an employee of the Department

of Public Safety and Corrections and to amend LAC 22:I.359 regarding the penalty schedule for custody change from minimum or medium custody to maximum custody status.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 3. Adult and Juvenile Services

Subchapter A. General

**§333. Forfeiture of Good Time for Escape or Battery
on an Employee of the Department**

A. Purpose. To provide for rules related to the forfeiture of good time from inmates who escape or commit battery on an employee of the Department.

B. Applicability. Assistant Secretary, Office of Adult Services, all Wardens of adult institutions, Directors of Community Rehabilitation Centers and local detention facilities.

C. Definitions

Aggravated Escape—The intentional, unauthorized departure under circumstances wherein human life was endangered of an inmate from the grounds of an institution, a designated area or place within an institution, the custody of Corrections' personnel while off the grounds of an institution, the custody of any law enforcement officer, or the departure of a work release inmate from the designated area where he is legally confined; the failure of an inmate participating in a work release program to report or return from his planned employment or other activity at the appointed time; or the failure of an inmate on furlough to return to his place of confinement at the appointed time. For the purpose of this regulation, the commission of a crime while on escape constitutes aggravated escape.

Battery of an Employee—Battery of an employee is a battery committed without the consent of the victim when the inmate has reasonable grounds to believe the victim is an employee acting in the performance of his duties. This includes the use of force or violence upon the person of an employee by throwing feces, urine, blood, saliva, or any form of human waste by an inmate.

Simple Escape—The intentional, unauthorized departure under circumstances wherein human life was not endangered of an inmate from the grounds of an institution, a designated area or place within an institution, the custody of Corrections personnel while off the grounds of an institution, the custody of any law enforcement officer, or the departure of a work release inmate from the designated area where he is legally confined; the failure of an inmate participating in a work release program to report or return from his planned employment or other activity at the appointed time; or the failure of an inmate on furlough to return to his place of confinement at the appointed time.

D. Policy. It is policy of the Secretary that procedures be established for the forfeiture of earned good time from inmates who escape or commit battery on an employee as set forth in LSA-R.S. 15:571.4(B) and (C). Forfeiture of good time for inmates who escape after August 30, 1986, or commit battery on an employee is governed by this regulation. Forfeiture of good time for escape prior to

August 30, 1986, is computed in accordance with Department Regulation No. B-04-001, Section 9.G.

E. Procedures

1. Notification. An inmate charged with escape or battery on an employee for which the loss of good time in excess of 30 days is contemplated, shall be given written notification of the forfeiture of good time using the attached "Forfeiture of Good Time" memorandum.

2. Request for a "Forfeiture of Good Time" Hearing The inmate must, within 15 days of receiving the notification, submit to the Warden a written request for a "Forfeiture of Good Time" hearing. This hearing may be conducted by a Disciplinary Board and would generally follow the disciplinary hearing at which guilt or innocence for the offense itself is established and normal disciplinary penalties assessed.

a. If the inmate is found "not guilty" during the normal disciplinary hearing, the "Forfeiture of Good Time" hearing would not be held.

b. If the request is not made in a timely manner, it will be deemed that the inmate waives his right to a Forfeiture of Good Time hearing. In such cases, the institution may impose the maximum loss of good time without additional proceedings.

c. If the inmate requests a "Forfeiture of Good Time" hearing, then such a separate and distinct hearing will be conducted to make a determination to either affirm, modify or reject the:

i. forfeiture of up to all good time earned on that portion of his sentence served prior to escape;

ii. forfeiture of all good time up to a maximum of 180 days on that portion of his sentence served prior to committing the battery.

F. Forfeiture of Good Time Form

MEMORANDUM

DATE:

TO:

RE: Forfeiture of Good Time

In accordance with Department Regulation No. B-04-005 based on La. R.S. 15:571.4(B) and (C):

Any inmate who escapes may forfeit all good time earned on that portion of his sentence served prior to the escape.

Any inmate who commits a battery on an employee of the Department may forfeit all good time up to a maximum of 180 days on that portion of his sentence served prior to committing the battery.

You have been provided a copy of the rule violation report charging you with escape or battery on an employee which contains a description of the evidence against you.

You are hereby advised of your right to request a "Forfeiture of Good Time" hearing before the Disciplinary Board within 15 days of this date. You also have the right to be represented by counsel, to be present at the hearing, and to present exculpatory evidence or evidence in mitigation. Upon a finding of guilt after normal disciplinary proceedings, the Disciplinary Board shall make a determination to either affirm, modify, or reject the recommended forfeiture of good time in the "Forfeiture of Good Time" hearing.

Your request for hearing must be submitted to the Warden, in writing, and must contain the following:

A statement setting out the facts upon which you are relying;

A list of witnesses with the reason for the witnesses and the expected testimony;

A list of documents with the reason for each document and the expected information;

A statement as to whether you are challenging the charge or only attempting to mitigate the action, or both;

A statement as to whether you will represent yourself, retain counsel or if you wish to have an inmate counsel substitute.

The contents of your request shall be binding and shall not be expanded unless good cause is shown why it should be expanded. If you fail to make a timely request, it will be deemed that you waive your right to a hearing on the issue of guilt and the action to be taken.

WITNESS Inmate Signature

WITNESS DATE

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:571.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 25:

§359. Penalty Schedule. Disciplinary Report (Heard by Disciplinary Board)

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

j. Custody change from minimum to medium custody status (imposition of this penalty may include transfer to another institution. Any job change resulting from imposition of this penalty is not a separate penalty for purposes of this section, unless expressly indicated as a penalty).

k. Custody change from minimum or medium custody status to maximum custody status (working cell block or disciplinary detention/extended lockdown). (Imposition of this penalty may include transfer to another institution. Any job change resulting from imposition of this penalty is not a separate penalty for purposes of this section, unless expressly indicated as a penalty).

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:571.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 17:670 (July 1991), amended LR 25:

Interested persons may submit oral or written comments to Richard L. Stalder, Department of Public Safety and Corrections, Box 94304, Capitol Station, Baton Rouge, Louisiana 70804-9304, (225) 342-6741. Comments will be accepted through the close of business at 4:30 p.m. on August 20, 1999.

Richard L. Stalder
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Forfeiture of Good Time; Penalty Schedule

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no estimated costs associated with this amendment as the rule has been previously adopted and implemented pursuant to LSA-R.S. 15:571.4(B).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no additional costs or economic benefits directly affecting persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition and employment.

