

I. EXECUTIVE ORDERS
 JBE 21-15 Flags at Half-Staff—Judge John Dewey Saunders 1449
 JBE 21-16 Bond Allocation 2021 Ceiling 1449

II. EMERGENCY RULES

Agriculture and Forestry
 Board of Veterinary Medicine—Licensure Procedures (LAC 46:LXXXV.305, 811, 1213, and 1505) 1451

Governor
 Division of Administration, Office of Broadband Development and Connectivity—Granting Unserved
 Municipalities Broadband Opportunities (GUMBO) (LAC 4:XXI.Chapters 1-7) 1452
 Division of Administration, Patient's Compensation Fund Oversight Board—Qualified Health Care Provider
 Services (LAC 37:III.133-137) 1465
 Qualified Health Care Provider Services (LAC 37:III.133-137) 1467

Health
 Behavior Analyst Board—Temporary Reduction of License and Certificate Renewal Fees (LAC 46:VIII.305) 1469
 Bureau of Health Services Financing—Abortion Facilities—Licensing Standards (LAC 48:I.4431) 1470
 Emergency Telemedicine (LAC 50:I.505) 1472
 Home and Community-Based Services Waivers—Children's Choice Waiver—Direct Support
 Worker Wages (LAC 50:XXI.12101) 1473
 Home and Community-Based Services Waivers—New Opportunities Waiver—Direct Support
 Worker Wages (LAC 50:XXI.14301) 1474
 Home and Community-Based Services Waivers—Residential Options Waiver—Direct Support Worker
 Wages (LAC 50:XXI.16903) 1475
 Home and Community-Based Services Waivers—Supports Waiver—Direct Support Worker Wages
 (LAC 50:XXI.6101) 1476
 Programs and Services Amendments Due to the Coronavirus Disease 2019 (COVID-19) Public Health
 Emergency 1478
 Programs and Services Amendments Due to the Coronavirus Disease 2019 (COVID-19) Public Health
 Emergency 1479
 Office for Citizens with Developmental Disabilities—Home and Community-Based Services Waivers
 Children's Choice Waiver—Direct Support Worker Wages (LAC 50:XXI.12101) 1473
 Home and Community-Based Services Waivers—New Opportunities Waiver—Direct Support Worker
 Wages(LAC 50:XXI.14301) 1474
 Home and Community-Based Services Waivers—Residential Options Waiver—Direct Support Worker
 Wages (LAC 50:XXI.16903) 1475
 Home and Community-Based Services Waivers—Supports Waiver—Direct Support Worker Wages
 (LAC 50:XXI.6101) 1476
 Office of Aging and Adult Services—Programs and Services Amendments Due to the Coronavirus
 Disease 2019 (COVID-19) Public Health Emergency 1479
 Office of Behavioral Health—Programs and Services Amendments Due to the Coronavirus Disease 2019
 (COVID-19) Public Health Emergency 1479

Insurance
 Office of the Commissioner—Emergency Rule 47—Suspension of Certain Statutes Regarding
 Cancellations, Terminations, Non-Renewals, and Nonreinstatements, Premium Payments,
 Claim Filings and Related Provisions Regarding Any and All Insurance Matters Affecting Insureds
 in Louisiana Caused by the State of Emergency Declared by Governor John Bel Edwards on
 August 26, 2021, due to Hurricane Ida 1481

Revenue
 Policy Services Division—Income Tax Withholding on Gaming Winnings (LAC 61:I.1525) 1486

Wildlife and Fisheries
 Wildlife and Fisheries Commission—2021/2022 Oyster Season on Public Areas of Louisiana 1486
 2021 Commercial and Recreational Lane Snapper Season Closure 1488
 2021 Recreational Gray Triggerfish Season Closure 1488
 2021 Recreational Red Grouper Season Closure 1488
 Designation of a Temporary Natural Oyster Reef in Lake Barre 1489
 Joyce, Maurepas Swamp, and Salvador/Timken WMAs Amended Deer Seasons 1490
 Reopening of the 2021 Recreational Red Snapper Season and Bag Limit Adjustment 1490

This public document was published in accordance with R.S. 49:954.1. The publication date for this issue of the *Louisiana Register* is October 20, 2021. The Office of the State Register is the official state entity for all certified copies of the *Louisiana Register* and the content contained herein.

The Office of the State Register provides auxiliary aids for the *Louisiana Register* for visually impaired individuals. By appointment, oral presentation of the *Louisiana Register* is available at the Office of the State Register, or an audio cd of requested sections of the *Louisiana Register* can be provided for the production cost incurred. For more information, contact the Office of the State Register.

III. RULES

Education

Board of Elementary and Secondary Education—Bulletin 126—Charter Schools Charter School Fiscal Responsibilities (LAC 28:CXXXIX.2511).....	1491
Bulletin 746—Louisiana Standards for State Certification of School Personnel (LAC 28:CXXXI.203).....	1491
Bulletin 1566—Pupil Progression Policies and Procedures (LAC 28:XXXIX.305).....	1493
School Food Service (LAC 28:LXXIX.1903 and CXV.2103).....	1493
Board of Regents, Office of Student Financial Assistance—2021-2022 Chafee ETV Award Amount (LAC 28:IV.1801 and 1809).....	1494
Tuition Trust Authority, Office of Student Financial Assistance—START Saving Program (LAC 28:VI.315).....	1495

Governor

Division of Administration, Racing Commission—Pick N Procedure (LAC 35:XIII.11609).....	1495
---	------

Health

Board of Dentistry—Continuing Education Requirements (LAC 46:XXXIII.1615).....	1496
Bureau of Health Services Financing—Adult Residential Care Providers—Licensing Standards (LAC 48:I.Chapter 68).....	1496
Home and Community-Based Services Waivers—Residential Options Waiver (LAC 50:XXI.Chapters 161-169).....	1507
Reimbursement to Federally Qualified Health Centers and Rural Health Clinics for Coronavirus Disease 2019 (COVID-19) Vaccine Administration (LAC 50:XI.10703 and 16703).....	1528
Licensed Professional Counselors Board of Examiners—Notification of Change (LAC 46:LX.111 and 2709)....	1528
Tele-Supervision (LAC 46:LX.605 and 3315).....	1529
Office for Citizens with Developmental Disabilities—Home and Community-Based Services Waivers Residential Options Waiver (LAC 50:XXI.Chapters 161-169).....	1507

Insurance

Office of the Commissioner—Regulation 87—Louisiana Citizens Property Insurance Corporation Producer Binding Requirements (LAC 37:XIII.Chapter 121).....	1530
Regulation 118—Requirements in the Event of a Declared Emergency (LAC 37:XIII.Chapter 179).....	1532
Rule 7—Legal Expense Insurers (LAC 37:XI.1909 and 1919).....	1537

Revenue

Office of Alcohol and Tobacco Control—Regulation IX—Prohibition of Certain Unfair Business Practices (LAC 55:VII.317).....	1537
--	------

State

Elections Division—Opportunity to Cure Deficiencies in Absentee by Mail Ballots (LAC 31:I:Chapter 3).....	1538
---	------

Treasury

Board of Trustees of the Teachers' Retirement System of Louisiana—Mandatory Submission of Monthly Salaries and Contributions Reports, Contributions Corrections, Prior Years Certifications/Corrections of Member Data and (RET) Annual Salary Files (LAC 58:III.101).....	1539
--	------

IV. NOTICES OF INTENT

Agriculture and Forestry

Office of Agricultural and Environmental Sciences—Medical Marijuana Program (LAC 7:XLIX.Chapters 1-29) .	1540
--	------

Education

Board of Elementary and Secondary Education—Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel (LAC 28:CXLVII.323 and 905).....	1545
Bulletin 133—Scholarship Programs (LAC 28:CLIII.101, 303, and 1305).....	1547
Bulletin 137—Louisiana Early Learning Center Licensing Regulations (LAC 28:CLXI.1723 and 1815).....	1549
Bulletin 139—Louisiana Child Care and Development Fund Programs (LAC 28:CLXV.103, 310, 509, 515 and 519).....	1551
Bulletin 741—Louisiana Handbook for School Administrators (LAC 28:CV.502, 901 911, 1103, 1111, 2305, 2317, 2318, 2320, 2363, 2397, and 3703).....	1553
Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators—African American History (LAC 28:LXXIX.2109 and 2331).....	1558
Bulletin 1566—Pupil Progression Policies and Procedures (LAC 28:XXXIX.501).....	1559
Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act (LAC 28:XLIII.101, 401, 450, 460, 461, 462, 463, 464, 466, 905, 1101, and 1904).....	1560
High School Social Studies Assessment (LAC 28:XI.5701, 6803; LXXIX.2111; CXV.2318, 2319).....	1564

Health

Board of Dentistry—General Provisions; Dentists; Fees and Costs (LAC 46:XXXIII.120, 306, and 419).....	1567
Bureau of Health Services Financing—Home and Community-Based Services Waivers—Children's Choice Waiver—Direct Support Worker Wages (LAC 50:XXI.12101).....	1568
Home and Community-Based Services Waivers—New Opportunities Waiver—Direct Support Worker Wages (LAC 50:XXI.14301).....	1570
Home and Community-Based Services Waivers—Residential Options Waiver—Direct Support Worker Wages (LAC 50:XXI.16903).....	1572
Home and Community-Based Services Waivers—Supports Waiver—Direct Support Worker Wages (LAC 50:XXI.6101).....	1574

Office for Citizens with Developmental Disabilities—Home and Community-Based Services Waivers	
Children’s Choice Waiver—Direct Support Worker Wages (LAC 50:XXI.12101)	1568
Home and Community-Based Services Waivers—New Opportunities Waiver—Direct Support Worker	
Wages (LAC 50:XXI.14301)	1570
Home and Community-Based Services Waivers—Residential Options Waiver—Direct Support Worker	
Wages (LAC 50:XXI.16903)	1572
Home and Community-Based Services Waivers—Supports Waiver—Direct Support Worker Wages	
(LAC 50:XXI.6101)	1574
Public Safety and Corrections	
Gaming Control Board—Sports Wagering (LAC 42:III.102, 104, 105, 107, 120, 2737 and VI.Chapters 1-13)	1576
State	
Office of the Secretary of State—Remote Online Notarization (LAC 46:XLVI.144)	1605
Wildlife and Fisheries	
Wildlife and Fisheries Commission—Domesticated Aquatic Organisms (LAC 76:VII.Chapter 9)	1607
Menhaden Season (LAC 76:VII.307)	1609
V. ADMINISTRATIVE CODE UPDATE	
Cumulative—January 2021 through September 2021	1612
VI. POTPOURRI	
Governor	
Division of Administration, Office of Broadband Development and Connectivity—Public Hearing—Substantive	
Changes to Proposed Rule; Granting Unserved Municipalities Broadband Opportunities (GUMBO)	
(LAC 4:XXI.Chapters 1-7)	1614
Public Safety and Corrections	
Oil Spill Coordinator’s Office—Notice of Restoration Plan—2006 Calcasieu River Oil Spill	1616
VII. INDEX	1618

Executive Orders

EXECUTIVE ORDER JBE 21-15

Flags at Half-Staff—Judge John Dewey Saunders

WHEREAS, John Dewey Saunders, a former distinguished member of the Louisiana Legislature and a venerable member of the Louisiana Judiciary, died at the age of 78 on Monday, September 13, 2021;

WHEREAS, he is survived by his wife, Susan; their two children, nine grandchildren, and two great-grandchildren;

WHEREAS, he was born on June 4, 1943 in Ville Platte, Louisiana;

WHEREAS, after attending Sacred Heart High School in Ville Platte, he attained his bachelor's and juris doctorate degrees from Louisiana State University, completing his studies in 1968;

WHEREAS, he served his state and his home of Evangeline Parish as well as the Parishes of Avoyelles and Allen in the Louisiana State Senate for seventeen years, first elected to the Senate in 1975 and serving until 1992; during his tenure in office, he was the chairman of the Judiciary C Committee and he served on the Insurance and Revenue & Fiscal Affairs committees; he was a champion of the interests of the people he represented, securing numerous projects and improvements to his district;

WHEREAS, in 1992, he sought and won a seat on the Louisiana Court of Appeal, Third Circuit, and he was re-elected to that seat after running opposed in 2012; and

WHEREAS, Judge John Dewey Saunders lived his life with integrity and honor, and his public service as a lawmaker and a jurist to the State of Louisiana will long be remembered.

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

SECTION 1: As an expression of respect for John Dewey Saunders, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol from sunrise until sunset on Tuesday, September 14, 2021.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Tuesday, September 14, 2021.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 13th day of September, 2021.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
R. Kyle Ardoin
Secretary of State
2110#064

EXECUTIVE ORDER JBE 21-16

Bond Allocation 2021 Ceiling

WHEREAS, Section 146 of the Internal Revenue Code of 1986 (hereafter the "Act"), as amended (hereafter the "Code"), restricts the total principal amount of certain private activity bonds (hereafter the "Bonds") that exclude interest from gross income for federal income tax purposes under Section 103 of the Code;

WHEREAS, Act No. 51 of the 1986 Regular Session of the Louisiana Legislature (hereafter "Act No. 51 of 1986") authorizes the Governor to allocate the volume limit applicable to the Bonds (hereafter the "ceiling") among the State and its political subdivisions in such a manner as the Governor deems to be in the best interest of the State of Louisiana;

WHEREAS, pursuant to the Act and Act No. 51 of 1986, Executive Order Number JBE 2016-35 was issued to establish:

(a) the manner in which the ceiling shall be determined,

(b) the method to be used in allocating the ceiling,

(c) the application procedure for obtaining an allocation of Bonds subject to such ceiling, and (d) a system of record keeping for such allocations; and

WHEREAS, the Louisiana Housing Corporation (hereafter the "Corporation") has applied for an allocation of the 2021 ceiling to be used in connection with providing funds for the acquisition, construction, rehabilitation, and equipping of residential rental housing for individuals and families of low and moderate income.

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2021 ceiling in the amount shown:

Amount of Allocation	Name of Issure	Name of Project
\$15,000,000	Louisiana Housing Corporation	H3C Series 2021
\$22,000,000	Louisiana Housing Corporation	1300 OCH Series 2021
\$12,493,342	Louisiana Housing Corporation	Galilee Senior Housing Series 2021

SECTION 2: The allocation granted herein 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's Private Activity Volume Cap" submitted in connection with the bond issue described in Section 1.

SECTION 3: The allocation granted herein shall be valid and in full force and effect through November 30, 2021.

SECTION 4: 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 Louisiana on this 8th day of October, 2021.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
R. Kyle Ardoin
Secretary of State
2110#060

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Board of Veterinary Medicine

Licensure Procedures
(LAC 46:LXXXV.305, 811, 1213, and 1505)

The Louisiana Board of Veterinary Medicine (LBVM) has exercised the emergency provisions of the Administrative Procedure Act, specifically R.S.49:953.1, and through the authority granted in R.S. 37:1518, and in accordance with Executive Department Proclamation Number 172 JBE 2021 to adopt an emergency rule which will add language to §305, §811, §1213, and §1505. The added language in these sections will give the board the ability to temporarily extend the time related to the renewal of licenses to practice veterinary medicine, the certifications of registered veterinary technicians, certified animal euthanasia technicians, and registered equine dentists during the current fiscal year beginning July 1, 2021 through June 30, 2022. Any license renewed or reinstated under this exception shall have met the continuing education requirements to renew and maintain licensure for the current fiscal year.

In accordance with Governor Edwards' Proclamation Number 172 JBE 2021, section 2(7), the LBVM is adopting these rules to amend/waive rules that further extend the non-essential deadline as necessary to respond to the emergency created by Hurricane Ida.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 3. Licensure Provisions

§305. Renewals

A. - A.4. ...

5. Notwithstanding any provision in this Chapter to the contrary, for the 2021-2022 renewal period, a licensee who has not submitted a renewal application by September 30, 2021 shall have until October 30, 2021 to do so. All documentation of compliance with continuing education requirements in accordance with Chapter 4 of this Part must have been submitted on or prior to October 30, 2021.

B. - B.6. ...

7. Notwithstanding any provision in this Chapter to the contrary, the holder of any expired license which expiration date was between August 26, 2016 and September 24, 2016 shall have until October 30, 2021 to comply with the provisions of subsections 1-6, above.

C. - 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 19:343 (March 1993); amended LR 23:965 (August, 1997), LR 24:941 (May 1998), LR 26:322 (February 2000), LR 47:

Chapter 5. Fees

§505. License Renewal Late Fee

A. ...

1. Notwithstanding any provision in this Chapter to the contrary, for the renewal period of 2021-2022, any license which has not been renewed as of September 30, 2021, has until October 30, 2021 to renew and pay the annual renewal fee without late fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 10:208 (March 1984), amended by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1429 (November 1993), LR 20:1114 (October 1994), LR 25:2408 (December 1999), LR 40:2258 (November 2014), LR 47:

Chapter 8. Registered Veterinary Technicians

§811. Certificate Renewal, Late Charge, Continuing Education

A. - C.

1. Notwithstanding any provision in this Chapter to the contrary, for the 2021-2022 renewal period, an RVT who has not submitted a renewal application by September 30, 2021 shall have until October 30, 2021 to do so. All documentation of compliance of continuing education requirements as required in subsection 811 D. of this Chapter must have been submitted on or prior to October 30, 2021. Renewals made under this emergency provision, after September 30, 2021, are not subject to the late fees provided for by §811C of this chapter.

D. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1549.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:227 (March 1990), amended LR 23:1686 (December 1997), LR 26:84 (January 2000), LR 36:320 (February 2010), LR 37:1153 (April 2011), LR 47:

Chapter 12. Certified Animal Euthanasia Technicians

§1213. Renewal of Certificates

A. ...

1. Notwithstanding any provision in this Chapter to the contrary, for the 2021-2022 renewal period, a certified animal euthanasia technician who has not submitted a renewal application by September 30, 2021 shall have until October 30, 2021 to do so. All documentation of compliance with continuing education requirements as provided for in §1227 of this Chapter must have been submitted on or prior to October 30, 2021. Renewals made under this emergency

provision, after September 30, 2021, are not subject to the late fees provided for by §1211 A. of this chapter.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1426 (November 1993), amended LR 23:1685 (December 1997), LR 26:319 (February 2000), LR 47:

§1215. Expired Certificate

A. ...

1. Notwithstanding any provision in this Chapter to the contrary, the holder of any expired certificate of approval which expiration date was between August 26, 2021 and September 24, 2021 shall have until October 30, 2021, to comply with the provisions of subpart A. of this Section.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1426 (November 1993), amended LR 26:319 (February 2000), LR 47:

Chapter 15. Registered Equine Dentists.

§1505. Renewal of Certificate

A. ...

1. Notwithstanding any provision in this Chapter to the contrary, for the 2021-2022 renewal period, a registered equine dentist who has not submitted a renewal application by September 30, 2021 shall have until October 30, 2021 to do so. All documentation of compliance with continuing education requirements as provided for in §1517 of this Chapter must have been submitted prior to September 30, 2021. Renewals made under this emergency provision, after September 30, 2021, are not subject to the late fees provided for by §1503 of this chapter.

B.-E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 26:491 (March 2000), LR 47:

§1507. Expired Certificate

A. ...

1. Notwithstanding any provision in this Chapter to the contrary, the holder of any expired certificate of approval which expiration date was between August 26, 2021 and September 24, 2021 shall have until October 30, 2021, to comply with the provisions of subpart A. of this Section.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 26:491 (March 2000), LR 47:

Joseph Bondurant, Jr., DVM
President

2110#014

DECLARATION OF EMERGENCY

Office of the Governor

Division of Administration

Office of Broadband Development and Connectivity

Granting Unserved Municipalities Broadband Opportunities (GUMBO) (LAC 4:XXI.Chapters 1-7)

In response to updated guidance from the United States Department of the Treasury, and as a result, address necessary grant program adjustments, this Declaration of Emergency and Emergency Rule rescinds and replaces the Declaration of Emergency and Emergency Rule declared and published on August 12, 2021.

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953.1, and pursuant to the authority set forth in R.S. 51:2370-2370.16, the commissioner of administration declares an emergency to exist and adopts by emergency process the attached Rule relative to the administration of the Granting Unserved Municipalities Broadband Opportunities (GUMBO) grant program by the Office of Broadband Development and Connectivity.

Like railways in the 19th century and electricity in the 20th century, broadband internet access has become a critical piece of infrastructure, relied upon to ignite economic growth and competitiveness, contribute to improved outcomes in healthcare, enhance agricultural output, and advance the educational experience of our children. In the 21st century, broadband internet access is a given for many Louisianans, who rely on broadband in every aspect of daily life.

The Coronavirus pandemic has forever changed the definition and location of “work.” Unemployed Louisianans rely on broadband to search and apply for the next opportunity. Our state’s families and children have been forced to rely upon broadband for virtual education. The older and sicker among us are increasingly reliant on broadband to schedule telehealth visits and see medical specialists. Across fields of rice in Acadia Parish, corn in Richland Parish, and sugarcane in Lafourche Parish, farmers around the state rely on broadband to take advantage of the latest innovations in agricultural technology to increase yields. Working remotely, searching for employment, attending virtual classes, scheduling a telehealth visit, and using the latest technologies in agriculture all depend, in part, on having access to broadband.

However, according to the Federal Communications Commission, over 10 percent of Louisianans do not have access to broadband through ADSL, cable, fiber, or fixed wireless. In our rural communities, the number of these unserved residents rises to nearly 33 percent. Tragically, a third of rural Louisianans are without access to high-speed broadband, threatening their health, limiting their educational opportunities, and constraining their economic competitiveness in the digital world.

Failure to connect the unconnected, and any further delay in constructing broadband infrastructure to serve those residents without it, would continue the substantial risk of hardship currently faced by hundreds of thousands of residents throughout the state. As demonstrated, this situation constitutes and creates an imminent peril to the public health, safety, and welfare of the residents of Louisiana, thereby making this Emergency Rule necessary.

Therefore, the Louisiana Office of Broadband Development and Connectivity is providing grants to private providers of broadband services to facilitate the deployment of broadband service to unserved areas of the state, defined as areas without deployed internet access service providing transmission speeds of at least 25 Mbps download and 3 Mbps upload (25:3 Mbps) through wireline or fixed wireless. The GUMBO grant program funds eligible projects through a competitive grant application process.

This Rule shall have the force and effect of law on October 11, 2021, and will remain in effect for the maximum period allowed by the Administrative Procedure Act, unless renewed by the commissioner of administration, or until permanent rules are promulgated in accordance with law.

Title 4

ADMINISTRATION

Part XXI. Granting Unserved Municipalities Broadband Opportunities (GUMBO)

Chapter 1. Program Summary

§101. Background and Authorization

A. This Part may be cited as the Louisiana GUMBO Broadband Grant Program Guide.

B. The Louisiana Office of Broadband Development and Connectivity, as authorized by R.S. 51:2370.1-2370.16, provides grants to private providers of broadband services to facilitate the deployment of broadband service to unserved areas of the state. The Granting Unserved Municipalities Broadband Opportunities (GUMBO) grant program funds eligible projects, through a competitive grant application process, in economically distressed parishes throughout the state.

C. The application materials, program guidelines, and criteria set forth in this Part govern the GUMBO grant program and have been developed based on the enacting legislation for the program, Act 477 of the 2021 Regular Legislative Session.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§103. Definitions

Broadband Service—deployed internet access service with a minimum of 25 Mbps download and 3 Mbps upload transmission speeds (25:3 Mbps).

Cooperative—a corporation organized under Part I of Chapter 2 of Title 12 of the Louisiana Revised Statutes of 1950 or a corporation who becomes subject to those provisions pursuant to R.S. 12:401 et seq.

Director—the Executive Director of the Office of Broadband Development and Connectivity within the Division of Administration.

Economically Distressed Parish—an unserved area that is in need of expansion of business and industry and the creation of jobs, giving consideration to unemployment, per capita income, and the number of residents receiving public assistance within that unserved area.

Eligible Grant Recipient—a provider of broadband service, including a provider operated by a local government if the local government is compliant with the Local Government Fair Competition Act prior to July 1, 2021, with respect to providing such services, a cooperative, or any partnership thereof.

Eligible Parishes—any parish with unserved structures.

Eligible Project—a discrete and specific project located in an unserved area of an eligible parish seeking to provide broadband service to homes, households, businesses, educational facilities, healthcare facilities, and community anchor points not currently served. A project that is primarily engaged in middle-mile, backhaul, or similar work is not an eligible project. The inclusion of middle-mile, backhaul, or similar capacity is permissible in an eligible project, if the capacity does not otherwise exist and is necessary for the project's last-mile broadband connectivity to end-users. If a contiguous project area crosses from one eligible parish into one or more eligible adjacent parishes, the project shall be deemed to be located in the parish where the greatest number of unserved households are proposed to be served.

Household—any individual or group of individuals who are living together at the same address as one economic unit. A household may include related and unrelated persons. An "economic unit" consists of all adult individuals contributing to and sharing in the income and expenses of a household. An adult is any person eighteen years or older. If an adult has no or minimal income, and lives with someone who provides financial support to him, both people shall be considered part of the same household. Children under the age of 18 living with their parents or guardians are considered to be part of the same household as their parents or guardians.

In-kind—existing facilities, equipment, materials, and structures that a local government makes available in partnership with an internet service provider as a contribution to the proposed project, consistent with market rates. Examples include but are not limited to copper wire, coaxial cable, optical cable, loose tube cable, communication huts, conduits, vaults, patch panels, mounting hardware, poles, generators, batteries and cabinets, network nodes, network routers, network switches, microwave relays, microwave receivers, site routers, outdoor cabinets, towers, easements, rights-of-way, and buildings or structures owned by the local government that are made available for location or collocation purposes. This term may also include fees.

Infrastructure—existing facilities, equipment, materials, and structures that an internet service provider has installed either for its core business or public enterprise purposes. Examples include but are not limited to copper wire, coaxial cable, optical cable, loose tube cable, communication huts, conduits, vaults, patch panels, mounting hardware, poles, generators, batteries and cabinets, network nodes, network

routers, network switches, microwave relays, microwave receivers, site routers, outdoor cabinets, towers, easements, rights-of-way, and buildings or structures owned by the entity that are made available for location or collocation purposes.

Infrastructure Costs—costs directly related to the construction of broadband infrastructure for the extension of broadband service for an eligible project, including installation, acquiring or updating easements, backhaul infrastructure, and testing costs. The term does not include overhead or administrative costs.

Local Government—a parish, municipality, or school board, or any instrumentality thereof.

Office—the Office of Broadband Development and Connectivity within the Division of Administration.

Prospective Broadband Recipient—a household, home, business, educational facility, healthcare facility, community anchor point, agricultural operation, or agricultural processing facility that is currently unserved and is identified in an application submitted.

Shapefile—a file format for storing, depicting, and analyzing geospatial data depicting broadband coverage, comprised of several component files, such as a Main file (.shp), an Index file (.sbx), and a dBASE table (.dbf).

Unserved—notwithstanding any other provision of law, any federal funding awarded to or allocated by the state for broadband deployment shall not be used, directly or indirectly, to deploy broadband infrastructure to provide broadband internet service in any area of the state where broadband internet service of at least 25:3 Mbps is available from at least one internet service provider.

Unserved Area—a designated geographic area that is presently without access to broadband service offered by a wireline or fixed wireless provider. Areas included in an application where a provider has been designated to receive funds through other state or federally funded programs designated specifically for broadband deployment shall be considered served if such funding is intended to result in the initiation of activity related to the construction of broadband infrastructure in such area within 24 months of the expiration of the 60-day period related to such application established pursuant to R.S. 51:2370.4(C).

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§105. Non-Applicability of other Procurement Law

A. In accordance with R.S. 51:2370.14(C), grants solicited and awarded pursuant to the GUMBO program shall not be subject to the provisions of the Louisiana Procurement Code, R.S. 39:1551 et seq., or the Public Bid Law, R.S. 38:2181 et seq.

B. The procurement method used by the office to solicit applications, identify and score product features, cost, and technical factors, and award on the basis of best values shall be as set forth in Chapters 3 and 4 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

Chapter 2. Project Area Eligibility Requirements

§201. Eligible and Ineligible Project Areas

A. Eligible areas for the GUMBO grant program are areas without deployed internet access service providing transmission speeds of at least 25:3 Mbps with wireline or fixed wireless, and which qualify as an unserved area as defined in this Part. These areas are the focus of broadband expansion under this grant program.

B.1. Ineligible areas for the program are areas that already have internet access service available to them at transmission speeds of at least 25:3 Mbps with wireline or fixed wireless. In addition, areas (census blocks) where a private provider has been designated to receive funding through Universal Service, Connect America Phase II, Rural Digital Opportunity Fund, or other federal or non-federal funds shall be considered served and therefore ineligible for the GUMBO grant program if such funding is intended to result in the initiation of activity related to construction of broadband infrastructure in the area within 24 months from the expiration of 60 days following the closure of the grant application period.

2. In the initial grant application period, providers receiving Universal Service, Connect America Phase II, Rural Digital Opportunity Fund, or other federal or non-federal funds to deploy service, within the established timeline of within 24 months from the expiration of 60 days following the closure of the grant application period, may designate such areas as ineligible and subject to exclusion and reservation from the GUMBO grant program, for a period of 24 months, by submitting to the office, within 60 days of the closure of the application period, a listing of the census blocks, shapefile areas, individual addresses, or portions thereof, comprising the provider's future project areas.

3. In subsequent grant application periods, in order to designate areas as ineligible and subject to exclusion, providers shall submit to the office census blocks, shapefile areas, individual addresses, or portions thereof, not less than 60 days prior to the beginning date of the application period.

4. Failure on the part of a provider to submit a relevant project area for ineligibility and exclusion shall result in those areas being eligible for GUMBO grant funding for the applicable grant application period. However, in such circumstance, providers shall be able to utilize the protest process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§203. Resources for Identification of Project Areas

A. Applicants can apply for funding to serve census blocks, shapefile areas, individual addresses, or portions thereof, as set forth in Chapter 3: Applications of this Part.

B. Although the Office of Broadband Development and Connectivity cannot provide a listing of all prospective broadband recipients within the state that have broadband service of less than 25:3 Mbps available, the office advises applicants to consider mapping tools and other resources located within the office's website as a starting point for identifying project areas.

NOTE: Mapping tools and other resources can be found on the website of the office, at connect.la.gov.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

Chapter 3. Applications

§301. Process Overview

A. No funding shall be disbursed by the GUMBO grant program except pursuant to an application submitted in accordance with this Chapter.

B. Applications for the GUMBO grant program shall be submitted via the website of the office.

C. The online application process may provide for mandatory and optional materials to be submitted with each proposal.

D. Prior to the publication of an application by the Office pursuant to R.S. 51:2370.4(C), the Office shall undertake a preliminary evaluation of the application with due diligence to examine whether the application appears on its face to comply with applicable program requirements. Until such time as this preliminary evaluation is complete, the provisions of R.S. 51:2370.16(3), relative to public records, shall apply. Following the preliminary evaluation, applicant financials and proprietary or trade secret information, when designated as such by the applicant and approved by the office, at its sole discretion, shall be exempt from public disclosure.

E. Through the evaluation and scoring process, if an applicant or application or any associated project are deemed to be technically unviable for any reason, including, but not limited to, applicant ability, proposed technology solution, financial stability, or any combination thereof, the office shall, at its sole discretion, remove the application or project area from consideration for the grant program. Any applicant or application or any associated project deemed technically unviable in any GUMBO grant application period is eligible to reapply in any succeeding GUMBO grant application period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§303. Applications with Multiple Providers or Project Areas

A. An applicant may submit one application with multiple service providers if the applicant can demonstrate how the providers are collaborating to achieve universal coverage for the unserved locality or region.

B. An applicant may submit an application with support from more than one unit of local government.

C. Units of local government may endorse multiple applications with different service providers and may include project areas that cross jurisdictional boundaries.

1. Units of local government that provide letters of support, matching funds, or in-kind contributions to any application should provide the same, on a percentage basis relative to matching funds and in-kind contributions, to all

applications proposing the use of like technologies in identical unserved areas with access provided to the exact number of prospective broadband recipients within its jurisdiction. Should multiple applications propose to serve unserved areas within its jurisdiction and include the use of unlike technologies, differing unserved areas, or a non-analogous number of prospective broadband recipients to be served, as compared against other applications, a local government may use reasonable judgement and reserve the right to determine its level of support, to include letters of support, matching funds, or in-kind contributions, on an application by application basis. A unit of local government that provides differing levels of support, to include letters of support, matching funds, or in-kind contributions, to differing applicants proposing one or more projects within its jurisdiction shall provide an explanation to the office as to why the local government's differing levels of support do not present an unreasonable or undue preference or advantage to itself or to any provider of broadband service. If, in the opinion of the office, differing levels of support by a unit of local government for differing applications presents an undue or unreasonable preference or advantage to itself or to any provider of broadband service, the office may disqualify from grant funding consideration any application or project area within the jurisdiction of the unit of local government.