Bernard E. "Trey" Boudreaux
Undersecretary

9907#021

Robert E. Hosse
General Government
Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Gaming Control Board**

Donations to Public Schools; Problem Gambling
(LAC 42:III.117 and 118)

The Louisiana Gaming Control Board hereby gives notice that it intends to add LAC 42:III.117 and 118 in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 42
LOUISIANA GAMING
Part III. Gaming Control Board**

Chapter 1. General Provisions

§117. Donations to Public Schools

A. The term "licensee" as used in this Section shall include all persons licensed pursuant to the provisions of the Gaming Control Law, R.S. 27:1 et seq. but shall not include establishments licensed to conduct video draw poker gaming operations as a restaurant, bar, lounge, hotel or motel. The term "permittee" as used in this section shall include all persons permitted pursuant to the provisions of the Gaming Control Law, R.S. 27:1 et seq. but shall not include gaming employees or nongaming vendors.

B. No casino gaming operator, licensee or permittee shall offer to make donations or contributions to public, private or parochial elementary schools or youth groups without solicitation of the donation by the public, private or parochial elementary school or youth group.

C. No educational aid, clothing, recreational or amusement item or other article donated or otherwise provided by a casino gaming operator, licensee or permittee to any public, private or parochial elementary or secondary school shall contain a logo, symbol or language related to gaming or gambling or which bears the actual or commonly known name of the casino gaming operator, licensee or permittee.

D. No donations or contributions shall be made by a casino gaming operator, licensee or permittee to:

1. a public elementary or secondary school without prior written notification by the proposed donee or recipient to the school board having jurisdiction over the proposed donee or recipient;

2. a private or parochial elementary or secondary school without prior written notification by the proposed donee or recipient to the governing body of the proposed donee or recipient.

E. All donations and contributions made as provided in Subsection D shall be in compliance with all applicable school board or school governing body rules, regulations and policies concerning donations and contributions.

F. All donations or contributions made in conjunction with an "Adopt A School Program" shall be conducted in accordance and in compliance with all applicable school board or school governing body rules, regulations and policies concerning such programs, and other rules, regulations and policies concerning donations and contributions.

G. Failure of a casino gaming operator, licensee or permittee to comply with Subsections B through D or with the school board or school governing body rules, regulations or policies as provided in Subsections E and F shall constitute a violation of these rules and subject the casino gaming operator, licensee or permittee to administrative action including but not limited to revocation, suspension or civil penalty.

H. A copy of this rule shall be provided to all school board and school governing bodies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

§118. Programs to Address Problem Gambling

A. As used in this section "licensee" means each person who is licensed or otherwise authorized to conduct gaming operations.

B. Each licensee shall post or provide in conspicuous places in or near gaming areas and areas where cash or credit is made available to patrons including cash dispensing machines written materials concerning the nature and symptoms of problem gambling and the toll-free telephone number of the Louisiana Problem Gambling Hot Line or similar entity approved by the board.

C. All licensees other than video draw poker establishments shall implement procedures and training for all employees who directly interact with gaming patrons in gaming areas. Such training shall, at a minimum, consist of information concerning the nature and symptoms of problem gambling behavior and assisting patrons in obtaining information about problem gambling programs. This Subsection shall not be construed to require employees of licensees to identify problem gamblers. Each licensee shall designate personnel responsible for maintaining the program and addressing the types and frequency of such training and procedures. Training programs conducted or certified by the Office of Alcohol and Drug Abuse are presumed to provide adequate training for the period certified.

D. Licensed video draw poker establishments shall comply with procedures and training requirements developed by the division and approved by the board.

E. Each licensee that engages in the issuance of credit, check cashing, or the direct mail marketing of gaming opportunities, shall implement a program containing the

elements described below, as appropriate, that allows patrons to self-limit their access to the issuance of credit, check cashing, or direct mail marketing by that licensee. As appropriate, such program shall contain, at a minimum, the following:

1. the development of written materials for dissemination to patrons explaining the program;
2. the development of written materials for dissemination to patrons explaining the Excluded Persons provisions of R.S. 27:1 et seq. and the administrative rules of the board;
3. the development of written forms allowing patrons to participate in the program;
4. standards and procedures that allow a patron to be prohibited from access to check cashing, the issuance of credit, and the participation in direct mail marketing of gaming opportunities;
5. standards and procedures that allow a patron to be removed from the licensee's direct mailing and other direct marketing regarding gaming opportunities at that licensee's location; and
6. procedures and forms requiring the patron to notify a designated office of the licensee within 10 days of the patron's receipt of any financial gaming privilege, material or promotion covered by the program.

F. The chairman may request that any licensee submit any of the elements of the licensee's program described in Subsections B, C, and E to the board for review. If the board makes an administrative determination that the licensee's program does not adequately address the standards as set forth in Subsections B, C and E above, then the board may issue such a determination identifying the deficiencies and specifying a time certain within which such deficiencies must be corrected.

G. Failure by the licensee to establish the programs set forth in Subsections C and E, to comply with the procedures and training requirements established under Subsection D, or to cure a deficiency identified pursuant to subsection F, shall constitute a violation of these rules, and may result in administrative action including but not limited to revocation, suspension or 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 25:

All interested persons may contact Tom Warner, Attorney General's Gaming Division, telephone (225) 342-2465, and may submit written comments relative to these proposed rules, through August 9, 1999, to 339 Florida Street, Suite 500, Baton Rouge, LA 70801.

Hillary J. Crain
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Donations to Public Schools; Problem
Gambling**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that there will be no direct implementation costs or savings to state or local government units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that there will be no direct 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)**

No significant costs and/or economic benefits are estimated from providing programs to address problem gambling.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

No effect on competition or employment is estimated.

Hillary J. Crain
Chairman
9907#030

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

**Black Bass Regulations—Spanish Lake
(LAC 76:VII.191)**

The Wildlife and Fisheries Commission hereby advertises its intent to establish the following rule on black bass (*Micropterus* spp.) on Spanish Lake, located between the cities of New Iberia and Lafayette in Iberia and upper St. Martin Parishes, Louisiana.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this Notice of Intent and the final Rule, including, but not limited to, the filing of the fiscal and economic impact statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

**Chapter 1. Freshwater Sports and Commercial
Fishing**

§191. Black Bass Regulations—Spanish Lake

The harvest regulations for black bass (*Micropterus* spp.) on Spanish Lake, located between the cities of New Iberia and Lafayette, in Iberia and upper St. Martin Parishes, Louisiana is as follows:

1. Size limit: 16 inch - 21 inch slot. A 16-21 inch slot limit means that it is illegal to keep or possess a black bass whose maximum total length is between 16 inches and 21 inches, both measurements inclusive.
2. Daily take: 8 fish of which no more than two fish may exceed 21 inches maximum total length.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 (25)(a), R.S. 56:325(C) and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:

Interested persons may submit written comments of the proposed rule to Mr. Mike Walker, Biologist Supervisor, Inland Fisheries Division, Department of Wildlife and

Fisheries, 2415 Darnall Road, New Iberia, LA 70560 no later than 4:30 p.m., Wednesday, September 8, 1999.

Bill A. Busbice, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Black Bass Regulations—Spanish Lake**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will have no implementation costs. Enforcement of the proposed rule will be carried out using existing staff. Iberia and St. Martin Parish Enforcement Agents are presently employed to patrol Spanish Lake as part of their duties.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no effect on revenue collections of State and Local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Sport fishermen who fish in Spanish Lake will be affected by the proposed action, since they will have to release back to the water black bass between 16 and 21 inches in total length. The implementation of a 16 to 21 inch slot limit should result in an increase in largemouth black bass between 16 and 21 inches. The proposed rule will have no effect on costs to sport fishermen at Spanish Lake.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no effect on competition and employment in the private or public sectors.

James L. Patton
Undersecretary
9907#028

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Turkey Hunting Season—2000
(LAC 76:XIX.113, 115, and 117)

The Wildlife and Fisheries Commission at its July meeting does hereby give notice of its intent to promulgate rules and regulations governing the hunting of wild turkeys. The promulgation of this rule repeals and replaces previous turkey hunting regulations.

**Title 76
WILDLIFE AND FISHERIES
Part XIX. Hunting**

**Chapter 1. Resident Game Hunting Season
§113. Turkey Hunting Regulations**

A. Daily limit is one gobbler, three gobblers per season. Still hunting only. Use of dogs, baiting, electronic calling devices and live decoys is illegal. Turkeys may be hunted with shotguns, including muzzleloading shotguns, using shot not larger than #2 lead or BB steel shot, and bow and arrow but by no other means. Shooting turkeys from a moving or

stationary vehicle is prohibited. Shotguns capable of holding more than three shells prohibited.

B. No person shall hunt, trap or take turkeys by the aid of baiting or on or over any baited area. Baiting means placing, exposing, depositing or scattering of corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed so as to constitute a lure, attraction or enticement to, on or over any areas where hunters are attempting to take turkeys.

C. A baited area is any area where corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed capable of luring, attracting or enticing turkeys is directly or indirectly placed, exposed, deposited, distributed or scattered. Such areas remain baited areas for 15 days following complete removal of all such corn, wheat or other grain, salt, or other feed.

D. Wildlife agents are authorized to close such baited areas and to place signs in the immediate vicinity designating closed zones and dates of closure.

E. The Department of Wildlife and Fisheries strongly discourages "feeding" agricultural grains to wild turkeys as this practice increases the risk of birds contracting potentially lethal diseases. Repeatedly placing grain in the same area may expose otherwise healthy birds to disease contaminated soils, grain containing lethal toxins and other diseased turkeys using the same feeding site. Properly distributed food plots (clovers, wheat, millet and chufa) are far more desirable for turkeys and have the added benefit of appealing to a wide variety of wildlife.

F. It is unlawful to take from the wild or possess in captivity any live wild turkeys or their eggs. No pen raised turkeys from within or without the state shall be liberated (released) within the state.

G. All licensed turkey hunters are required to have a Turkey Stamp in their possession while turkey hunting in addition to basic and big game licenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 25:

§115. Statewide Turkey Hunting Areas—Resident Game Birds And Animals

A. Shooting Hours: one-half hour before sunrise to one-half hour after sunset.

Species	Season Dates	Daily Bag Limit	Possession Limit
Turkey	See Schedule	1	3/season

B. 2000 Turkey Hunting Schedule

Area	Season Dates
A	March 25-April 23
B	April 1-16
C	March 25-April 2

C. 2000 Turkey Hunting Season—Open Only in the Following Areas

1. Area A - March 25-April 23
 - a. All of the following parishes are open:
 - i. East Baton Rouge;
 - ii. East Feliciana;
 - iii. LaSalle;
 - iv. Livingston;

- v. Natchitoches (Exception: See Kisatchie National Forest hunting schedule for National Forest dates);
 - vi. St. Helena;
 - vii. St. Tammany;
 - viii. Tangipahoa;
 - ix. Washington;
 - x. West Baton Rouge;
 - xi. West Feliciana (including Raccourci Island).
- b. Portions of the following parishes are also open:
- i. Allen: north of La. 26 from DeRidder to the junction of La. 104 and north of La. 104;
 - ii. Avoyelles: that portion bounded on the east by the Atchafalaya River northward from Simmesport, on the north by Red River to the Brouillette Community, on the west by La. 452 from Brouillette to La. 1 eastward to Simmesport, and that portion surrounding Pomme de Terre WMA, bounded on the north, east and south by La. 451, on the west by the Big Bend Levee from its junction at the Bayou des Glaise structure east of Bordelonville southward to its junction with La. 451;
 - iii. Beauregard: north of La. 26 east of DeRidder, north and east of U.S. 171-190 from the junction of La. 26 to DeRidder, and north of U.S. 190 from DeRidder to Texas state line;
 - iv. Caldwell: west of Ouachita River southward to Catahoula Parish line, east of La. 165 from LaSalle Parish line to the junction of La. 126, north of La. 126 westward to the Winn Parish line;
 - v. Catahoula: west of Ouachita River southward to La. 559 at Duty Ferry, north of La. 559 to La. 124, south and west of La. 124 from Duty Ferry to La. 8 at Harrisonburg and north of La. 8 to La. 126, north and east of La. 126. ALSO that portion lying east of La. 15;
 - vi. Concordia: that portion east of Hwy. 15 and west of Hwy. 65 from its juncture with Hwy. 15 at Clayton;
 - vii. Evangeline: north and west of La. 115, north of La. 106 from St. Landry to La. 13, west of La. 13 from Pine Prairie to Mamou and north of La. 104 west of Mamou;
 - viii. Franklin: that portion lying east of Hwy. 17 and east of Hwy. 15 from its juncture with Hwy. 17 at Winnsboro;
 - ix. Grant: all of the parish except that portion of land that lies north of the Red River between U.S. 71 and La. 8;
 - x. Iberville: west of La. Hwy. 1. Exception: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries;
 - xi. Madison: that portion lying west of U.S. Hwy. 65 and south of U.S. Hwy. 80;
 - xii. Pointe Coupee: all except that portion bounded on the west by La. 77 and La. 10, northward from U.S. 190 to La. 1 at Morganza, on the north and east by La. 1 to its junction with La. 78 and by La. 78 from Parlange to U.S. 190. Further Exception: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries;
 - xiii. Rapides: all of the parish except that portion of lands that lies north of the Red River and south of U.S. Hwy. 71 from its juncture with the Red River northward to the Grant Parish line;
 - xiv. Richland: that portion south of U.S. Hwy. 80 and east of Hwy. 17;