D. An applicant may include one contiguous project area or multiple non-contiguous project areas in a single application. If designating more than one project area in a single application, each project area must be clearly noted and delineated, and the required technical data and budgetary information must be provided for each project area to allow for independent scoring of each project area. Any application that contains more than one project area and does not provide technical data and budgetary information specific to each project area, to allow for independent scoring of each project area subject to the scoring criteria listed in §405 of this Part, may be removed from grant funding consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§305. Application Requirements

A. As set forth in greater detail in §§307-315 of this Chapter, each application shall include these components:

1. applicant information, statement of qualifications, and partnerships;
2. project area(s) and locations to be served;
3. technical report;
4. project budget(s), matching funds, costs, and proof of funding availability;
5. proposed services, marketing, adoption, and community support.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§307. Application Information, Statement of Qualifications, and Partnerships

A. Every application shall include:

1. the identity of the applicant and its qualifications and experience with the deployment of broadband; in addition, the applicant shall include the following:

a. the number of years the applicant has provided internet services;

b. a history of the number of households and consumers, by year of service, to which the applicant has provided broadband internet access, as well as the current number of households to which broadband internet access (at least 25:3 Mbps) is offered;

c. the number of completed internet service infrastructure projects funded, in part, through federal or state grant programs, prior to the date of application submittal;

d. whether the applicant has ever participated in an internet service infrastructure project funded, in part, through federal or state grant programs, and if so, for each project, the nature and impact of the project, the role of the applicant, the total cost of the project, and the dollar amount of federal or state grant funding;

e. the number of penalties paid by the applicant, a subsidiary or affiliate of the applicant, or the holding company of the applicant, relative to internet service infrastructure projects funded, in part, through federal or state grant programs, prior to the date of application submittal; and

f. the number of times the applicant, a subsidiary or affiliate of the applicant, or the holding company of the applicant has ever been a defendant in any federal or state criminal proceeding or civil litigation as a result of its participation in an internet service infrastructure project funded, in part, through federal or state grant programs, prior to the date of application submittal; and

g. an attestation that the applicant has not violated federal or state labor and employment law in the previous ten years.

2. Five years of financial statements, pro forma statements, or financial audits of the applicant to ensure financial and organizational strength regarding the ability of the applicant to successfully meet the terms of the grant requirements and the ability to meet the potential repayment of grant funds. If an applicant has been in business for less than five years, the applicant shall provide financial statements, pro forma statements, or financial audits for the number of years the applicant has been in business. Should an applicant declare that it does not have financial statements, pro forma statements, or financial audits, the office, at its sole discretion, shall decide what documents are necessary to fulfill the requirements of this section.

3. the identity of any partners or affiliates if the applicant is proposing a project for which the applicant affirms that a formalized agreement or letter of support exists between the provider and one or more unaffiliated partners where the partner is one of the following:

a. a separate private provider of broadband service, requiring a formalized agreement; or

b. a nonprofit or not-for-profit, or a for-profit subsidiary of either, and the applicant is:

i. being allowed access and use of the partner's infrastructure, on special terms and conditions designed to facilitate the provision of broadband services in unserved areas, requiring a formalized agreement;

ii. utilizing a matching financial and/or in-kind contribution provided by one or more partners, requiring a formalized agreement; or

iii. a parish, municipality, or school board, or any instrumentality thereof, may qualify as a nonprofit for the purposes of the GUMBO grant program. Letters of support by a parish, municipality, or school board, or any instrumentality thereof, supporting an application may be submitted as part of an application. A letter of support does not require a formalized agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§309. Project Area(s) and Locations to be Served

A. Every application shall include the following.

1. Mapping and Descriptions

a. Data relating to areas to be served is required in order to confirm that the project is serving eligible areas, to accurately score the application or project area, and track progress and completion of the project if awarded. Applicants shall submit data in any of the following ways, or in combination. If documentation is deemed insufficient, the office reserves the right to request additional supporting documentation. If the proposed project would result in the provision of broadband service to areas that are not eligible for funding, those ineligible areas shall be identified in the application along with the eligible areas.

b. Data included shall be relevant to the proposed project area and include the number of prospective broadband recipients that will be served and have access to broadband as a result of the project. For the proposed area to be served, the infrastructure cost per prospective broadband recipient must be provided, as well as the GUMBO cost per prospective broadband recipient. Data points should be tied to specific locations and be geo-coded for consideration as part of the application.

c. Areas projected to be served must be digitally submitted in a GIS shapefile, kml, CAD (.dwg), or MicroStation (.dgn) file format, and should be georeferenced to either the Louisiana North State Plane NAD83 (US Feet) coordinate system or the Louisiana South State Plane NAD83 (US Feet) coordinate system. The files can contain points representing locations or polygons outlining the specific areas to be served. CAD drawings must not contain external references. Service to any prospective broadband recipient should be referenced. The office reserves the right to request data and technical information in any format the office deems necessary.

d. Additionally, applicants may also submit applications for areas where transmission speeds are less than 25:3 Mbps, if data is available to support differences between advertised and transmission speeds.

e. Data Submission Requirements

i. Census Blocks—data shall be submitted as corresponding census block numbers encompassing the area(s) to be served through the proposed project.

ii. Shapefiles—data shall be submitted analyzing geospatial data depicting broadband coverage of the proposed project area.

iii. Address-Level Data—data shall be submitted as individual address points of locations where service will be made available through the grant build. All addresses must be geocoded to include latitudinal and longitudinal coordinates.

iv. Polygons—data shall be submitted as polygon geometry which contain the areas to be served, or with the expectation that the polygon submitted corresponds to service being available to all locations within the polygon. The applicant must use the most recent data available from the state, parish, or local government to identify all locations within the project area.

f. Additional Data Sets

i. To assist in clarifying or providing for a greater level of detail regarding the areas and locations to be served by a proposed project, additional data sets may be provided within the application. These data sets should serve as supporting information and material to the required data listed above and should not be submitted as an alternative.

Examples of additional data include, but are not limited to:

- Scrubbed data (no raw data) from citizen survey results or demand aggregation results with speed tests, if applicable. This data must identify the areas that have less than 25:3 service.
- Affidavits from citizens or other individuals certifying one or more of the following:
 - o they are not able to receive broadband service; or
 - o the only available service is cellular or satellite; or
 - o the only broadband service available by the existing providers is less than 25:3 service.

2. Assessment of the Current Level of Broadband Access in the Proposed Deployment Area

a. The application requires an assessment of the current level of broadband access in the proposed deployment area. Within this section of the application, the applicant should describe what they believe to be the current level of service within the area and provide the data source or methodology used to capture this information. Raw data may be submitted as part of the assessment.

3. Attestation of Project Area Eligibility

a. Applicants are required to sign the statement of attestation to attest to the office that the project area(s) identified within the application are eligible, as defined by Louisiana Revised Statutes 51:2370.1 through 2370.16 and this Part, to the best of their knowledge. The attestation statement and signature shall be included as part of the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§311. Technical Report

A. Applicants must provide a narrative, technical report detailing the technology/technologies to be used in the proposed project to serve prospective broadband recipients at their premises. Applicants must indicate the technology that will serve a prospective broadband recipient as wired infrastructure or fixed wireless and provide aggregated totals for each solution for each project.

B. Reporting requirements for all deployments:

1. technical detail of the technology/technologies to be used in the proposed project and the broadband transmission speeds offered to prospective broadband recipients as a result of the project. If it would be impracticable, because of geography, topography, or excessive cost to design a broadband infrastructure project that would deliver 100:100 Mbps, the applicant must provide an explanation. Transmission speeds of 100:20 Mbps are the minimum allowable under this grant program.

2. an explanation of the scalability of the broadband infrastructure to be deployed to meet future bandwidth needs;

3. if the applicant is claiming points for partnerships, the applicant must provide a brief narrative explaining how the partnership or affiliation will facilitate deployment and reduce cost per prospective broadband recipient. For applications or project areas where the nonprofit or not-for-profit partner provides only matching financial support, that information can be documented in the budget section within the relevant application or project area. The applicant must also provide evidence of a formalized agreement, when applicable, as required in §307 of this Part;

4. a general explanation of whether work will be performed in-house or through contractors, and whether the applicant or any subcontractors are certified by either the Hudson Initiative or Veterans Initiative (if any subcontractors are certified through the Hudson Initiative or the Veterans Initiative, a formalized agreement shall be provided);

5. a proposed construction timeline and duration of the deployment project period. The deployment project period is the time from award of the grant agreement to the time that service is available to the targeted prospective broadband recipients under the grant. The applicant shall describe deployment roll-out and include the number of end-users to be served in each phase, as well as an estimated timeline for each phase (10 percent, 35 percent, 60 percent, 85 percent, 100 percent). As it relates to the disbursement of grant funding, project completion shall be defined as a percentage of the total number of prospective broadband recipients proposed to be served by the project;

6. the average distance, in miles, between prospective broadband recipients to be served by the project; and

7. a business continuity and disaster recovery plan.

C. Reporting requirements for wired infrastructure deployment:

1. description of the general design of the project and deployment plan;

2. explanation of the existing networks and equipment to be used for the project;

a. if the applicant requires assets owned by another entity, the applicant should explain how the assets will be used for this project and, if applicable, provide a copy of the agreement between the applicant and the owner;

b. the total number of miles of project infrastructure deployment, and the number of miles of project infrastructure deployment accounted for by preexisting infrastructure;

3. detailed explanation of how the new or upgraded infrastructure will serve the prospective broadband recipients. In the case of the installation or upgrade of a specific site infrastructure, such as a point of presence or

fiber hut (fiber), pedestal (cable), or a remote exchange/DSLAM (DSL), the applicant must include:

a. number of prospective broadband recipients that will be served by that site infrastructure, including businesses; and

b. the distance from the specific site infrastructure such as a POP, pedestal, or DSLAM to the end user(s) and the expected broadband speed that will be effectively delivered;

4. detailed description of the design work needed for deployment, such as, but not limited to, pole work, acquiring or updating easements, and/or property acquisition.

D. Reporting requirements for fixed wireless deployment:

1. description of the general design of this project and deployment plan;

2. explanation of the existing networks and equipment to be used for this project;

a. If the applicant requires assets owned by another entity, the applicant should explain how the assets will be used for this project and, if applicable, provide a copy of the agreement between the applicant and the owner; and

b. the total number of miles of project infrastructure deployment, and the number of miles of project infrastructure deployment accounted for by preexisting infrastructure;

3. detailed explanation of how the new or upgraded infrastructure will serve the prospective broadband recipients. In the case of the installation or upgrade of a specific site infrastructure, such as a vertical asset, the applicant must include:

a. description and specific location of the vertical asset;

b. owner of the vertical asset;

c. number of prospective broadband recipients that will be served by that site infrastructure, including businesses;

d. the distance from the vertical asset to the end user(s) and the expected broadband speed that will be effectively delivered;

4. detailed description of the design work needed for deployment, such as, but not limited to, acquiring access to existing vertical assets, acquiring or updating easements, and/or property acquisition;

5. description and specific type of the equipment used for deployment and the capable speed of the equipment;

6. explanation of the frequency/frequencies to be utilized for the deployment, whether the deployment will use licensed or unlicensed technologies, as well as mitigation of line-of-sight challenges (which should correspond to the number of recipients to be served).

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§313. Project Budget, Matching Funds, Costs, and Proof of Funding Availability

A. Budget and Narrative

1. The project budget should reflect all eligible project costs. The project budget should include the minimum provider funding match of at least 20 percent, any local

government funding match from a parish, municipality, and/or school board, or any instrumentality thereof, as well as in-kind contributions, and the requested GUMBO grant program funding.

2. Matching funds, and their associated sources, shall be detailed within the project budget and budget narrative. Eligible grant recipients are required to provide at least 20 percent matching funds of the total proposed project cost to participate in the GUMBO grant program. A local government, including a parish, municipality, or school board, or any instrumentality thereof, may provide matching funds for a project, in addition to the applicant. Local government matching funds are optional and not required. There is no limitation on the minimum or maximum percentage of a project's total cost that a local government may provide through a funding match. In-kind contributions to the project by a local government should also be listed in the project budget and budget narrative, if applicable.

3. Project funds (GUMBO grant funds and matching funds) shall be utilized for the deployment phase of the project, not the subsequent years of service. In addition, eligible project costs do not include recurring operating or maintenance costs, or sales and marketing of services.

B. Total Project Cost

1. Costs directly related to the construction of broadband infrastructure for the extension of broadband service, including installation, acquiring or updating easements, backhaul infrastructure, and testing costs are infrastructure costs and therefore considered eligible project costs. The term does not include overhead or administrative costs.

NOTES:

A project that is primarily engaged in middle-mile, backhaul infrastructure, or similar work is not an eligible project. The inclusion of middle-mile, backhaul, or similar capacity is permissible in an eligible project, if the capacity does not otherwise exist and is necessary for the project's last-mile broadband connectivity to end-users.

Applicants are encouraged to utilize vertical assets already in place or easily installed (poles, small monopoles, repeaters, etc.) as much as possible. Including new macro towers in a project may create lengthy construction timelines, especially around land purchase and environmental regulations.

C. Total Project Cost—per prospective broadband recipient

D. Infrastructure Cost—per prospective broadband recipient

E. GUMBO Cost—per prospective broadband recipient

F. Proof of Funding Availability

1. Applicants must submit a signed letter of funding availability from each source of funds committed for the project. If loan or other grant funds are pledged, a loan/grant commitment letter from each source of funds must be included.

2. Should an applicant be an awardee of Universal Service, Connect American Phase II, Rural Digital Opportunity Fund, or other federal or non-federal funds for the deployment of broadband service, the applicant shall attest as to whether or not the applicant's GUMBO application and associated project's buildout is dependent upon such awarded funds.

3. The applicant shall indicate whether the applicant, a subsidiary or affiliate of the applicant, or the holding company of the applicant has ever filed for bankruptcy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§315. Proposed Services, Marketing, Adoption, and Community Support

A. Every application shall include:

1. a description of services to be provided, including the proposed upstream and downstream broadband speeds to be delivered and any applicable data caps. Any applicant proposing a data cap shall provide justification to the satisfaction of the office that the proposed cap is in the public interest and consistent with industry standards;

2. the proposed advertised speed to be marketed to end-users (broken out by prospective broadband recipient);

3. the prices of all broadband service packages and the associated broadband transmission speeds that will be offered to consumers as a result of the project;

4. a plan to encourage users to connect that incorporates, at a minimum, community education forums, multimedia advertising, and marketing programs;

5. evidence of support for the project from citizens, local government, businesses, and institutions in the community. The applicant may provide letters or other correspondence from citizens, local government, businesses, and institutions in the community that supports the project. Letters of support from a parish, municipality, or school board, or any instrumentality thereof, will be deemed material for scoring purposes; and

6. any low-income household service offerings, digital equity or literacy support, or programs or partnerships to provide these services. The applicant should also indicate current participation in, or plans to, accept the federal Lifeline subsidy.

B. It is highly encouraged that every application should include:

1. a workforce plan prioritizing the hiring of local, Louisiana resident workers, to include a signed letter of intent with a post-secondary educational institution that is a member of the Louisiana Community and Technical College System, containing an obligation upon the applicant, and contractors or subcontractors of the applicant, to put forth a good-faith effort to hire, when possible, recent graduates of broadband-related programs. At minimum, the workforce plan should also contain a commitment to offer wages at or above the prevailing rate and a description of the applicant's safety and training standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

Chapter 4. Scoring

§401. Overview

A. The GUMBO grant program is a competitive grant program. Applications, or project areas within applications, if applicable, shall be scored independently as provided in this Chapter, based upon a system that awards a single point

for criteria considered to be the minimum level for the provision of broadband service, with additional points awarded to criteria that exceed minimum levels.

B. Applications, or project areas within applications, if applicable, shall be scored independently, and applications or project areas receiving the highest score shall receive priority status for the awarding of grants. Should the final application or project area with priority status for the awarding of a grant have a request for GUMBO funding that exceeds the remaining GUMBO funds available, the final applicant with priority status shall have the option to agree to complete its proposed project in full with the remaining GUMBO funds available in that round. Should the final priority applicant decline, the office shall propose the same to the next highest scored application or project area. This process shall continue until such time as an applicant has agreed, or all remaining applications or project areas within the current grant round have declined. Should all applicants decline the office's offer, the remaining balance of GUMBO funding shall be added to the next succeeding round of GUMBO.

C. As a means of breaking a tie for applications or project areas receiving the same score, the office shall give priority to the application or project area proposing the lowest GUMBO cost per prospective broadband recipient.

D. Upon the close of the application period, and throughout the evaluation and scoring phase of the program process, a blackout period shall be instituted. This blackout period shall remain in effect until the announcement of awards. During this blackout period, applicants shall not initiate contact with the office, except as otherwise provided within this part. The office reserves the right to initiate contact with an applicant to seek clarification of an application or the data contained therein, request additional information, or as necessary in response to an overlapping project area or protest. An applicant may initiate contact with the office for the purposes of amending an application or project area due to overlapping or a protest, or to withdraw an application or project area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§403. Overlapping Applications or Project Areas

A. At the close of the application period, should one or more applications or project areas overlap one or more other applications or project areas, relative to one or more unserved census blocks, shapefile areas, individual addresses, or portions thereof, the impacted applicants, relative to overlapping applications or project areas, shall have the option and ability to resolve the overlapping unserved census blocks, shapefile areas, individual addresses, or portions thereof, through the applicants' own volition, discussion, and efforts. Applicants working to resolve an instance of overlapping applications or project areas, following the close of the application period, shall jointly notify the office of such efforts. An acceptable resolution and amended applications or project areas will be accepted by the office until 5 PM on the 30th day of the 60-day evaluation and protest period. Such an acceptable resolution between impacted applicants shall not result in the addition

of partners to a previously submitted application or project area nor the expansion of an application's project area.

B. Following 5 PM on the 30th day of the 60-day evaluation and protest period, should one or more applications or project areas overlap one or more other applications or project areas, relative to one or more unserved census blocks, shapefile areas, individual addresses, or portions thereof, each application or project area shall be scored independently. The application or project area receiving the highest score shall proceed to grant funding consideration with its project area boundary intact. Any application or project area, regardless of the geographical size of the application or project area, overlapping a higher scored application or project area, shall be removed from grant funding consideration. A project area being removed from grant funding consideration shall not impact scoring of other project areas within the same application, if applicable. All project areas shall be scored independently.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§405. Factors Subject to Scoring

A. Applicant Experience. The office shall award points based upon the applicant's experience, technical ability, financial wherewithal in successfully deploying and providing broadband service, and the matching funds percentage of the total cost of the project. For experience, the office shall reference, by date of application submittal and without regard to the potential project, the number of years the applicant has provided internet services; the number of households to which the applicant currently provides broadband internet service access (at least 25:3 Mbps); the number of internet service infrastructure projects completed by the applicant, funded in part through federal or state grant programs, prior to the date of application submittal; penalties paid by the applicant, relative to internet service infrastructure projects funded in part through federal or state grant programs, prior to the date of application submittal; and whether the applicant, a subsidiary or affiliate of the applicant, or the holding company of the applicant has ever been a defendant in any federal or state criminal proceeding or civil litigation as a result of its participation in an internet service infrastructure project funded in part through federal or state grant programs, prior to the date of application submittal. Points shall be awarded as follows.

Years Providing Internet Service	Points
No prior service.	0
4 years or less	1
5 years to 9 years	2
10 years to 14 years	3
15 years to 19 years	4
20 years or longer	5

Households Provided Access	Points
None	0
4,999 or less	1
5,000 to 14,999	2
15,000 to 24,999	3
25,000 to 49,999	4
50,000 or more	5

Completed Internet Projects	Points
None	0
1 to 3 projects	1
4 to 6 projects	2
7 to 9 projects	3
10 to 14 projects	4
15 or more projects	5

Penalties Paid	Points
One or more	0
None	5

Defendant in Criminal or Civil Proceeding	Points
One or more	0
None	5

NOTE: If an applicant has not participated in an internet service infrastructure project funded, in part, through federal or state grant programs, the applicant shall not receive points in the "penalties paid" or "defendant in criminal or civil proceeding" scoring criteria.

B. Technical Ability. The office shall award points based upon the broadband transmission speeds (Mbps download and upload) that will be deployed as a result of the project. If more than one set of transmission speeds are offered to consumers, scoring shall be based on the slowest transmission speeds offered. The office shall award points based upon the scalability of the project's technology and infrastructure beyond the project's current maximum speed offering for future increases in bandwidth. Should a project include a mix of wireline and fixed wireless technology solutions, broadband speed and scalability criteria shall be scored based upon the technology that serves a majority of a project's prospective broadband recipients. The office shall reference the average distance, in miles, between prospective broadband recipients to be served by the project and shall award points to the five applications or project areas with the longest average distance between prospective broadband recipients. Points shall be awarded as follows.

Broadband Speeds (Mbps Down: Mbps Up)	Points
At least 100:20	1
100:100 and beyond	7

Scalability (Mbps Down: Mbps Up)	Points
At least 100:100	1
At least 300:300	3
At least 500:500	7
At least 1000:1000	10

Average Distance (in miles) Between Prospective Broadband Recipients	Points
Longest average distance	5
2 nd longest average distance	4
3 rd longest average distance	3
4 th longest average distance	2
5 th longest average distance	1
6 th longest average distance or shorter	0

C. Financial Wherewithal. The office shall reference both a project's total cost per prospective broadband recipient and GUMBO cost per prospective broadband recipient. A project's total cost per prospective broadband recipient shall be calculated by dividing a project's total cost by the total number of prospective broadband recipients to be served by the project. A project's GUMBO cost per prospective broadband recipient shall be calculated by dividing a project's total GUMBO requested funding by the total number of prospective broadband recipients to be served by the project. In each criterion, the office shall award points to the 10 applications or project areas with the lowest costs per prospective broadband recipient. The office shall also reference the number of bankruptcies filed (prior to the date of application submission). Points shall be awarded as follows.

Cost Per Prospective Broadband Recipient	Points
Lowest cost	10
2 nd lowest cost	9
3 rd lowest cost	8
4 th lowest cost	7
5 th lowest cost	6
6 th lowest cost	5
7 th lowest cost	4
8 th lowest cost	3
9 th lowest cost	2
10 th lowest cost	1
11 th lowest cost or higher	0

GUMBO Cost Per Prospective Broadband Recipient	Points
Lowest cost	20
2 nd lowest cost	18
3 rd lowest cost	16
4 th lowest cost	14
5 th lowest cost	12
6 th lowest cost	10
7 th lowest cost	8
8 th lowest cost	6
9 th lowest cost	4
10 th lowest cost	2
11 th lowest cost or higher	0

Bankruptcies	Points
1 or more.	0
No prior bankruptcies.	2

D. Matching Funds. The office shall calculate the provider's matching funds percentage of the total cost of the project and award points based on matching funds. Points shall be awarded as follows.

Provider Matching Funds (Percentage of Total Cost)	Points
20 percent	0
Each additional percentage point – beyond required 20 percent.	1
Each increment of 5 percentage points – beyond required 20 percent.	5 Bonus Points

NOTE: An applicant will receive 1 point for each percentage point of matching funds provided, beyond the required 20

percent. Additionally, an applicant will receive 5 bonus points for each increment of 5 percentage points of matching funds provided, beyond the required 20 percent. Points are awarded based upon the total percentage of matching funds provided, beyond the required 20 percent, irrespective of the number of providers contributing to a single project.

E. Local Government Support. The office shall award points based upon letters of support from local governments. The office shall reference letters submitted by a parish, municipality, or school board, or any instrumentality thereof. Points shall be awarded as follows.

Local Government Letters of Support, Numbers	Points (max. 3 points)
1 local government	1
2 local government	2
3+ local governments	3

F. Estimated Number of Unserved Households. The office shall award points to projects based upon the estimated number of unserved households within the eligible economically distressed parish, as determined by the most recent data published by the Federal Communications Commission or the most reliable source of information available as of the close of the application period, as determined by the office. Points shall be awarded as follows.

Number of Unserved Households	Points
499 or fewer	1
500 to 1,999	2
2,000 to 4,999	3
5,000 to 9,999	4
10,000 or more	5

NOTE: If a contiguous project area crosses from an eligible parish into one or more eligible adjacent parishes, the project shall be deemed to be located in the parish where the greatest number of unserved households are proposed to be served.

G. Percentage of Total Unserved Households Served. The office shall award points to projects that will provide broadband service based upon the percentage of the total unserved households within the eligible economically distressed parish that the project will newly and directly serve. Unserved households served as a result of other, non-GUMBO federal or state grant programs shall not be used in the calculation of this criterion. The number of unserved households shall be determined using the most recent data published by the Federal Communications Commission or the most reliable source of information available as of the close of the application period, as determined by the office. Points shall be awarded as follows.

Percent of Unserved Households Newly & Directly Served	Points
5 percent or less	1
6 percent to 10 percent	2
11 percent to 24 percent	3
25 percent to 49 percent	4
50 percent or more	5

NOTE: If a contiguous project area crosses from an eligible parish into one or more eligible adjacent parishes, the project shall be deemed to be located in the parish where the greatest number of unserved households are proposed to be served.

H. Unserviced Businesses Served. The office shall award points to projects that will provide broadband service to unserved businesses newly and directly served by the project located within the eligible economically distressed parish, as determined by the most recent data published by the Federal Communications Commission or the most reliable source of information available as of the close of the application period, as determined by the office. Unserviced businesses served as a result of other, non-GUMBO federal or state grant programs shall not be used in the calculation of this criterion. A residential-based business shall be classified by the applicant as either a residence or a business and shall not be counted as both. Points shall be awarded as follows.

Number of Unserviced Businesses	Points
5 or fewer	1
6 to 10	2
11 to 15	3
15 to 19	4
20 or more	5

I. Leverage of Existing Infrastructure. The office shall award points based upon the applicant's ability to leverage its own or nearby or adjacent broadband service infrastructure in the proposed project area. For reference, the office will refer to the percentage of total mileage of project infrastructure composed of preexisting infrastructure. The office will also refer to the project's proposed estimated construction timeline, as measured from the award of the grant agreement, and award points in the following categories: construction start date and construction completion date. Construction completion date scoring will utilize two separate scoring criteria, one for wireline and one for fixed wireless. Should a project include a mix of wireline and fixed wireless technology solutions, the project completion date criterion shall be scored based upon the technology that serves a majority of a project's prospective broadband recipients. Points shall be awarded as follows.

Percentage of Mileage of Preexisting Infrastructure	Points
None	0
9 percent or less	1
10 percent to 19 percent	2
20 percent to 29 percent	3
30 percent to 39 percent	4
40 percent or more	5

Construction Start Date	Points
12 months or longer	1
Within 8 to 11 months	2
Within 5 to 7 months	3
Within 2 to 4 months	4
Within 1 month	5

Wireline Construction Completion Date	Points
24 months or longer	1
Within 18 to 23 months	4
Within 13 to 17 months	6
Within 7 to 12 months	8
Within 6 months or less	10

Fixed Wireless Construction Completion Date	Points
24 months or longer	1
Within 18 to 23 months	2
Within 13 to 17 months	3
Within 7 to 12 months	4
Within 6 months or less	5

J. Consumer Price. The office shall award points based upon the ultimate price of broadband service to the consumer as a result of the proposed project and shall reference the average price of all broadband service packages offered to consumers by an applicant as the result of the proposed project. The office shall award points to the 10 applications or project areas with the lowest average price of all broadband service packages offered to consumers by an applicant as a result of the proposed project. Points shall be awarded as follows.

Consumer Price (Lowest Average Package Price)	Points
Lowest average price	10
2 nd lowest average price	9
3 rd lowest average price	8
4 th lowest average price	7
5 th lowest average price	6
6 th lowest average price	5
7 th lowest average price	4
8 th lowest average price	3
9 th lowest average price	2
10 th lowest average price	1
11 th lowest average price or higher	0

NOTE: An applicant that has offered broadband service to at least 1,000 consumers for a period of at least 5 consecutive years is required to offer broadband service at prices that are, at least, consistent with offers to consumers in other areas of the state.

K. Local Government In-Kind Contributions and Matching Funds. The office shall award points to projects receiving in-kind contributions or matching funds from a local government for eligible projects within the jurisdictional area of the local government. A local government is defined as a parish, municipality, or school board, or any instrumentality thereof. Each local government has the option to provide in-kind contributions or matching funds to a project, and more than one local government can provide in-kind contributions or matching funds to any one project. Points shall be awarded as follows.

Local Gov't In-kind & Matching	Points
No in-kind contribution or funding match	0
Each percentage point of total project cost provided by in-kind contributions or funding matches.	1
Each increment of 5 percentage points of total project cost provided by in-kind contributions or funding matches	5 Bonus Points

NOTE: An applicant will receive 1 point for each percentage point of the total cost of a project provided by local government through in-kind contributions or matching funds

Additionally, an applicant will receive 5 bonus points for each increment of 5 percentage points of the total cost of a project provided by local government through in-kind contributions or matching funds. Points are awarded based upon the total percentage of in-kind contributions and matching funds provided by local governments, irrespective of the number of local governments contributing to the project.

L. Small Business Entrepreneurship. The office shall award points to projects in which the eligible grant recipient is a small business entrepreneurship certified by the Hudson Initiative (R.S. 39:2001 et seq.) or the Veteran Initiative (R.S. 39:2171 et seq.). Points shall be awarded as follows.

Certified Hudson / Vet Initiative Grant Recipient	Points
Grant recipient certified by the Hudson and/or the Veterans Initiative	10

M. Small Business Entrepreneurship Subcontracting. The office shall award points to projects in which the eligible grant recipient commits to a good faith subcontracting plan to contract with or employ a small business entrepreneurship certified by the Hudson Initiative (R.S. 39:2001 et seq.) or the Veteran Initiative (R.S. 39:2171 et seq.) to substantially participate in the performance of the project. Points shall be awarded as follows.

Certified Hudson / Vet Initiative Subcontractor(s)	Points (max. 20 points)
Each subcontractor certified by the Hudson and/or the Veterans Initiative	2

N. Summary of Scored Sections. As set forth in this Section, the scored categories of GUMBO program applications or project areas shall be as follows, repeated for comprehensive clarity.

Summary	
Scored Section	Points
A-1. Experience (Years Providing Internet Service)	0 – 5
A-2. Experience (Households Provided Access)	0 – 5
A-3. Experience (Completed Internet Projects)	0 – 5
A-4. Experience (Penalties Paid)	0 – 5
A-5. Experience (Defendant in Criminal or Civil)	0 – 5
B-1. Technical Ability (Broadband Speeds)	1 – 7
B-2. Technical Ability (Scalability)	0 – 10
B-3. Technical Ability (Distance Between Broadband Recipients)	0 – 5
C-1. Financial Wherewithal (Cost Per Prospective Broadband Recipient)	0 – 10
C-2. Financial Wherewithal (GUMBO Cost Per Prospective Broadband Recipient)	0 – 20
C-3. Financial Wherewithal (Bankruptcy)	0 – 2
D. Provider Matching Funds	0 – 1 – 5+
E. Local Government Letters of Support	1 – 3
F. Number of Unserved Households in Parish	1 – 5
G. Percent of Total Unserved Households Now Served	1 – 5
H. Unserved Businesses Now Served	1 – 5
I-1. Leverage of Existing Infrastructure (Percentage of Mileage of Preexisting Infrastructure)	0 – 5
I-2. Leverage of Existing Infrastructure (Timing of Construction Start Date)	1 – 5
I-3. Leverage of Existing Infrastructure (Timing of Wireline Construction Completion)	1 – 10
Or	

Summary	
Scored Section	Points
I-4. Leverage of Existing Infrastructure (Timing of Wireless Construction Completion)	1 – 5
J. Consumer Price	0 – 10
K. Local Government Matching	0 – 1 – 5+
L. Certified Hudson/Vet Initiative Grant Recipient	0 – 10
M. Certified Hudson/Vet Initiative Subcontractor	0 – 20
Total Possible Points:	7 – 167+

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

Chapter 5. Protests

§501. Protests

A. All GUMBO applications shall be publicly available on the office’s website for a period of at least 60 days prior to award. During the 60-day period, any interested party may submit comments to the director concerning any pending application.

B. The protest process, official decisions, and provider appeals shall be conducted in accordance with R.S. 51:2370.4(C) and 2370.5, as well as this Chapter.

C. A provider of broadband service may submit a protest of any application or project area on the grounds the proposed project covers an area where either broadband service exists, or construction of broadband infrastructure will begin within 24 months as described in §201 of this part and defined within the GUMBO grant program. Comments and protests shall be submitted in writing through the office’s website, and all protests shall be accompanied by all relevant supporting documentation and shall be considered by the office in connection with the review of the application or project area. The protesting party bears the burden of proof.