- xv. Sabine: that portion north of Hwy. 6 from Toledo Bend Lake to Many; east of Hwy. 171 from Many to the Vernon Parish line;
 - xvi. St. Landry: that portion bounded on the north by U.S. 190, west by the West Atchafalaya Basin Protection Levee. ALSO that portion of the parish bounded on the north by La. 10 from the West Atchafalaya Basin Protection Levee to Burton s Lake, on the east by Burton s Lake, on the south by Petite Prairie Bayou to its junction with the old O.G. Railroad right-of-way then by the O.G.R.R. right-of-way westward to U.S. 71 and on the west by the West Atchafalaya Guide Levee to its junction with La. 10, Except the Indian Bayou tract owned by the U.S. Corps of Engineers;
 - xvii. Upper St. Martin: all within the Atchafalaya Basin. Exception: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries;
 - xviii. Tensas: that portion west of Hwy. 65 from the Concordia Parish line to its juncture with Hwy. 128, north of La. 128 to St. Joseph; west and north of La. 605, 604 and 3078 northward to Port Gibson Ferry. Also all lands lying east of the main channel of the Mississippi River;
 - xix. Vernon: that portion east of Hwy. 171 from the Sabine Parish line to the junction of Hwy. 111, south of Hwy. 111 westward to Hwy. 392, and south of Hwy. 392 westward to the Sabine Parish line. Exception: See Kisatchie National Forest hunting schedule for season dates.
2. Area B—April 1-April 16
- a. All of the following parishes are open:
 - i. Bienville;
 - ii. Bossier;
 - iii. Claiborne;
 - iv. Lincoln;
 - v. Red River;
 - vi. Webster, including Caney Ranger District of Kisatchie National Forest.
 - b. Portions of the following parishes are open:
 - i. Caddo: that portion north of La. 2 from the Texas state line to U.S. 71, east of U.S. 71 from La. 2 to I-20, south of I-20 from U.S. 71 to U.S. 171, and east of U.S. 171 to the DeSoto Parish line;
 - ii. DeSoto: that portion east of U.S. 171 from the Caddo Parish line to U.S. 84 and south of U.S. 84;
 - iii. East Carroll: east of U.S. 65 from Arkansas state line to Madison Parish line;
 - iv. Jackson: west of Parish Road 243 from Lincoln Parish line to Parish Road 238, west and south of Parish Road 238 to La. 144, west of La. 144 to La. 34, west of La. 34 to Chatham, north and west of La. 4 from Chatham to Weston, north and west of La. 505 from Weston to Wyatt, west of U.S. 167 from Wyatt to Winn Parish line;
 - v. Ouachita: east of La. 143 from Union Parish line to Bayou Darbonne, north of Bayou Darbonne to the Ouachita River, west of the Ouachita River from the mouth of Bayou Darbonne northward to the Union Parish line;
 - vi. Morehouse: west of U.S. 165 from the Arkansas line to Bonita, north and west of La. 140 to junction of La. 830-4 (Cooper Lake Road), west of La. 830-4 to Bastrop, north of U.S. 165 from Bastrop to Ouachita Parish line;

vii. Union: west of La. 15 from Ouachita Parish line to La. 33 west of Farmerville, north of La. 33 to La. 2 at Farmerville, north and east of La. 2 to La. 143 at Crossroads, east of La. 143 to the Ouachita Parish line.

3. Area C—March 25-April 2

a. All of the following parish is open:

i. Winn

b. Portions of the following parishes are open:

i. Ascension: all east of the Mississippi River;

ii. Allen: south of La. 26 from DeRidder to Oberlin, west of U.S. 165 south of Oberlin;

iii. Avoyelles: south of La. 1 to West Protection Levee, south to Avoyelles Parish line;

iv. Beauregard: south of La. 26 east of DeRidder, east of U.S. 171 from the junction of La. 26 to Ragley, south of La. 12 west to Ragley;

v. Calcasieu: south of La. 12 east of Dequincy, east of La. 27 from Dequincy to I-10, and north of I-10 east of Sulphur;

vi. Concordia: north and east of Sugar Mill Chute (Concordia Parish) from the state line westward to Red River, east of Red River northward to Cocodrie Bayou, east of Cocodrie Bayou northward to U.S. Hwy. 84, south of U.S. Hwy. 84 eastward to La. Hwy. 15 (Ferriday), east of La. Hwy. 15 northward to U.S. Hwy. 65 (Clayton), east of U.S. Hwy. 65 northward to Tensas Parish line;

vii. Iberville: all east of the Mississippi River;

viii. Jefferson Davis: west of U.S. 165 and north of I-10;

ix. Madison: south of Hwy. 80 and east of U.S. Hwy. 65 to Tensas Parish line and all lands lying east of the main channel of the Mississippi River;

x. St. Landry: that portion bounded on the south by La. 10, on the west by the West Atchafalaya Basin Protection Levee, on the east by La. 105, and on the north by the Avoyelles Parish line;

xi. Tensas: east and south of U.S. Hwy. 65 from Concordia Parish line to Hwy. 128, south of Hwy. 128 to St. Joseph, east and south of La. Hwy. 605, 604 and 3078 northward to Port Gibson Ferry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 25:

§117. 2000 Wildlife Management Area Turkey—Hunting Regulations

A. General

1. The following rules and regulations concerning management, protection and harvest of wildlife have been officially approved and adopted by the Wildlife and Fisheries Commission in accordance with the authority provided in Louisiana Revised Statutes of 1950, Section 109 of Title 56. Failure to comply with these regulations will subject the individual to citation and/or expulsion from the management area.

2. Only those Wildlife Management Areas listed are open to turkey hunting.

3. All trails and roads designated as ATV Only shall be closed to ATVs from March 1 through September 15. ATV off-road or trail travel is prohibited. Walk-in hunting only (bicycles permitted), unless opened by sign on trail.

4. Bag limits on WMAs are part of the season bag limit. The bag limit for turkeys on Wildlife Management

Areas is two per area, not to exceed two per season for all WMAs. Only one turkey allowed to be taken during special lottery hunts. The bag limit for turkeys is one gobbler per day and three gobblers per season including those taken on WMAs.

B. Permits

1. Self-Clearing Permits. All turkey hunts, including lottery hunts, are self-clearing and all hunters must check in daily by picking up a permit from a self-clearing station. Upon completion of each daily hunt, the hunter must check out by completing the hunter report portion of the permit and depositing it in the check-out box at a self-clearing station before exiting the WMA.