D. Protests shall contain all relevant supporting documentation, including, but not limited to, the following:

1. a signed and notarized affidavit affirming the protest and attached information are true;
2. current Federal Communications Commission (FCC) Form 477 or equivalent;
3. minimum/maximum speeds available in the proposed project area;
4. number of serviceable locations within the proposed project area, including the speeds those serviceable locations are able to receive;
5. street level data of customers receiving service within the proposed project area;
6. point shapefiles that show each proposed passing in the challenged area, designated by a singular mapped point, in the protested area containing attribute data showing the addresses of each point;
7. polygon shapefiles delineating the general challenged area(s);
8. through the use of the project area map submitted by the applicant, a map indicating where the protested serviceable locations are within the proposed project area;
9. heat maps indicating received signal strength indicator (RSSI) in the challenged area.

E. Upon the close of the application period, and throughout the succeeding 60-day protesting period, a blackout period shall be instituted. This blackout period shall

remain in effect until the announcement of awards. During this blackout period, protesting parties shall not initiate contact with the office, except as provided by this section. The office reserves the right to initiate contact with a protesting party to seek clarification of a protest, the data contained therein, or to request additional information.

F. Should a protest be validated, the office shall work with an applicant to amend an application or project area to reduce the number of unserved prospective broadband recipients and re-scope the application or project area. The office shall revise application or project area scores in accordance with amended applications. As a result of a validated protest and a reduction in the number of unserved prospective broadband recipients, an applicant shall also have the option to withdraw its application or project area.

G. The protest period for protesting an award shall not exceed 7 days from the announcement of awards.

H. Protest and appeal decisions provided by the director and the Commissioner of Administration shall be provided in writing to the protesting party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

Chapter 6. Awards

§601. Protests

A. The protest period for protesting an award shall not exceed 7 days from the announcement of awards.

B. The protest procedure for protesting an award shall follow the rules presented in Chapter 5 of this part.

§603. Grant Agreement

A. A grant recipient shall have 30 days, from award of the grant agreement, to negotiate and sign the agreement. If the grant agreement is not signed by the grant recipient within 30 days from award of the agreement, the office shall reserve the right to rescind the award and proceed to award a grant agreement to the next highest scored applicant with priority status for the awarding of a grant.

B. Construction start and completion dates shall be calculated for scoring, compliance, and failure to perform purposes and evaluations, beginning with the date of the award of the grant agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

Chapter 7. Compliance

§701. Speed and Cost Compliance

A. The office shall require that grant recipients offer the proposed advertised minimum download and minimum upload speeds of at least 100:20 Mbps.

B. Grant recipients that have offered broadband service to at least one thousand consumers for a period of at least five consecutive years shall offer broadband service at prices consistent with offers to consumers in other areas of the state. Any other broadband provider shall ensure that the broadband service is priced to consumers at no more than the cost rate identified in the project application, for the duration of the five-year service agreement.

C. In calculating cost, the recipient may adjust annually, consistent with the annual percentage increase in the Consumer Price Index in the preceding year.

D. At least annually, a grant recipient shall provide to the office evidence consistent with Federal Communications Commission attestation that the grant recipient is making available the proposed advertised speed, or a faster speed, as contained in the grant agreement.

E. For the duration of the agreement, grant recipients shall disclose any changes to data caps.

F. Grant recipients shall be required to participate in federal programs that provide low-income consumers with subsidies on broadband internet access services. Initially, grant recipients will be required to participate in the Federal Communications Commission's Emergency Broadband Benefit program. Once the FCC's EBB program has terminated, the grant recipient shall participate in any program so designated by the U.S. Department of the Treasury.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§703. Reporting

A. Grant recipients shall submit to the office a monthly report for each funded project for the duration of the agreement. The report shall include reporting requirements selected at the discretion of the office. Such reporting requirements, once selected, shall be consistently applied to all grant recipients of any grant program round and be effective for at least one program year. Monthly reporting may be revised from program year to program year, at the discretion of the office.

B. Grant recipients, upon request from the office, shall provide:

1. project and expenditure reports, to include but not limited to: expenditures, project status, subawards, civil rights compliance, equity indicators, community engagement efforts, geospatial data, workforce plans and practices, and information about subcontracted entities; and

2. performance reports, to include but not limited to project outputs and outcomes.

C. Grant recipients shall submit to the office an annual report for each funded project for the duration of the agreement. The report shall include, but not be limited to, the following summary of the items contained in the grant agreement and the following details:

1. the number of residential and commercial locations that have broadband access as a result of the project;

2. percentage of households in the project area who have access to broadband service;

3. percentage of subscribers in the project area to the broadband service;

4. average monthly subscription rate for residential and commercial broadband service in the project area;

5. any right-of-way fees or permit fees paid to local government, state government, railroad, private entity or person during the fulfillment of the grant awarded;

6. any delays encountered when obtaining a right-of-way permission.

D. The office, at its sole discretion and at any time, shall reserve the right to request any additional data and reporting information that the office deems necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§705. Disbursement and Reimbursement

A. The Division of Administration shall be the designated agency for receipt and disbursement of state and federal funds intended for the state for broadband expansion or allocated by the state for broadband expansion.

B. All federal grant funds received by the state through the American Rescue Plan Act for the purpose of broadband expansion shall be disbursed in accordance with the GUMBO program.

C. Funding in accordance with completion shall be distributed to a grantee once the grantee has demonstrated that a project has reached the following percentile completion thresholds, which shall be defined as a percentage of the total number of prospective broadband recipients proposed to be served by the project:

1. 10 percent;
2. 35 percent;
3. 60 percent;
4. 85 percent;
5. 100 percent.

D. The final 15 percent payment shall not be paid without an approved completion report. Invoice for final payment shall be submitted within 90 days of completion date. All invoices are subject to audit for three years from the completion date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§707. Failure to Perform

A. A grant recipient shall forfeit the amount of the grant received if it fails to perform, in material respect, the obligations established in the agreement.

B. Grant recipients that fail to provide the minimum advertised connection speed and cost at the advertised rate shall forfeit any matching funds, up to the entire amount received through the GUMBO program.

C. The office shall use its discretion to determine the amount forfeited.

D. A grant recipient that forfeits amounts disbursed under this part is liable for up to the amount disbursed plus interest.

E. The number of subscribers that subscribe to broadband services offered by the provider in the project area shall not be a measure of performance under the agreement for the purposes of this Section.

F. A grant recipient shall not be required to forfeit the amount of the grant received if it fails to perform due to a natural disaster, an act of God, force majeure, a catastrophe, pandemic, or such other occurrence over which the grant recipient has no control.

G. If a grant recipient fails to perform and fails to return the full forfeited amount required, the ownership and use of

the broadband infrastructure funded by the GUMBO program shall revert to the Division of Administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§709. Federal Oversight, Civil Rights Compliance, and Other Applicable Federal Law

A. Grant recipients are subject to audit or review by the U.S. Department of the Treasury Inspector General and Government Accountability Office.

B. Grant recipients shall not deny benefits or services, or otherwise discriminate on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity), in accordance with the following authorities:

1. Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. 2000d-1 et seq., and the Treasury Department's implementing regulations, 31 C.F.R. part 22;

2. Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. 794;

3. Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. 1681 et seq., and the Treasury Department's implementing regulations, 31 C.F.R. part 28; and

4. Age Discrimination Act of 1975, 42 U.S.C. 6101 et seq., and the Treasury Department's implementing regulations, 31 C.F.R. part 23.

C. Grant recipients and all proposed projects must comply with all applicable federal environmental laws. Additionally, grant recipients and all proposed projects must comply with the following federal laws and regulations:

1. the 2019 National Defense Authorization Act (NDAA);

2. 2 C.F.R. Part 200; and

3. the Contract Work Hours and Safety Standards Act, 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations 29 C.F.R. Part 5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

Jay Dardenne
Commissioner

2110#058

DECLARATION OF EMERGENCY

Office of the Governor Division of Administration Patient's Compensation Fund Oversight Board

Qualified Health Care Provider Services
(LAC 37:III.133-137)

A state of emergency for the state of Louisiana was declared by President Joseph R. Biden in late August 2021 due to the devastation caused by Hurricane Ida and its aftermath. In addition, pursuant to Proclamation No. 165 JBE 2021, Governor John Bel Edwards declared a state of

emergency for Louisiana due to the effects of Hurricane Ida on Louisiana and its citizens.

Pursuant to the emergency provisions of the Louisiana Administrative Procedure Act, R.S. 49:953.1, R.S. 22:11, and the authority granted by R.S. 22:1 et seq., the Department of Insurance caused the promulgation of Emergency Rule 47, entitled "Suspension of Certain Statutes Regarding Cancellations, Termination, Non-Renewals, and Nonreinstatements, Premium Payments, Claim Filings and Related Provisions Regarding Any and All Insurance Matters Affecting Insureds in Louisiana Caused by the State of Emergency Declared by Governor John Bel Edwards on August 26, 2021, Due to Hurricane Ida", which addressed the devastation caused by Hurricane Ida and its aftermath that created emergency conditions threatening the health, safety and welfare of the citizens of Louisiana who are insureds (as defined therein) and who, *inter alia*, either reside in, whose primary place of employment is or was in, or whose permanent employer had assigned said person to a business located in, one of the following 25 parishes, to wit: Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana. Emergency Rule 47 suspends certain statutes and regulations regarding cancellations, non-renewals, reinstatements, premium payments, claim filings and related provisions regarding any and all insurance matters affecting these certain insureds, including healthcare providers, and was published in the September 2021 issue of the *Louisiana Register*.

Upon finding that imminent peril to the public health, safety or welfare required adoption of an Emergency Rule, the Patient's Compensation Fund Oversight Board (Oversight Board), under authority of the Louisiana Medical Malpractice Act, R.S. 40:1231.1 et seq. (MMA), and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., adopted this Emergency Rule 8 at its meeting held on September 23, 2021.

Many qualified healthcare providers (QHCPs) enrolled in the Patient's Compensation Fund (Fund or PCF) are being severely impacted by Hurricane Ida and the disruptions therefrom. It is believed that these disruptions have affected and will continue to affect for some time, the ability of these QHCPs to timely pay their annual renewal PCF surcharges in full and, as such, may seriously affect the provision of health care services by QHCPs to patients in Louisiana. This public health emergency has undoubtedly created a mass disruption to the normalcy previously enjoyed by QHCPs and patients and produced an immediate threat to the public health, safety, and welfare of Louisiana citizens, both patients and QHCPs alike.

Accordingly, Emergency Rule 8 was adopted by the Oversight Board and shall apply to all QHCPs as set forth in this Emergency Rule.

In the ordinary course of business and pursuant to LAC 37:III.517, a QHCP is allowed a "grace" period of 30 days in which to pay the annual renewal PCF surcharge in full to the insurer, the PCF or to the self-insurance trust, as applicable, to extend PCF coverage for another year. Hurricane Ida and its aftermath and the public health emergency resulting

therefrom have produced a disruption in the ability of many QHCPs to timely pay the annual renewal PCF surcharge in full to maintain their enrollment in the Fund. This could result in a QHCP being without PCF coverage or having a gap in PCF coverage. Emergency Rule 8 was adopted to provide emergency relief to QHCPs as set forth therein.

Title 37

INSURANCE

Part III. Patient's Compensation Fund Oversight Board

Chapter 1. General Provisions

§133. Qualified Health Care Provider Services

Emergency Rule 8

A.1. Emergency Rule 8 shall apply to all QHCPs:

a. who either reside in or whose primary place of employment is or was in, one of the following 25 parishes, to wit: Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana; and

b. whose renewal date or 30 day grace period for payment of the PCF annual renewal surcharge occurs on or after August 26, 2021 but prior to the expiration of this Emergency Rule 8.

2. For purposes of this Emergency Rule 8, QHCPs who meet the above criteria shall be referred to herein as "affected QHCPs". The provisions of this Emergency Rule 8 shall not apply to any health care provider not previously enrolled in the PCF prior to August 26, 2021.

3. The oversight board's rules, previously promulgated in the *Louisiana Register*, and the applicable provisions of the PCF's Rate Manual, to the extent that said regulatory provisions impose upon QHCPs a time limit to pay the applicable annual PCF renewal surcharges, shall be suspended for affected QHCPs during the effective periods set forth in this Emergency Rule 8. Except as provided for in Paragraph A.5 of this Section, the cancellation of PCF qualification for affected QHCPs for failure to timely pay an annual PCF renewal surcharge is hereby suspended until the earlier of September 27, 2021 or the date the governor lifts the state of emergency presently in effect as a result of Hurricane Ida and its aftermath, inclusive of any renewal thereof.

a. PCF surcharges for all affected QHCPs whose renewal date or 30 day grace period for payment of the annual PCF renewal surcharge occurs on or after August 26, 2021 but prior to or on the earlier of September 27, 2021 or the date the governor lifts the state of emergency presently in effect as a result of Hurricane Ida and its aftermath, inclusive of any renewal thereof (suspension period), shall be due and owing on the date that is thirty days immediately following the earlier of September 27, 2021 or the date the Governor lifts the State of Emergency presently in effect as a result of Hurricane Ida and its aftermath, inclusive of any renewal thereof. Affected QHCPs shall also furnish the required proof of financial responsibility concurrently with the payment of the appropriate surcharge. PCF surcharges for all other QHCPs shall be due, owing and payable consistent with the oversight board's previously promulgated rules.

b. The executive director is hereby granted continuing authority to reasonably extend the suspension

period for those affected QHCPs who certify to the oversight board in writing that said affected QHCP was impacted by the state of emergency in a manner, including but not limited to, evacuation, displacement, business interruption, or temporary relocation, sufficient to prevent the timely payment of the renewal surcharge (extended suspension period).

c. The 30 day grace period provided for in LAC 37:III §517 for payment of the annual PCF renewal surcharge by affected QHCPs who have been granted an extension of the suspension period shall commence on the day immediately following the end of the extended suspension period; the 30 day grace period for all other affected QHCPs shall commence on the day immediately following the earlier of September 27, 2021 or the date the governor lifts the state of emergency presently in effect as a result of Hurricane Ida and its aftermath, inclusive of any renewal thereof.

4. In the event an insurer, agent or trust fund collects a renewal surcharge during the suspension period from an affected QHCP, then the renewal surcharge shall be timely remitted to the PCF consistent with the MMA and the oversight board's applicable rules.

5. A cancellation of PCF qualification for an affected QHCP shall not occur prior to the earlier of September 27, 2021 or the date the governor lifts the state of emergency presently in effect as a result of Hurricane Ida and its aftermath, inclusive of any renewal thereof, unless upon the documented written request or written concurrence of the affected QHCP.

6. Unless otherwise cancelled pursuant to the provisions of Paragraph 5 herein, nothing in this Emergency Rule 8 shall be construed to exempt or excuse an affected QHCP from the obligation to pay the applicable PCF surcharge for renewal or for an extended reporting endorsement otherwise due for actual PCF qualification provided during the suspension period or the extended suspension period.

7. Emergency Rule 8 shall not relieve an affected QHCP from compliance with the MMA and the applicable oversight board's rules upon receiving notice of the filing of a medical review panel request (claim) against the affected QHCP.

8. The provisions of this Emergency Rule 8 shall be liberally construed to effectuate the intent and purposes expressed herein and to afford maximum protection for the affected QHCPs and the citizens of Louisiana.

9. Emergency Rule 8 became effective on August 26, 2021 and shall continue in full force and effect to the earlier of September 27, 2021 or the date the governor lifts the state of emergency presently in effect as a result of Hurricane Ida and its aftermath, inclusive of any renewal thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1231.4(D)(3) and to be consistent with Emergency Rule No. 47 of the Louisiana Department of Insurance.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Patient's Compensation Fund Oversight Board, LR 47:

§135. Termination; Survival

A. Emergency Rule 8 shall terminate on the earlier of September 27, 2021 or the date the governor lifts the state of emergency presently in effect as a result of Hurricane Ida and its aftermath, inclusive of any renewal thereof. However,

Paragraphs A.3 and A.6 through A.8 of §133 shall survive the termination of this Emergency Rule 8.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1231.4(D)(3) and to be consistent with Emergency Rule No. 47 of the Department of Insurance.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Patient's Compensation Fund Oversight Board, LR 47:

§137. Severability Clause

A. If any section or provision of Emergency Rule 8, as originally adopted and/or amended, is held invalid, such invalidity or determination shall not affect other Sections or provisions, or the application of Emergency Rule 8, as originally adopted and/or amended, to the affected QHCPs or circumstances that can be given effect without the invalid Sections or provisions and the application to affected QHCPs or circumstances shall be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1231.4(D)(3) and to be consistent with Emergency Rule No. 47 of the Department of Insurance.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Patient's Compensation Fund Oversight Board, LR 47:

Ken Schnauder
Executive Director

2110#013

DECLARATION OF EMERGENCY

Office of the Governor Division of Administration Patient's Compensation Fund Oversight Board

Qualified Health Care Provider Services
(LAC 37:III.133-137)

A State of Emergency for the state of Louisiana was declared by President Joseph R. Biden in late August 2021 due to the devastation caused by Hurricane Ida and its aftermath. In addition, pursuant to Proclamation No. 165 JBE 2021, Governor John Bel Edwards declared a State of Emergency for Louisiana, and subsequently pursuant to Proclamation No. 178 JBE 2021, Governor John Bel Edwards extended such State of Emergency for Louisiana, due to the effects of Hurricane Ida on Louisiana and its citizens.