2. Lottery Hunts: Bayou Macon, Dewey Wills, Georgia-Pacific, Loggy Bayou, Sabine, Sherburne, Sicily Island and Tunica Hills WMAs are restricted to those persons selected as a result of the pre-application lottery. Deadline for receiving applications is February 15, 2000. Application fee of \$5 must be sent with each application. Applicants may submit only one application and will be selected for one WMA Turkey Lottery Hunt annually. Submitting more than one application will result in disqualification. Contact any district office for applications. Hunters must abide by self-clearing permit requirements.

3. Requests for information on WMA regulations, permits, lottery hunt applications and maps may be directed to any district office: [District 1 — P.O. Box 915, Minden, 71055; 318/371-3050]; [District 2 — 368 Century Park Drive, Monroe, 71203; 318/343-4044]; [District 3 — 1995 Shreveport Hwy., Pineville, 71360; 318/487-5885]; [District 4 — P.O. Box 426, Ferriday, 71334; 318/757-4571]; [District 5 — 1213 N. Lakeshore Dr., Lake Charles, 70601; 318/491-2575]; [District 6 — 5652 Highway 182, Opelousas, 70570; 318/948-0255]; [District 7 — P.O. Box 98000, Baton Rouge, 70898; 225/765-2360].

C. Wildlife Management Area Turkey Hunting Schedule*

WMA	Season Dates	Permit Requirements	Lottery Dates**
Bayou Macon	April 1-April 2	Self-clearing	April 1-2
Bens Creek	March 25-April 16	Self-clearing	None
Big Lake	March 25-April 2	Self-clearing	None
Bodcau	April 1-April 16	Self-clearing	None
Boeuf	March 25-April 2	Self-clearing	None
Boise Vernon	March 25-April 16	Self-clearing	None
Camp Beauregard	March 25-April 9	Self-clearing	None
Dewey Wills	March 25-26 April 1-2	Self-clearing	March 25-26 April 1-2
Fort Polk	March 25-April 23	Self-clearing	None
Georgia-Pacific	April 1-April 9	Self-clearing	April 1-2
Grassy Lake	March 25-April 2	Self-clearing	None
Jackson-Bienville	April 1-April 16	Self-clearing	None
Little River	March 25-April 9	Self-clearing	None
Loggy Bayou	April 8-9 April 15-16	Self-clearing	April 8-9 April 15-16
Pearl River	March 25-April 9	Self-clearing	None

Peason Ridge	March 25-April 23	Self-clearing	None
Pomme de Terre	March 25-April 2	Self-clearing	None
Red River	March 25-April 2	Self-clearing	None
Sabine	March 25-March 26 April 1-April 2	Self-clearing	March 25-26 April 1-2
Sandy Hollow	March 25-April 16	Self-clearing	None
Sherburne	March 25-April 2	Self-clearing	March 25-26 March 27-29
Sicily Island	March 25-26 April 1-2 April 8-9	Self-clearing	March 25-26 April 1-2 April 8-9
Three Rivers	March 25-April 2	Self-clearing	None
Tunica Hills	March 25-26 April 1-2 April 8-9 April 15-16	Self-clearing	March 25-26 April 1-2 April 8-9 April 15-16

*Only those Wildlife Management Areas listed have a turkey hunting season. All other areas are CLOSED. For seasons on other lands managed by the Department of Wildlife and Fisheries, contact the local district office.

** The deadline for receiving applications for all Turkey Lottery Hunts on WMAs is February 15, 2000.

No turkey hunting within 100 yards of food plots identified by two yellow paint rings around the nearest tree.

Kisatchie National Forest (KNF) Turkey Hunting Schedule: Caney Ranger District, April 1-16; KNF lands in Winn Parish, March 25-April 2; All remaining KNF lands, March 25-April 16.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 25:

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondences to other agencies of government.

Additionally, interested persons may submit written comments relative to the proposed rule until September 23, 1999 to Mr. Tommy Prickett, Administrator, Wildlife

Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898.

Bill A. Busbice, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Turkey Hunting Season—2000**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Establishment of hunting regulations is an annual process. The cost of implementing the proposed rules to the state, aside from staff time, is the production of the turkey regulation pamphlets and the turkey stamps which are estimated to cost \$6,500. The state agency currently has sufficient funds to implement the proposed action and no implementation costs or savings will be incurred by local governmental units resulting from the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

License revenue from the sale of the turkey stamps is estimated to be \$53,807. Failure to adopt this rule would result in no turkey hunting seasons being established and loss of state revenues from sale of turkey stamps. In addition, loss of tax revenues of an undeterminable amount may occur to both state and local governmental units from the sale of supplies and equipment used in the pursuit of turkeys.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Approximately 9,700 resident and nonresident sportsmen and an undeterminable amount of sporting good distributors, retail outlets and landowners are directly affected by this proposal. Turkey hunters in Louisiana generate income to retail outlets, landowners and commercial operations that cater to the hunting public through hunting leases and the sale of outdoor related equipment and associated items (food, fuel, clothing, shotgun shells, etc.). These land and business owners will be negatively impacted if turkey hunting seasons, rules and regulations are not established and promulgated. The actual amount of this impact is not estimable at this time. Both resident and nonresident turkey hunters will incur an additional cost of \$5.50 and \$10.50, respectively from the required purchase of a Wild Turkey Stamp.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Hunting supports approximately 15,271 full and part-time jobs in Louisiana of which a proportion is directly related to turkey hunting. Failure to establish turkey hunting seasons may have a negative impact on some of these jobs. It is also anticipated that there will be little or no effect on competition in both the public and private sectors resulting from the proposed action.