Pursuant to the emergency provisions of the Louisiana Administrative Procedure Act, R.S. 49:953.1, R.S. 22:11, and the authority granted by R.S. 22:1 et seq., the Department of Insurance caused the promulgation and repromulgation of Emergency Rule 47, entitled "Suspension of Certain Statutes Regarding Cancellations, Termination, Non-Renewals, and Nonreinstatements, Premium Payments, Claim Filings and Related Provisions Regarding Any and All Insurance Matters Affecting Insureds in Louisiana Caused by the State of Emergency Declared by Governor John Bel Edwards on August 26, 2021, Due to Hurricane Ida", which addressed the devastation caused by Hurricane Ida and its aftermath that created emergency conditions threatening the health, safety and welfare of the citizens of Louisiana who are insureds (as defined therein) and who, *inter alia*, either reside in, whose primary place of employment is or was in, or whose permanent employer had assigned said person to a

business located in, one of the following 25 parishes, to wit: Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana. Emergency Rule 47 and the repromulgation of Emergency Rule 47 suspends certain statutes and regulations regarding cancellations, non-renewals, reinstatements, premium payments, claim filings and related provisions regarding any and all insurance matters affecting these certain insureds, including healthcare providers, and was published in the September 2021 and October 2021 issues respectively of the *Louisiana Register*.

Upon finding that imminent peril to the public health, safety or welfare required adoption of an emergency rule, the Patient's Compensation Fund Oversight Board (Oversight Board), under authority of the Louisiana Medical Malpractice Act, R.S. 40:1231.1 et seq. (MMA), and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., adopted Emergency Rule 8 at its meeting held on September 23, 2021. At its meeting held on October 7, 2021, the oversight board adopted this Emergency Rule 8-A to extend the provisions of Emergency Rule 8 to October 24, 2021.

Many qualified healthcare providers (QHCPs) enrolled in the Patient's Compensation Fund (Fund or PCF) are being severely impacted by Hurricane Ida and the disruptions therefrom. It is believed that these disruptions have affected and will continue to affect for some time, the ability of these QHCPs to timely pay their annual renewal PCF surcharges in full and, as such, may seriously affect the provision of health care services by QHCPs to patients in Louisiana. This public health emergency has undoubtedly created a mass disruption to the normalcy previously enjoyed by QHCPs and patients and produced an immediate threat to the public health, safety, and welfare of Louisiana citizens, both patients and QHCPs alike.

Accordingly, Emergency Rule 8-A was adopted by the Oversight Board and shall apply to all QHCPs as set forth in this Emergency Rule.

In the ordinary course of business and pursuant to LAC 37:III.517, a QHCP is allowed a "grace" period of 30 days in which to pay the annual renewal PCF surcharge in full to the insurer, the PCF or to the self-insurance trust, as applicable, to extend PCF coverage for another year. Hurricane Ida and its aftermath and the public health emergency resulting therefrom have produced a disruption in the ability of many QHCPs to timely pay the annual renewal PCF surcharge in full to maintain their enrollment in the Fund. This could result in a QHCP being without PCF coverage or having a gap in PCF coverage. Emergency Rule 8-A was adopted to provide emergency relief to QHCPs as set forth therein.

Title 37

INSURANCE

Part III. Patient's Compensation Fund Oversight Board

Chapter 1. General Provisions

§133. Qualified Health Care Provider Services

A.1. Emergency Rule 8-A shall apply to all QHCPs:

a. who either reside in or whose primary place of employment is or was in, one of the following 25 parishes, to wit: Ascension, Assumption, East Baton Rouge, East

Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana; and

b. whose renewal date or 30 day grace period for payment of the PCF annual renewal surcharge occurs on or after September 28, 2021 but prior to the expiration of this Emergency Rule 8-A.

2. For purposes of this Emergency Rule 8-A, QHCPs who meet the above criteria shall be referred to herein as affected QHCPs. The provisions of this Emergency Rule 8-A shall not apply to any health care provider not previously enrolled in the PCF prior to September 28, 2021.

3. The oversight board's rules, previously promulgated in the *Louisiana Register*, and the applicable provisions of the PCF's Rate Manual, to the extent that said regulatory provisions impose upon QHCPs a time limit to pay the applicable annual PCF renewal surcharges, shall be suspended for Affected QHCPs during the effective periods set forth in this Emergency Rule 8-A. Except as provided for in Paragraph A.5 of this Section, the cancellation of PCF qualification for affected QHCPs for failure to timely pay an annual PCF renewal surcharge is hereby suspended until the earlier of October 24, 2021 or the date the governor lifts the State of Emergency presently in effect as a result of Hurricane Ida and its aftermath, inclusive of any renewal thereof.

a. PCF surcharges for all affected QHCPs whose renewal date or 30 day grace period for payment of the annual PCF renewal surcharge occurs on or after August 26, 2021 but prior to or on the earlier of October 24, 2021 or the date the governor lifts the State of Emergency presently in effect as a result of Hurricane Ida and its aftermath, inclusive of any renewal thereof (suspension period), shall be due and owing on the date that is 30 days immediately following the earlier of October 24, 2021 or the date the governor lifts the State of Emergency presently in effect as a result of Hurricane Ida and its aftermath, inclusive of any renewal thereof. Affected QHCPs shall also furnish the required proof of financial responsibility concurrently with the payment of the appropriate surcharge. PCF surcharges for all other QHCPs shall be due, owing and payable consistent with the oversight board's previously promulgated rules.

b. The executive director is hereby granted continuing authority to reasonably extend the suspension period for those affected QHCPs who certify to the oversight board in writing that said affected QHCP was impacted by the State of Emergency in a manner, including but not limited to, evacuation, displacement, business interruption, or temporary relocation, sufficient to prevent the timely payment of the renewal surcharge (extended suspension period).

c. The 30 day grace period provided for in LAC 37:III.517 for payment of the annual PCF renewal surcharge by affected QHCPs who have been granted an extension of the suspension period shall commence on the day immediately following the end of the extended suspension period; the 30 day grace period for all other affected QHCPs shall commence on the day immediately following the earlier of October 24, 2021 or the date the governor lifts the State of Emergency presently in effect as a result of

Hurricane Ida and its aftermath, inclusive of any renewal thereof.

4. In the event an insurer, agent or trust fund collects a renewal surcharge during the suspension period from an Affected QHCP, then the renewal surcharge shall be timely remitted to the PCF consistent with the MMA and the oversight board's applicable rules.

5. A cancellation of PCF qualification for an affected QHCP shall not occur prior to the earlier of October 24, 2021 or the date the governor lifts the State of Emergency presently in effect as a result of Hurricane Ida and its aftermath, inclusive of any renewal thereof, unless upon the documented written request or written concurrence of the affected QHCP.

6. Unless otherwise cancelled pursuant to the provisions of Paragraph 5 herein, nothing in this Emergency Rule 8-A shall be construed to exempt or excuse an Affected QHCP from the obligation to pay the applicable PCF surcharge for renewal or for an extended reporting endorsement otherwise due for actual PCF qualification provided during the suspension period or the extended suspension period.

7. Emergency Rule 8-A shall not relieve an Affected QHCP from compliance with the MMA and the applicable oversight board's rules upon receiving notice of the filing of a medical review panel request (claim) against the affected QHCP.

8. The provisions of this Emergency Rule 8-A shall be liberally construed to effectuate the intent and purposes expressed herein and to afford maximum protection for the affected QHCPs and the citizens of Louisiana.

9. Emergency Rule 8-A became effective on September 28, 2021 and shall continue in full force and effect to the earlier of October 24, 2021 or the date the Governor lifts the State of Emergency presently in effect as a result of Hurricane Ida and its aftermath, inclusive of any renewal thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1231.4(D)(3) and to be consistent with the original promulgation and the repromulgation of Emergency Rule No. 47 of the Louisiana Department of Insurance.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Patient's Compensation Fund Oversight Board, LR 47:

§135. Termination; Survival

A. Emergency Rule 8 shall terminate on the earlier of October 24, 2021 or the date the governor lifts the State of Emergency presently in effect as a result of Hurricane Ida and its aftermath, inclusive of any renewal thereof. However, Paragraphs A.3 and A.6-8 of §133 shall survive the termination of this Emergency Rule 8-A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1231.4(D)(3) and to be consistent with the original promulgation and the repromulgation of Emergency Rule No. 47 of the Department of Insurance.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Patient's Compensation Fund Oversight Board, LR 47:

§137. Severability Clause

A. If any section or provision of Emergency Rule 8-A, as originally adopted and/or amended, is held invalid, such invalidity or determination shall not affect other Sections or provisions, or the application of Emergency Rule 8-A, as

originally adopted and/or amended, to the affected QHCPs or circumstances that can be given effect without the invalid Sections or provisions and the application to affected QHCPs or circumstances shall be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1231.4(D)(3) and to be consistent with the original promulgation and the repromulgation of Emergency Rule No. 47 of the Department of Insurance.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Patient's Compensation Fund Oversight Board, LR 47:

Ken Schnauder
Executive Director

2110#062

DECLARATION OF EMERGENCY

Department of Health Behavior Analyst Board

Temporary Reduction of License and Certificate Renewal Fees (LAC 46:VIII.305)

The Louisiana Behavior Analyst Board is exercising the emergency provisions of the Administrative Procedure Act, specifically at R.S. 49:953.1, to promulgate an Emergency Rule to implement a temporary reduction of license and certificate renewal fees.

This Emergency Rule is the Louisiana Behavior Analyst Board's response to the disruption of normalcy experienced by the citizens of Louisiana due to COVID-19 posing a threat to the public health, safety, and welfare of Louisiana citizens and in some cases, financial hardships.

In order to assist the public during this crisis, the board has approved a temporary reduction of renewal fees for Licensed Behavior Analysts and State Certified Assistant Behavior Analysts. This Emergency Rule shall become effective November 1, 2021 and remain in effect through December 31, 2021.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part VIII. Behavior Analysts

Chapter 3. Application Procedures and Board Fees

§305. Licensing and Administrative Fees

A. - B. ...

C. Temporary Reduction of License and Certificate Renewal Fees effective November 1, 2021 through December 31, 2021, due to COVID 19 disruption of normalcy shall be as follows:

1. Annual renewal fee for Licensed Behavior Analyst due by December 31, 2021 - \$200.00.

2. Annual renewal fee for State Certified Assistant Behavior Analyst due by December 31, 2021 - \$125.00.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3714.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Behavior Analyst Board, LR 40:1930 (October 2014), amended LR 47:

Rhonda Boe
Executive Director

2110#003

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Abortion Facilities—Licensing Standards (LAC 48:I.4431)

The Department of Health, Bureau of Health Services Financing amends LAC 48:I.4431 as authorized by R.S. 36:254 and R.S. 40:2175.1 et seq. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953.1, and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing repealed and replaced the provisions governing the licensing standards for abortion facilities in order to incorporate the changes imposed by legislation, and further revise and clarify those provisions (*Louisiana Register*, Volume 41, Number 4).

Act 97 of the 2016 Regular Session of the Louisiana Legislature increased the time period required for certain pre-operative services. Act 563 of the 2016 Regular Session of the Louisiana Legislature provides that at least 72 hours before the abortion, the pregnant woman seeking an abortion shall be given a copy of certain printed information, including resources, programs and services for pregnant women who have a diagnosis of fetal genetic abnormality, and given printed information about resources, programs and services for infants and children born with disabilities, as well as other related matters. Act 593 of the 2016 Regular Session of the Louisiana Legislature provides for the disposal, by interment or cremation, of fetal remains and designates procedures for giving patients options for arrangements. The department promulgated an Emergency Rule which amended the provisions governing outpatient abortion facilities in order to comply with the provisions of Acts 97, 563 and 593 (*Louisiana Register*, Volume 42, Number 12).

The department determined that it was necessary to amend the provisions of the December 3, 2016 Emergency Rule governing the length of retention of the certification of minors and the disposition of fetal remains (*Louisiana Register*, Volume 47, Number 3). This Emergency Rule is being promulgated in order to continue the provisions of the March 20, 2021 Emergency Rule. This action is being taken to protect the health and welfare of Louisiana citizens by assuring the health and safety of women seeking health care services at licensed abortion facilities.

Effective November 17, 2021, the Department of Health, Bureau of Health Services Financing amends the provisions governing the licensing standards for abortion facilities.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 44. Abortion Facilities

Subchapter C. Pre-operative, Intra-operative, and Post-Operative Procedures

§4431. Screening and Pre-Operative Services

A. - E.1. ...

2. Requirements

a. Except as provided in Subparagraph b below, at least 72 hours prior to the pregnant woman having any part of an abortion performed or induced, and prior to the administration of any anesthesia or medication in preparation for the abortion on the pregnant woman, the physician who is to perform the abortion or a qualified person who is the physician's agent shall comply with all of the following requirements:

i. perform an obstetric ultrasound on the pregnant woman, offer to simultaneously display the screen which depicts the active ultrasound images so that the pregnant woman may view them and make audible the fetal heartbeat, if present, in a quality consistent with current medical practice. Nothing in this Section shall be construed to prevent the pregnant woman from not listening to the sounds detected by the fetal heart monitor, or from not viewing the images displayed on the ultrasound screen;

ii. provide a simultaneous and objectively accurate oral explanation of what the ultrasound is depicting, in a manner understandable to a layperson, which shall include the presence and location of the unborn child within the uterus and the number of unborn children depicted, the dimensions of the unborn child, and the presence of cardiac activity if present and viewable, along with the opportunity for the pregnant woman to ask questions;

iii. offer the pregnant woman the option of requesting an ultrasound photograph or print of her unborn child of a quality consistent with current standard medical practice that accurately portrays, to the extent feasible, the body of the unborn child including limbs, if present and viewable;

iv. from a form that shall be produced and made available by the department, staff will orally read the statement on the form to the pregnant woman in the ultrasound examination room prior to beginning the ultrasound examination, and obtain from the pregnant woman a copy of a completed, signed, and dated form; and

v. retain copies of the election form and certification prescribed above. The certification shall be placed in the medical file of the woman and shall be kept by the outpatient abortion facility for a period of not less than seven years. If the woman is a minor, the certification shall be placed in the medical file of the minor and kept for at least seven years or for five years after the minor reaches the age of majority, whichever is greater. The woman's medical files shall be kept confidential as provided by law.

b. If the pregnant woman certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, then the physician who is to perform the abortion or a qualified person who is the physician's agent shall comply with all of the requirements of §4431.E.2.a at least 24 hours prior to the woman having any part of an abortion performed or induced.

c. - e. Repealed.

E.3. - G.1. ...

a. Except as provided in Subparagraph b below, at least 72 hours before the abortion the physician who is to perform the abortion or the referring physician shall provide informed consent to the pregnant woman seeking an abortion, pursuant to all laws, rules and regulations

regarding informed consent. The informed consent shall be communicated both orally and in-person, and in writing, and shall be provided in a private room. Documentation of all such informed consent provided shall be maintained in the patient's medical record.

b. If the woman certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, then the physician who is to perform the abortion or the referring physician shall comply with all of the requirements of §4431.G.1 at least 24 hours prior to the abortion.

1.c. – 3. ...

a. Except as provided in Subparagraph b below, at least 72 hours before a scheduled abortion the physician who is to perform the abortion, the referring physician, or a qualified person shall inform the pregnant woman seeking an abortion, orally and in-person that:

i. - iv. ...

b. If the woman certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, then the physician who is to perform the abortion the referring physician, or a qualified person shall comply with all of the requirements of §4431.G.3 at least 24 hours prior to the abortion.