James L. Patton
Undersecretary
9907#029

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

Administrative Code Update

CUMULATIVE: JANUARY - JUNE, 1999

LAC Title	Part.Section	Effect	Location LR 24		LAC Title	Part.Section	Effect	Location LR 24		
			Month	Page				Month	Page	
4	VII.1171-1199,1215-1221,1225	Amended	May	860	28	XXVII.Chapters 1-33	Adopted	Apr	624	
	VII.1233, 1237	Amended	May	860		XXIX.Chapters 1-33	Adopted	May	832	
	VII.1307	Amended	Apr	666	33	I.Chapter 7	Adopted	Apr	657	
	VII.1317	Amended	Jan	26		I.1413,1415	Amended	Mar	426	
	VII.1317	Amended	Mar	499		I.1701	Adopted	Apr	660	
	VII.1317	Amended	June	1093		I.Chapter 20	Adopted	May	857	
7	V.911	Amended	Feb	236	I.Chapter 23	Adopted	Mar	428		
	XV.321	Amended	May	829	III.217,219	Amended	Mar	426		
	XXI.305-311	Amended	June	1083	III.501, 517, 5111	Amended	Apr	660		
	XXV.121, 141	Amended	Feb	235	III.509	Amended	Feb	259		
	XXV.121	Amended	May	829	III.1105	Amended	Apr	656		
13	I.Chapter 50	Amended	Feb	242	III.2103	Amended	Apr	657		
	I.Chapter 60	Amended	Feb	237	III.2103, 2113	Amended	May	852		
	I.Chapter 70	Adopted	Feb	240	III.2117	Amended	Feb	258		
	V.Chapter 1	Adopted	Mar	414	III.2153	Amended	May	850		
16	II.501	Adopted	Jan	100	III.5901	Amended	Mar	425		
					V.Chapters 1,3,5,11,15,17,22	Amended	Mar	430		
19	II.107	Amended	June	1083	V.Chapter 1,3,5,11,15,17,22,31	Amended	May	852		
	VII.Chapter 73	Adopted	Mar	412	V.109,2214,2218,3523	Repromul	May	853		
22	I.203	Adopted	Mar	522	V.515	Amended	Apr	660		
	I.359	Amended	May	875	V.528	Adopted	Mar	430		
	III.Chapter 47	Amended	Apr	662	V.2236	Adopted	Mar	430		
	XIII.503	Amended	Jan	26	V. Chapters 31,33,35,37,40	Amended	Mar	430		
25	Chapter 5	Adopted	Feb	236	V.3309	Repromul	Jan	25		
28	I.105	Amended	Feb	255	V.Chapters33,35,37,40,41	Amended	May	853		
	I.105	Amended	Mar	418	V.Chapters 41, 43, and 49	Amended	Mar	430		
	I.901	Amended	Feb	249	V.Chapters 43 and 49	Amended	Apr	853		
	I.901	Amended	Mar	419	V.5129,5131	Amended	Mar	426		
	I.901	Amended	May	831	VII.517, 520	Adopted	Apr	660		
	I.901	Amended	June	1084	VII.529	Amended	Mar	426		
	I.903	Amended	Mar	422	IX.1309	Amended	Mar	426		
	I.903	Amended	Mar	424	IX.2331, 2387, 2407	Amended	Apr	660		
	I.903	Amended	Mar	424	IX.2715, 2721, and 2735	Amended	June	1092		
	I.903	Amended	June	1090	IX.2765, 2769	Amended	Apr	660		
	I.904	Amended	Feb	249	XI.307	Amended	Mar	426		
	I.906	Amended	Feb	254	XV.2510,2511	Amended	Mar	426		
	I.917	Amended	Feb	251	35	I.Chapter 10	Adopted	May	831	
	I.1523	Amended	Mar	424		XIII.11115	Amended	Jan	25	
	I.1709	Amended	Feb	247		37	XIII.Chapter 5	Repealed	June	1100
	I.1712	Adopted	Feb	247			XIII.Chapter 5	Adopted	June	1100
	I.1713	Amended	Feb	255	XIII.Chapter 49		Adopted	Apr	706	
	IV.1701	Amended	May	849	XIII.Chapter 51	Adopted	Jan	78		
	IV.301, 701-705, 1703	Amended	Feb	256	40	I.2011-2173	Repealed	Feb	264	
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V.113	Amended	Apr	654	42		III.104	Amended	Jan	79	
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VI.213	Amended	June	1092		IX.2723, 2729, 2901-2917	Amended	Jan	79		
XXV.Chapters 1-17	Amended	Apr	643		IX.2921, 3301-3309, 3319	Amended	Jan	79		
					XI.2407, 2413	Amended	Jan	85		

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			Month	Page				Month	Page
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	XXIX.Chapter 1	Adopted	Mar	500		II.10905, 10907	Amended	June	1100
46	V.2905, 3101, 3303	Amended	Feb	245	52	I.1301, 1311, 1604	Amended	Jan	24
	V.2909	Repealed	Feb	245		I.1801-1805	Adopted	Jan	24
	V.4701,4703,4705,4707	Adopted	Feb	245		I.1901-1905	Adopted	Apr	624
	V.4709,4711,4713,4715	Adopted	Feb	245	55	I.201-209	Adopted	May	876
	XIII.10521	Amended	May	830		V.Chapter 25	Adopted	Jan	85
	XXXIII.114	Amended	Mar	514		VII.319	Amended	Feb	311
	XXXIII.124	Adopted	Mar	511		VII.505	Amended	May	878
	XXXIII.301	Amended	Mar	509		61	I.201	Adopted	Mar
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	XXXIII.504	Amended	Mar	510	67	I.101-121	Adopted	June	1145
	XXXIII.706	Amended	Mar	513		II.1149	Amended	Apr	709
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49	XIII.Chapter 49	Adopted	Apr	706		VII.357	Adopted	Mar	543

Potpourri

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Office of the Governor Oil Spill Coordinator's Office

Damage Assessment and Restoration Plan and
Environmental Assessment—May 1997 Lake Barre Oil Spill

Agencies

Louisiana Oil Spill Coordinator's Office (LOSCO); Louisiana Department of Environmental Quality (LDEQ); Louisiana Department of Natural Resources (LDNR); Louisiana Department of Wildlife and Fisheries (LDWF); National Oceanic and Atmospheric Administration (NOAA), Commerce; United States Department of the Interior (DOI).

Action

Notice of availability of a draft Damage Assessment and Restoration Plan and Environmental Assessment, and of a 30-day federal period beginning July 15, 1999 and a 10-day state period beginning July 20, 1999 for public comment on the plan.

Summary

Pursuant to 15 CFR 990.23 and 15 CFR 990.55(c) and LAC 43:XXIX, Chapter 1, notice is hereby given that a document entitled, "Draft Damage Assessment and Restoration Plan and Environmental Assessment for the May 16, 1997 Texaco Pipeline Company Lake Barre Oil Spill" (Draft DARP/EA) is available for public review and comment. This document was prepared by the agencies listed above (the Trustees) to address natural resource injuries and losses of service following the May 1997 pipeline rupture and subsequent discharge of crude oil into Lake Barre, Louisiana (the Incident). This document presents the Trustees' assessment of the natural resource injuries and losses of service attributable to this Incident, and their proposed plan to restore, replace or acquire resources or services equivalent to those lost as a basis for compensating for the natural resource injuries and losses of service that occurred. The Trustees will consider comments received during the public comment period before finalizing the document. Public review of the Draft DARP/EA is consistent with all state and federal laws and regulations that apply to the natural resource damage assessment process, including Section 1006 of OPA, the regulations for Natural Resource Damage Assessment under OPA (15 CFR Part 990), NEPA (42 USC Section 4371, et seq.), the regulations implementing NEPA (40 CFR Part 1500, et seq.), Section 3480 of OSPRA (L.R.S. 30:2480) and the regulations for Natural Resource Damage Assessment under OSPRA (LAC 43: XXXIX, Chapter 1).

Comments must be submitted in writing on or before [30 days after date of the federal publication (August 14, 1999) and 10 days after date of the state publication (August 2, 1999)]. Comments submitted past August 2, 1999 must be sent to John Kern and will be reviewed by both state and federal trustees.

For further information contact: Warren P. Lorentz, at (225) 219-5800, email: loscolorentz@linknet.net or John Kern, at (727) 570-5391, email: john.kern@noaa.gov

Requests for copies of the draft DARP/EA should be sent to Warren Lorentz, LOSCO, 625 N. 4th Street, Suite 800, Baton Rouge, LA 70802 or John Kern of NOAA, 9721 Executive Center Drive, N., Suite 114, St. Petersburg, FL 33702. Written comments on the plan should be sent to either to Warren Lorentz of LOSCO or John Kern of NOAA at the same addresses as listed above.

At around 1600 hours Central Daylight Savings time on May 16, 1997, a discharge from a 16-inch crude oil transmission pipeline was discovered by Texaco Pipeline Inc. (hereafter "Texaco") in Lake Barre, Louisiana. The discharge was caused by a 34-inch long gash in the pipeline, which had been buried five or more feet below the sediment surface. The site of the pipeline rupture was at 29° 14.8' N latitude, 90° 29.3' W longitude, which is approximately 27 miles southeast of Houma, in Terrebonne Parish. Texaco estimated that approximately 6,561 barrels (275,562 gallons) of crude oil were discharged as a result of the pipeline rupture into Lake Barre. Although response actions were undertaken by Texaco, natural resources were exposed to the oil, including marsh, shorelines, birds, and the estuarine water column organisms. A variety of injuries and lost uses of natural resources were documented as a result of that exposure.

The incident is subject to the authority of OPA, 33 U.S.C. 2701-2761 (OPA), the Federal Water Pollution Control Act, 33 U.S.C. 1321 et seq. (FWPCA) and the Louisiana Oil Spill Prevention and Response Act, L.R.S. 30:2451 et seq. (OSPRA). LOSCO, LDEQ, LDNR, LDWF NOAA, and DOI, are Trustees for natural resources pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9601 et seq., OPA, the FWPCA, subpart G of the National Oil and Hazardous Substances Pollution Contingency Plan, 40 CFR 300.600-300.615, and, in the case of the Louisiana Trustees, OSPRA L.R.S. 30:2451, and in the case of the Federal Trustees, Executive Order 12777. As a designated Trustee, each agency is authorized to act on behalf of the public under state and/or federal law to assess and recover natural resource damages, and to plan and implement actions to restore natural resources and resource services injured or lost as the result of an incident.

Pursuant to Section 2480 of OSPRA and Section 1006 of the Oil Pollution Act of 1990 (OPA), designated natural resource Trustees have conducted a damage assessment for this Incident to evaluate potential injuries to natural resources and services, and to determine the need for and scale of restoration actions required. The draft DARP/EA discusses the natural resources and services believed to be affected by the Incident, details the assessment procedures used, outlines the restoration alternative selection and scaling process, and identifies the preferred restoration alternative to address natural resource injuries and losses of

service. The Trustees determined that injured natural resources have largely returned to baseline conditions, and are expected to fully return to baseline without requiring any further actions. However, the Trustees have determined that there have been interim losses to marsh habitat services, birds, and aquatic fauna that require compensatory restoration to make the environment and the public whole for these losses. Under the preferred restoration alternative, 18.6 acres on East Timbalier Island will be planted with marsh vegetation, and through planting design, another 39.4 acres is expected to be gained from natural spreading from the planted area over the anticipated lifetime of the project. The 58 total acres of marsh that will result from implementation of the preferred restoration alternative will be sufficient to satisfy compensatory restoration requirements.

Interested members of the public are invited to request a copy of the Draft DARP/EA from and to submit written comments to either Warren P. Lorentz or John Kern at the addresses given above. All written comments will be considered by LOSCO, LDEQ, LDNR, LDWF NOAA, and DOI, in finalizing the DARP/EA.

Roland Guidry
Oil Spill Coordinator

9907#026

POTPOURRI

**Department of Health and Hospitals
Board of Veterinary Medicine**

1999 Fall/Winter Examination Dates

The Louisiana Board of Veterinary Medicine will administer the national and state examination for licensure to practice veterinary medicine on the following dates:

Examination	Date	Deadline to Apply
National Board	Second Tuesday of December December 14, 1999	Friday, October 22, 1999
Clinical Competency Test	Second Wednesday of December December 15, 1999	Friday, October 22, 1999
State Board	First Tuesday of Every Month	Third Friday prior to exam date desired

Applications for all examinations must be received on or before the deadline. Applications and information may be obtained from the board office at 263 Third Street, Suite 104, Baton Rouge, LA 70801 or by calling (225) 342-2176.

Charles B. Mann
Executive Director

9907#003

POTPOURRI

**Department of Labor
Office of Workers' Compensation**

Average Weekly Wage Rate

Pursuant to Act 583 of the Regular Session of the 1975 Louisiana Legislature, this state's average weekly wage upon which the maximum workers' compensation weekly benefit amount will be based, effective September 1, 1999, has been determined by the Department of Labor to be \$512.47.

Gary Forster
Secretary

9907#059

POTPOURRI

**Department of Labor
Office of Workers' Compensation**

Weekly Compensation Benefit Limits

Pursuant to R.S. 23:1202 and based on the statewide average weekly wage as determined by the Department of Labor, the following limits shall apply to weekly compensation benefits for claimants injured during the period September 1, 1999 through August 31, 2000.