4. ...

a. At least 72 hours before the abortion, the pregnant woman seeking an abortion shall be given a copy of the printed materials, pursuant to any applicable state laws, rules, and regulations, by the physician who is to perform the abortion, the referring physician, or a qualified person. These printed materials shall include any printed materials necessary for a voluntary and informed consent, pursuant to R.S. 40:1061.17. However, if the pregnant woman certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, she shall be given a copy of the printed materials at least 24 hours prior to an elective abortion procedure by the physician who is to perform the abortion or a qualified person as defined in R.S. 40:1061.17(B)(4)(c).

i. - NOTE. Repealed.

b. At least 72 hours before the abortion, the pregnant woman or minor female considering an abortion shall be given a copy of the department's *Point of Rescue* pamphlet and any other materials described in R.S. 40:1061.16 by the physician who is to perform the abortion or a qualified person as defined in R.S. 40:1061.17(B)(4)(c), except in the case of medical emergency defined by applicable state laws. However, if the pregnant woman or minor female considering an abortion certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, she shall be given a copy of these printed materials at least 72 hours prior to an elective abortion procedure by the physician who is to perform the abortion or a qualified person as defined in R.S. 40:1061.17(B)(4)(c),

except in the case of medical emergency defined by applicable state laws.

i. The physician or qualified person shall provide to the woman, or minor female seeking an abortion, such printed materials individually and in a private room for the purpose of ensuring that she has an adequate opportunity to ask questions and discuss her individual circumstances.

ii. The physician or qualified person shall obtain the signature of the woman or minor female seeking an abortion on a form certifying that the printed materials were given to the woman or minor female.

iii. In the case of a minor female considering an abortion, if a parent accompanies the minor female to the appointment, the physician or qualified person shall provide to the parent copies of the same materials given to the female.

iv. The signed certification form shall be kept within the medical record of the woman or minor female for a period of at least seven years.

c. At least 72 hours before the abortion, the pregnant woman seeking an abortion shall be given a copy of a printed informational document including resources, programs and services for pregnant women who have a diagnosis of fetal genetic abnormality and resources, programs and services for infants and children born with disabilities. However, if the pregnant woman certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, she shall be given a copy of these printed materials at least 24 hours prior to an elective abortion procedure by the physician who is to perform the abortion or a qualified person as defined in R.S. 40:1061.17(B)(4)(c).

d. If the pregnant woman seeking an abortion is unable to read the materials, the materials shall be read to her. If the pregnant woman seeking an abortion asks questions concerning any of the information or materials, answers shall be provided to her in her own language.

NOTE: The provisions of this Section requiring a physician or qualified person to provide required printed materials to a woman considering an abortion shall become effective 30 days after the department publishes a notice of the availability of such materials.

5. ...

a. Prior to the abortion, the outpatient abortion facility shall ensure the pregnant woman seeking an abortion has certified, in writing on a form provided by the department that the information and materials required were provided at least 72 hours prior to the abortion, or at least 24 hours prior to the abortion in the case of a woman who has given prior certification in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy. This form shall be maintained in the woman's medical record.

b. ...

c. The pregnant woman seeking an abortion is not required to pay any amount for the abortion procedures until the 72-hour period has expired, or until expiration of the 24-hour period applicable in the case of a woman who has given prior certification in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion

facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy.

6. - 7.b....

8. Disposition of Fetal Remains

a. Each physician who performs or induces an abortion which does not result in a live birth shall ensure that the remains of the fetus are disposed of by interment or cremation, in accordance with the provisions of R.S. 8:651 et seq., and the provisions of LAC 51:XXVI.102 of the *Sanitary Code*.

b. Prior to an abortion, the physician shall orally and in writing inform the pregnant woman seeking an abortion in the licensed abortion facility that the pregnant woman has the following options:

i. the option to make arrangements for the disposition and/or disposal of fetal remains by interment or cremation, in accordance with the provisions of R.S. 8:651 et seq.; or

ii. the option to have the outpatient abortion facility/physician make the arrangements for the disposition and/or disposal of fetal remains by interment or cremation, in accordance with the provisions of R.S. 8:651 et seq.

c. The pregnant woman shall sign a consent form attesting that she has been informed of these options; if the pregnant woman wants to make arrangements for the disposition of fetal remains, she will indicate so on the form ; if no such indication is made on the form by the pregnant woman, the outpatient abortion facility/physician shall make the arrangements for the disposition and/or disposal of fetal remains by interment or cremation, in accordance with the provisions of R.S. 8:651 et seq.

d. the requirements of §4431.G.8 regarding dispositions of fetal remains, shall not apply to abortions induced by the administration of medications when the evacuation of any human remains occurs at a later time and not in the presence of the inducing physician or at the facility in which the physician administered the inducing medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:700 (April 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

Interested persons may submit written comments to Tasheka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Dr. Courtney N. Phillips
Secretary

2110#047

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Emergency Telemedicine
(LAC 50:I.505)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:I.505 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953.1, and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which adopted provisions governing coverage of telemedicine during a declared disaster (*Louisiana Register*, Volume 46, Number 4). This Emergency Rule is being promulgated in order to continue the provisions of the March 16, 2020 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring continued and expanded access to telemedicine services during a declared emergency.

Effective November 11, 2021, the Department of Health, Bureau of Health Services Financing adopts provisions governing the coverage of telemedicine during a declared emergency.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 1. General Provisions

Chapter 5. Telemedicine

§505. Telemedicine in the Event of an Emergency

A. In the event of a declared emergency, Medicaid may temporarily cover services provided through the use of an interactive audio telecommunications system, without the requirement of video, if such action is determined to be necessary to ensure sufficient services are available to meet recipients' needs.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:

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

Interested persons may submit written comments to Patrick Gillies, Bureau of Health Services Financing, P.O.

Box 91030, Baton Rouge, LA 70821-9030. Mr. Gillies is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Dr. Courtney N. Phillips
Secretary

2110#048

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing and

Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers
Children's Choice Waiver—Direct Support Worker Wages
(LAC 50:XXI.12101)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amends LAC 50:XXI.12101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953.1, and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Act 119 of the 2021 Regular Session of the Louisiana Legislature provided additional funding to the Department of Health for providers of home and community-based services waivers to increase the wages of direct support workers and personal care attendants, pursuant to rulemaking and audit. House Concurrent Resolution 127 (HCR 127) of the 2021 Regular Session of the Louisiana Legislature directed the department to make adjustments in the state Medicaid budget for the purpose of allocating funding more equitably to providers throughout the disabilities services system. In compliance with Act 119 and HCR 127, the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amends the provisions governing reimbursement in the Children's Choice Waiver in order to establish a wage floor for direct support workers along with audit procedures, sanctions and penalties.

This action is being taken to promote the health and welfare of Medicaid recipients by ensuring staffing for and access to Children's Choice Waiver services. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$3,538,540 for state fiscal year 2021-2022.

Effective October 1, 2021, the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend the provisions governing reimbursement in the Children's Choice Waiver to establish a wage floor for direct support workers along with audit procedures, sanctions and penalties.

Title 50 PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community-Based Services Waivers

Subpart 9. Children's Choice

Chapter 121. Reimbursement Methodology

§12101. Unit of Reimbursement

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

5. Direct Support Worker Wages

a. Establishment of Direct Support Worker Wage Floor for Medicaid Home and Community-Based Services for Intellectual and Developmental Disabilities

i. Effective October 1, 2021, providers of Medicaid home and community-based waiver services operated through the Office for Citizens with Developmental Disabilities employing defined direct support workers will receive the equivalent of a \$2.50 per hour rate increase.

ii. Effective October 1, 2021, this increase or its equivalent will be applied to all service units provided by direct support workers with an effective date of service for the identified home and community-based waiver services provided beginning October 1, 2021.

iii. The minimum hourly wage floor paid to direct support workers shall be \$9 per hour.

iv. All providers of services affected by this rate increase shall be subject to a direct support worker wage floor of \$9 per hour. This wage floor is effective for all affected direct support workers of any work status (full-time, part-time, etc.)

v. The Department of Health reserves the right to adjust the direct support worker wage floor as needed through appropriate rulemaking promulgation consistent with the Louisiana Administrative Procedure Act.

b. Establishment of Audit Procedures for Direct Support Worker Wage Floor

i. The wage enhancement payments reimbursed to providers shall be subject to audit by the department.

ii. Providers shall provide to the department or its representative all requested documentation to verify compliance with the direct support worker wage floor.

iii. This documentation may include, but not be limited to, payroll records, wage and salary sheets, check stubs, etc.

iv. Providers shall produce the requested documentation upon request and within the time frame provided by the department.

v. Noncompliance or failure to demonstrate that the wage enhancement was paid directly to direct support workers may result in:

(a). sanctions; or

(b). disenrollment in the Medicaid Program.

c. Sanctions

i. The provider will be subject to sanctions or penalties for failure to comply with this Rule or with requests issued by LDH pursuant to this Rule. The severity of such action will depend on:

(a). failure to pay I/DD HCBS direct support workers the floor minimum of \$9 per hour;

(b). the number of employees identified as having been paid less than the \$9 per hour floor;

(c). the persistent failure to pay the floor minimum of \$9 per hour; or

(d). failure to provide LDH with any requested documentation or information related to or for the purpose of verifying compliance with this Rule.

d. New Opportunities Waiver Fund

i. The department shall deposit civil fines and the interest collected from providers into the New Opportunities Waiver Fund.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1987 (September 2002), LR 33:1872 (September 2007), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 34:250 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:324 (February 2010), LR 36:2280 (October 2010), LR 37:2157 (July 2011), LR 39:2504 (September 2013), LR 40:68 (January 2014), LR 41:128 (January 2015), LR 42:896 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:

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

Public Comments

Interested persons may submit written comments to Patrick Gillies, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Mr. Gillies is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Dr. Courtney N. Phillips
Secretary

2110#005

DECLARATION OF EMERGENCY

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

Home and Community-Based Services Waivers
New Opportunities Waiver—Direct Support Worker Wages
(LAC 50:XXI.14301)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.14301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953.1, and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Act 119 of the 2021 Regular Session of the Louisiana Legislature provided additional funding to the Department of

Health for providers of home and community-based services waivers to increase the wages of direct support workers and personal care attendants, pursuant to rulemaking and audit. House Concurrent Resolution 127 (HCR 127) of the 2021 Regular Session of the Louisiana Legislature directed the department to make adjustments in the state Medicaid budget for the purpose of allocating funding more equitably to providers throughout the disabilities services system. In compliance with Act 119 and HCR 127, the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend the provisions governing reimbursement in the New Opportunities Waiver (NOW) in order to establish a wage floor for direct support workers along with audit procedures, sanctions, and penalties.

This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient staffing for and access to NOW services. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by \$49,207,684 for state fiscal year 2021-2022.

Effective October 1, 2021, the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend the provisions governing reimbursement in the NOW in order to establish a wage floor for direct support workers along with audit procedures, sanctions and penalties.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

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

Subpart 11. New Opportunities Waiver

Chapter 143. Reimbursement

§14301. Unit of Reimbursement

A. - E. ...

F. Direct Support Worker Wages

1. Establishment of Direct Support Worker Wage Floor for Medicaid Home and Community-Based Services for Intellectual and Developmental Disabilities

a. Effective October 1, 2021, providers of Medicaid home and community-based waiver services operated through the Office for Citizens with Developmental Disabilities employing defined direct support workers will receive the equivalent of a \$2.50 per hour rate increase.

b. Effective October 1, 2021, this increase or its equivalent will be applied to all service units provided by direct support workers with an effective date of service for the identified home and community-based waiver services provided beginning October 1, 2021.

c. The minimum hourly wage floor paid to direct support workers shall be \$9 per hour.

d. All providers of services affected by this rate increase shall be subject to a direct support worker wage floor of \$9 per hour. This wage floor is effective for all affected direct support workers of any work status (full-time, part-time, etc.)

e. The Department of Health reserves the right to adjust the direct support worker wage floor as needed through appropriate rulemaking promulgation consistent with the Louisiana Administrative Procedure Act.

2. Establishment of Audit Procedures for Direct Support Worker Wage Floor

a. The wage enhancement payments reimbursed to providers shall be subject to audit by the department.

b. Providers shall provide to the department or its representative all requested documentation to verify compliance with the direct support worker wage floor.

c. This documentation may include, but not be limited to, payroll records, wage and salary sheets, check stubs, etc.

d. Providers shall produce the requested documentation upon request and within the time frame provided by the department.

e. Noncompliance or failure to demonstrate that the wage enhancement was paid directly to direct support workers may result in:

- i. sanctions; and
- ii. disenrollment in the Medicaid Program.

3. Sanctions

a. The provider will be subject to sanctions or penalties for failure to comply with this Rule or with requests issued by LDH pursuant to this Rule. The severity of such action will depend on:

- i. failure to pay I/DD HCBS direct support worker the floor minimum of \$9 per hour;
- ii. the number of employees identified as having been paid less than the \$9 per hour floor; or
- iii. the persistent failure to pay the floor minimum of \$9 per hour.

iv. failure to provide LDH with any requested documentation or information related to or for the purpose of verifying compliance with this Rule.

4. New Opportunities Waiver Fund

a. The department shall deposit civil fines and the interest collected from providers into the New Opportunities Waiver Fund.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1209 (June 2004), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 34:252 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:1851 (September 2009), LR 36:1247 (June 2010), LR 37:2158 (July 2011), LR 39:1049 (April 2013), LR 40:80 (January 2014), LR 42:898 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 44:58 (January 2018), LR 45:44 (January 2019), LR 46:1682 (December 2020), LR 47:

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

Public Comments

Interested persons may submit written comments to Patrick Gillies is responsible, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030.

Mr. Gillies is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Dr. Courtney N. Phillips
Secretary

2110#006

DECLARATION OF EMERGENCY

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

Home and Community-Based Services Waivers
Residential Options Waiver—Direct Support Worker Wages
(LAC 50:XXI.16903)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amends LAC 50:XXI.16903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953.1, and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Act 119 of the 2021 Regular Session of the Louisiana Legislature provided additional funding to the Department of Health for providers of home and community-based services waivers to increase the wages of direct support workers and personal care attendants, pursuant to rulemaking and audit. House Concurrent Resolution 127 (HCR 127) of the 2021 Regular Session of the Louisiana Legislature directed the department to make adjustments in the state Medicaid budget for the purpose of allocating funding more equitably to providers throughout the disabilities services system. In compliance with Act 119 and HCR 127, the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amends the provisions governing reimbursement in the Residential Options Waiver (ROW) in order to establish a wage floor for direct support workers along with audit procedures, sanctions and penalties.

This action is being taken to promote the health and welfare of Medicaid recipients by ensuring staffing for and access to ROW services. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$3,538,540 for state fiscal year 2021-2022.

Effective October 1, 2021, the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend the provisions governing reimbursement in the ROW to establish a wage floor for direct support workers along with audit procedures, sanctions and penalties.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community-Based Services
Waivers

Subpart 13. Residential Options Waiver

Chapter 169. Reimbursement

§16903. Direct Support Professional Wages

A. Establishment of Direct Support Worker Wage Floor for Medicaid Home and Community-Based Services for Intellectual and Developmental Disabilities

1. Effective October 1, 2021, providers of Medicaid home and community-based waiver services operated through the Office for Citizens with Developmental Disabilities employing defined direct support workers will receive the equivalent of a \$2.50 per hour rate increase.

2. Effective October 1, 2021, this increase or its equivalent will be applied to all service units provided by direct support workers with an effective date of service for the identified home and community-based waiver services provided beginning October 1, 2021.

3. The minimum hourly wage floor paid to direct support workers shall be \$9 per hour.

4. All providers of services affected by this rate increase shall be subject to a direct support worker wage floor of \$9 per hour. This wage floor is effective for all affected direct support workers of any work status (full-time, part-time, etc.)

5. The Department of Health reserves the right to adjust the direct support worker wage floor as needed through appropriate rulemaking promulgation consistent with the Louisiana Administrative Procedure Act.

B. Establishment of Audit Procedures for Direct Support Worker Wage Floor

1. The wage enhancement payments reimbursed to providers shall be subject to audit by the department.

2. Providers shall provide to the department or its representative all requested documentation to verify compliance with the direct support worker wage floor.

3. This documentation may include, but not be limited to, payroll records, wage and salary sheets, check stubs, etc.

4. Providers shall produce the requested documentation upon request and within the time frame provided by the department.

5. Noncompliance or failure to demonstrate that the wage enhancement was paid directly to direct support workers may result in:

- a. sanctions; or
- b. disenrollment in the Medicaid Program.

C. Sanctions

1. The provider will be subject to sanctions or penalties for failure to comply with this rule or with requests issued by LDH pursuant to this rule. The severity of such action will depend on:

- a. failure to pay I/DD HCBS direct support workers the floor minimum of \$9 per hour;
- b. the number of employees identified as having been paid less than the \$9 per hour floor;
- c. the persistent failure to pay the floor minimum of \$9 per hour; or
- d. failure to provide LDH with any requested documentation or information related to or for the purpose of verifying compliance with this rule.