Average Weekly Wage	Maximum Compensation	Minimum Compensation
\$512.47	\$384.00	\$102.00

Gary Forster
Secretary

9907#057

POTPOURRI

**Department of Natural Resources
Office of Conservation**

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, La. R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	Well Name	Well No.	Serial No.
C. E. Blankenship	Tepetate	Jack R Eaton	1A	059628
Bud's Pumping Service, Inc.	Ross Bayou	FAR SU15; Sontag-Farrar	001	162848
Bud's Pumping Service, Inc.	Wildsville	Brown	002	184953
Bud's Pumping Service, Inc.	Mean Lake	Taliaferro SWD	001	971378

W. D. Chew	Caddo Pine Island	State of LA	002	008670
Cryer & Reese	Wildcat	Stephens & Co	001	027791
Dantex Oil & Gas, Inc.	Northwest Wilmer	L G Simmons SWD	002	216369
Delta Drilling Company	Red River-Bull Bayou	Campbell	011	068741
J & P Production	Longwood	Will Doty	001	065294
Jemco Production, Inc.	Roseland	Whorton B	002	169179
Jemco Production, Inc.	Roseland	STEW SUI; Bridwell C	006	204761
Jemco Production, Inc.	Roseland	James Bridwell	010	112153
Jemco Production, Inc.	Roseland	James Bridwell	013	116171
Jemco Production, Inc.	Roseland	Frank Whorton	011	109309
Jemco Production, Inc.	Roseland	Whorton-James SWD	001	068931
Jemco Production, Inc.	Roseland	James Bridwell SWD	008	109982
Calvin R. Jetton	Caddo Pine Island	Lea	001	188282
Calvin R. Jetton	Caddo Pine Island	Lea	002	188715
Calvin R. Jetton	Caddo Pine Island	Lea	003	188716
Calvin R. Jetton	Caddo Pine Island	Lea	004	188731
Calvin R. Jetton	Caddo Pine Island	Lea	005	188732
Calvin R. Jetton	Caddo Pine Island	Lea SWD	006	188771
Calvin R. Jetton	Caddo Pine Island	Lea	007	193729
Calvin R. Jetton	Caddo Pine Island	Lea	008	193730
Calvin J. Jetton	Caddo Pine Island	Lea	009	193731
Calvin J. Jetton	Caddo Pine Island	Lea	010	193732
McDannald Oil Company	Port Barre	S W Futral	002	023349
River Bend Operating, Inc.	Bayou Bouillon	A M Cotten et al	002	054098
River Bend Operating, Inc.	Bayou Bouillon	Cotten Brothers SWD	001	107160
River Bend Operating, Inc.	Bayou Bouillon	Cotten Bros SWD	002	107859

River Bend Operating, Inc.	Bayou Bouillon	Cotten Bros	1D	108039
River Bend Operating, Inc.	Bayou Bouillon	Cotten Bros	2D	108843
River Bend Operating, Inc.	Bayou Bouillon	CIB H SUE; Cotten Bros	004	109974
River Bend Operating, Inc.	Bayou Bouillon	Cotten Bros	4D	111484
River Bend Operating, Inc.	Bayou Bouillon	Cotten Bros	009	131964
River Bend Operating, Inc.	Bayou Bouillon	MARG 1 SUA; Cotten Bros	9-D	132513
River Bend Operating, Inc.	Bayou Bouillon	Lignum	007	107257
River Bend Operating, Inc.	Bayou Bouillon	Lignum	006	136901
River Bend Operating, Inc.	Bayou Bouillon	Lignum	015	143203
River Bend Operating, Inc.	Bayou Bouillon	Lignum	010	143205
River Bend Operating, Inc.	Bayou Bouillon	7500 RA SUA; Lignum	005	143780
River Bend Operating, Inc.	Bayou Bouillon	Lignum	004	150963
River Bend Operating, Inc.	Bayou Bouillon	Lignum	005	152070
River Bend Operating, Inc.	Bayou Bouillon	M1 VUA; Lignum	001	161221
River Bend Operating, Inc.	Bayou Bouillon	Lignum	002	161233
River Bend Operating, Inc.	Bayou Bouillon	LIGNUM RA SUA; Lignum	013	170587
River Bend Operating, Inc.	Bayou Bouillon	Lignum	004	176132
River Bend Operating, Inc.	Bayou Bouillon	SL 2024	003	049415
River Bend Operating, Inc.	Bayou Bouillon	45 A RA SUA; SL 2024	005	107256
River Bend Operating, Inc.	Bayou Bouillon	MARG 1 SUD; SL 2024	002	143143
River Bend Operating, Inc.	Bayou Bouillon	SL 2024	006	165149
River Bend Operating, Inc.	Bayou Bouillon	CH RB SUA; S Stockstill	2ALT	113262
River Bend Operating, Inc.	Bayou Bouillon	CH RC SUB; S Stockstill	003	113814
River Bend Operating, Inc.	Bayou Bouillon	CH RB SUD; S Stockstill	001	111869
River Bend Operating, Inc.	Bayou Bouillon	Stanley Stockstill	3D	115218

River Bend Operating, Inc.	Bayou Bouillon	Dow Chemical	001	111401
River Bend Operating, Inc.	Bayou Bouillon	Dow Chemical Co	1D	111970
River Bend Operating, Inc.	Bayou Bouillon	Wainoco Oil & Gas SWD	001	049037
River Bend Operating, Inc.	Bayou Bouillon	Phyllis Newman	001	189623
River Bend Operating, Inc.	Bayou Bouillon	CAM 1 A SUA;SL 4464	001	115216
River Bend Operating, Inc.	Bayou Bouillon	MARG 1 RA SUH; Bayou Bouillon	001	188977
River Bend Operating, Inc.	Bayou Bouillon	Bayou Bouillon Corp SWD	003	192155
River Bend Operating, Inc.	Bayou Bouillon	MARG 1 SUR; E B Schwing	004	195945
River Bend Operating, Inc.	Bayou Bouillon	CIB H SUM; Salt Domes Inc	001	111382
River Bend Operating, Inc.	Bayou Bouillon	CH RC SUA; Salt Domes	004	122369
River Bend Operating, Inc.	Bayou Bouillon	Wilberts Sons Lbr & Shgle Co	001	166291
River Bend Operating, Inc.	Bayou Bouillon	MV RB SUA; Wilbert Sons	1-D	169675
River Bend Operating, Inc.	Bayou Bouillon	MV RB SUB; Wilberts	002	175730

River Bend Operating, Inc.	Bayou Bouillon	Wilberts & Sons SWD	001	970974
River Bend Operating, Inc.	Bayou Bouillon	MARG 1 RA SUE; Cotten Bro	012	151603
River Bend Operating, Inc.	Bayou Bouillon	MARG 1 RA SUG; Bayou Bouillon	002	186957
River Bend Operating, Inc.	Bayou Bouillon	CH RA SUF;M Stockstill	001	110860
River Bend Operating, Inc.	Bayou Bouillon	MARG 8 RD SUA;E B Schwing	003	194421
River Bend Operating, Inc.	Myette Point	SL 5705	001	138032
River Bend Operating, Inc.	Myette Point	Myette Point SWD	001	970670
River Bend Operating, Inc.	Myette Point	SL 2044	002	142326
River Bend Operating, Inc.	St. Martinville	MT 3 RA SUA; Foti	001	191265
Royal Minerals, Inc.	West Catahoula Lake	J E Harris	001	159350
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Philip N. Asprodites
Commissioner

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