D. New Opportunities Waiver Fund

1. The department shall deposit civil fines and the interest collected from providers into the New Opportunities Waiver Fund.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2169 (October 2015), LR 42:900 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities LR 47:

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

Public Comments

Interested persons may submit written comments to Patrick Gillies, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Mr. Gillies is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Dr. Courtney N. Phillips
Secretary

2110#007

DECLARATION OF EMERGENCY

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

Home and Community-Based Services Waivers
Supports Waiver—Direct Support Worker Wages
(LAC 50:XXI.6101)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amends LAC 50:XXI.6101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Act 119 of the 2021 Regular Session of the Louisiana Legislature provided additional funding to the Department of Health for providers of home and community-based services waivers to increase the wages of direct support workers and personal care attendants, pursuant to rulemaking and audit. House Concurrent Resolution 127 (HCR 127) of the 2021 Regular Session of the Louisiana Legislature directed the department to make adjustments in the state Medicaid budget for the purpose of allocating funding more equitably to providers throughout the disabilities services system. In

compliance with Act 119 and HCR 127, the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend the provisions governing reimbursement in the Supports Waiver in order to establish a wage floor for direct support workers along with audit procedures, sanctions and penalties.

This action is being taken to promote the health and welfare of Medicaid recipients by ensuring staffing for and access to Supports Waiver services. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid program by approximately \$377,208 in state fiscal year 2021-2022.

Effective October 1, 2021, the Department of Health, Bureau of Health Services and Office for Citizens with Developmental Disabilities amend the provisions governing reimbursement in the Supports Waiver to establish a wage floor for direct support workers along with audit procedures, sanctions and penalties.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community-Based Services Waivers

Subpart 5. Supports Waiver

Chapter 61. Reimbursement

§6101. Unit of Reimbursement

A. - G. ...

H. Direct Support Worker Wages

1. Establishment of Direct Support Worker Wage Floor for Medicaid Home and Community-Based Services for Intellectual and Developmental Disabilities

a. Effective October 1, 2021, providers of Medicaid home and community-based waiver services operated through the Office for Citizens with Developmental Disabilities employing defined direct support workers will receive the equivalent of a \$2.50 per hour rate increase.

b. Effective October 1, 2021, this increase or its equivalent will be applied to all service units provided by direct support workers with an effective date of service for the identified home and community-based waiver services provided beginning October 1, 2021.

c. The minimum hourly wage floor paid to direct support workers shall be \$9 per hour.

d. All providers of services affected by this rate increase shall be subject to a direct support worker wage floor of \$9 per hour. This wage floor is effective for all affected direct support workers of any work status (full-time, part-time, etc.)

e. The Department of Health reserves the right to adjust the direct support worker wage floor as needed through appropriate rulemaking promulgation consistent with the Louisiana Administrative Procedure Act.

2. Establishment of Audit Procedures for Direct Support Worker Wage Floor

a. The wage enhancement payments reimbursed to providers shall be subject to audit by the department.

b. Providers shall provide to the department or its representative all requested documentation to verify compliance with the direct support worker wage floor.

c. This documentation may include, but not be limited to, payroll records, wage and salary sheets, check stubs, etc.

d. Providers shall produce the requested documentation upon request and within the time frame provided by the department.

e. Noncompliance or failure to demonstrate that the wage enhancement was paid directly to direct support workers may result in:

i. sanctions; or

ii. disenrollment in the Medicaid program.

3. Sanctions

a. The provider will be subject to sanctions or penalties for failure to comply with this Rule or with requests issued by LDH pursuant to this Rule. The severity of such action will depend on:

i. failure to pay I/DD HCBS direct support workers the floor minimum of \$9 per hour;

ii. the number of employees identified as having been paid less than the \$9 per hour floor;

iii. the persistent failure to pay the floor minimum of \$9 per hour; or

iv. failure to provide LDH with any requested documentation or information related to or for the purpose of verifying compliance with this rule.

4. New Opportunities Waiver Fund

a. The department shall deposit civil fines and the interest collected from providers into the New Opportunities Waiver Fund.

I. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), amended LR 34:662 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:2281 (October 2010), LR 37:2158 (July 2011), LR 39:1050 (April 2013), LR 40:82 (January 2014), LR 40:2587 (December 2014), LR 42:900 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:

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

Public Comments

Interested persons may submit written comments to Patrick Gillies, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Mr. Gillies is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Dr. Courtney N. Phillips
Secretary

2110#008

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Programs and Services Amendments Due to the Coronavirus Disease 2019 (COVID-19) Public Health Emergency

On January 30, 2020, the World Health Organization declared a public health emergency of international concern and on January 31, 2020, U.S. Health and Human Services Secretary Alex M. Azar II declared a public health emergency for the United States, effective as of January 27, 2020, in response to the recent coronavirus disease 2019 (hereafter referred to as COVID-19) outbreak. On March 11, 2020, Governor John Bel Edwards declared a statewide public health emergency to exist in the State of Louisiana as a result of the imminent threat posed to Louisiana citizens by COVID-19. Likewise, the presidential declaration of a national emergency due to COVID-19 has an effective date of March 1, 2020.

In response to these public health emergency declarations and the rapid advancement of COVID-19 throughout Louisiana, the Department of Health, Bureau of Health Services Financing, the Office of Aging and Adult Services (OAAS), the Office of Behavioral Health (OBH), and the Office for Citizens with Developmental Disabilities (OCDD) promulgated Emergency Rules which amended the provisions of Title 50 of the Louisiana Administrative Code in order to adopt temporary measures to provide for the continuation of essential programs and services to ensure the health and welfare of the citizens of Louisiana in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. (*Louisiana Register*, Volume 46, Number 4). The department subsequently promulgated an Emergency Rule, adopted on June 24, 2020, which further amended Title 50 of the Louisiana Administrative Code due to the COVID-19 public health emergency (*Louisiana Register*, Volume 46, Number 7). This Emergency Rule is being promulgated to continue the provisions of the Emergency Rule adopted on June 24, 2020. This Emergency Rule shall be in effect for the maximum period allowed under the Act or the duration of the COVID-19 public health emergency declaration, whichever comes first.

Effective October 21, 2021, the Department of Health, Bureau of Health Services Financing hereby amends Title 50 of the *Louisiana Administrative Code* to continue the following provisions of the Emergency Rule adopted on June 24, 2020 throughout the duration of the COVID-19 public health emergency declaration:

Medicaid Eligibility (LAC 50:III.Subpart 1)

For the duration of the COVID-19 public health emergency declaration, the following requirements for coverage under the Medical Assistance Program (Medicaid) will be relaxed:

§101.C. General Provisions—Fair Hearings

The 30 day requirement for the applicant and enrollee to request a fair hearing shall be waived.

Applicants and enrollees must request a fair hearing within 120 days of the date of the adequate and/or timely decision notice issued by the Medicaid Program or its designee.

§301. Asset Verification Program—General Provisions

Asset verification for aged, blind, and disabled applicants will be performed through a post-eligibility review following the certification.

Chapter 23. Eligibility Groups and Medicaid Programs

The department shall provide coverage under the Medical Assistance Program for uninsured individuals described at section 1902(a)(10)(A)(ii)(XXIII) and 1902(ss) of the Social Security Act as follows:

In accordance with section 1902(a)(10)(XVIII) of the Social Security Act, the medical assistance made available to uninsured individuals (as defined in subsection 1902(ss)) eligible for medical assistance only because of subparagraph (A)(ii)(XXIII) is limited to medical assistance for any in vitro diagnostic product described in section 1905(a)(3)(B) administered during the COVID-19 public health emergency declaration (and the administration of such product) and any visit described in section 1916(a)(2)(G) furnished during the emergency period.

Services for Special Populations—Hospice Recipient Eligibility—Waiver of Payment for Other Services (LAC 50:XV.3503)

During the COVID-19 public health emergency declaration, the department waives the provisions requiring daily visits by the hospice provider to all clients under the age of 21 in order to facilitate continued care while maintaining the safety of staff and beneficiaries. Visits will still be completed based on clinical need of the beneficiary and family, and availability of staff as requested by the family. The use of telemedicine visits as an alternative is allowed.

Medical Transportation Program—Emergency Medical Transportation—Ground Transportation Reimbursement (LAC 50:XXVII.325)

For the duration of the COVID-19 public health emergency declaration, reimbursement will be allowed for ambulance providers for allowable services on site without transport. Services provided by the ambulance provider shall be within established treatment protocols, under the direct supervision of a licensed physician.

Pharmacy—Copayment and Maximum Quantity (LAC 50:XXIX.111 and 119)

During the period of state or federal declared emergency, member co-pays may be waived and select pharmacy edits may be revised to encourage recipients to get all necessary maintenance medications during one pharmacy visit.

Members are able to start receiving up to a 90-day supply, as appropriate, of maintenance medications that are not controlled substances. These include cardiovascular drugs (hypertension, coronary artery disease, thrombosis), diabetes drugs, respiratory drugs (inhaled and oral), contraceptives, antiretrovirals, direct-acting antivirals for hepatitis C, immunosuppressives, antipsychotics, and antidepressants, among others.

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

Interested persons may submit written comments to Patrick Gillies, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Mr. Gillies is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Dr. Courtney N. Phillips
Secretary

2110#049

DECLARATION OF EMERGENCY

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

Programs and Services Amendments Due to the Coronavirus Disease 2019 (COVID-19) Public Health Emergency

On January 30, 2020, the World Health Organization declared a public health emergency of international concern and on January 31, 2020, U.S. Health and Human Services Secretary Alex M. Azar II declared a public health emergency, effective as of January 27, 2020, for the United States in response to the recent coronavirus disease 2019 (hereafter referred to as COVID-19) outbreak. On March 11, 2020, Governor John Bel Edwards declared a statewide public health emergency to exist in the State of Louisiana as a result of the imminent threat posed to Louisiana citizens by COVID-19. Likewise, the presidential declaration of a national emergency due to COVID-19 has an effective date of March 1, 2020.

In response to these public health emergency declarations and the rapid advancement of COVID-19 throughout Louisiana, the Department of Health, Bureau of Health Services Financing, the Office of Aging and Adult Services (OAAS), and the Office of Behavioral Health (OBH) promulgated an Emergency Rule which amended the provisions of Title 50 of the *Louisiana Administrative Code* in order to adopt temporary measures to provide for the continuation of essential programs and services to ensure the health and welfare of the citizens of Louisiana in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. (*Louisiana Register*, Volume 46, Number 4). This Emergency Rule is being promulgated to continue the provisions of the Emergency Rule adopted on March 19, 2020. This Emergency Rule shall be in effect for the maximum period allowed under the Act or the duration of the COVID-19 public health emergency declaration, whichever comes first.

Effective November 14, 2021, the department amends Title 50 of the *Louisiana Administrative Code* to continue the following provisions of the Emergency Rule adopted on March 19, 2020 throughout the duration of the COVID-19 public health emergency declaration:

Nursing Facilities—Reimbursement Methodology Reimbursement Adjustment (LAC 50:II.20006)

The per diem rate paid to non-state nursing facilities shall contain an add-on of \$12 for the period of the COVID-19 public health emergency declaration.

Nursing Facilities— Reimbursement Methodology Leave of Absence Days (LAC 50:II.20021)

For each Medicaid recipient, nursing facilities shall be reimbursed for up to seven hospital leave of absence days per occurrence and 15 home leave of absence days per calendar year.

For dates of service during the COVID-19 public health emergency declaration, the state may allow the reimbursement paid for leave of absence days to be equal to 100 percent of the applicable per diem rate.

Intermediate Care Facilities for Persons with Intellectual Disabilities—Emergency Awareness Payment Limitations (LAC 50:VII.33101)

For dates of service during the COVID-19 public health emergency declaration, the state may waive the annual 45 day limit on the client's leave of absence, the limitation of 30 consecutive days, and the inclusion of the leave in the written individual habilitation plan for recipients that return to the facility for at least 24 hours prior to any discharge/transfer.

Payments to providers for these days will not include any enhanced rate add-ons (i.e., Complex Care, Pervasive Plus), and providers will appropriately submit them as leave days when billing for payment.

Services for Special Populations—Personal Care Services (LAC 50:XV.Subpart 9)

Relaxation of long term-personal care services (LT-PCS) provisions during the COVID-19 public health emergency declaration:

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

the state may increase the maximum number of LT-PCS hours received per week;

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

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

individuals may concurrently serve as a responsible representative for more than two recipients without an exception from OAAS;

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

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

the state may allow exceptions to LT-PCS prior authorization requirements;

the state may increase and/or modify reimbursement rates for LT-PCS;

recipients may orally designate/authorize or make changes to the responsible representative during the emergency. However, once the emergency declaration is over, the recipient must submit a written designation on the appropriate OAAS form to designate a responsible representative;

the state may offer recipients the freedom to choose another LT-PCS provider if the designated provider is not able to provide services;

the state may modify the minimum age requirement for direct care workers; and

the state may allow exceptions to the requirement that the place(s) of service must be documented in the plan of care.

Home and Community-Based Services Waivers—Adult Day Health Care Waiver (LAC 50:XXI.Subpart 3)

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the adult day health care (ADHC) waiver are relaxed during the COVID-19 public health emergency declaration:

adult day health care (ADHC) waiver participants are allowed to receive ADHC services in his/her home by licensed and/or certified ADHC staff (i.e. RN, LPN, PCA and/or CNA);

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

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

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

the state may elect to make retainer payments to ADHC providers when the ADHC center is closed;

individuals may concurrently serve as a responsible representative for more than two participants without an exception from OAAS;

the state may allow exceptions to prior authorization requirements;

the state may increase and/or modify reimbursement rates for ADHC providers; and

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

Home and Community-Based Services Waivers

Community Choices Waiver (LAC 50:XXI.Subpart 7)

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the Community Choices Waiver (CCW) are relaxed during the COVID-19 public health emergency declaration:

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

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

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

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

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

individuals may concurrently serve as a responsible representative for more than two participants without an exception from OAAS;

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

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

participants may receive adult day health care (ADHC) services in his/her home by licensed and/or certified ADHC staff (i.e. RN, LPN, PCA and/or CNA);

the state may elect to make retainer payments to ADHC providers when the ADHC center is closed;

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

the state may allow exceptions to prior authorization requirements;

participants may receive more than two home delivered meals per day;

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

the state may modify the minimum age requirement for direct care workers; and

the state may increase and/or modify reimbursement rates for CCW providers.

Behavioral Health Services—Home and Community-Based Services Waiver (LAC 50:XXXIII.Subpart 9)

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the Coordinated System of Care (CSoC) Waiver are relaxed during the COVID-19 public health emergency declaration:

coordinated system of care (CSoC) waiver participants are allowed to receive CSoC waiver services in another state;

the current level of care evaluation/re-evaluation remains in effect beyond the semi-annual requirement;

CSoC participants are not discharged for failing to receive a face-to-face visit from the wraparound facilitator for 60 consecutive calendar days or more;

services may be provided telephonically or through videoconferencing means in accordance with LDH-issued guidance;

providers and wraparound facilitators are required to document all service activities in accordance with guidance issued by LDH and the CSoC contractor; and

plan of care reviews and timelines may be extended.

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

Interested persons may submit written comments to Patrick Gillies, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Mr. Gillies is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Dr. Courtney N. Phillips
Secretary

2110#050

DECLARATION OF EMERGENCY

Department of Insurance Office of the Commissioner

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

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

The Department of Insurance hereby exercises the emergency provisions of the Administrative Procedure Act, R.S. 49:953.1, as further specified by R.S. 22:11, and pursuant to the authority granted by R.S. 22:1 et seq., adopts, maintains, and continues in effect Emergency Rule 47 until October 24, 2021, unless terminated sooner, which is issued to address the statewide public health emergency declared to exist in the state of Louisiana. Emergency Rule 47 became effective August 26, 2021, and shall continue in effect until October 24, 2021, unless terminated sooner, as allowed under the Administrative Procedure Act. Proclamation No. JBE 2021-165 issued on August 26, 2021 by Governor John

Bel Edwards declared a State of Emergency extending from August 26, 2021, through September 27, 2021, unless terminated sooner, and Proclamation No. JBE 2021-178 effective on September 25, 2021 extended the State of Emergency through October 24, 2021, unless terminated sooner.

Emergency Rule 47 is issued to address the devastation caused by Hurricane Ida and its aftermath that has created emergency conditions threatening the health, safety and welfare of the citizens of Louisiana who are insureds and who either reside in or have insured property located in one of the following twenty-five (25) parishes, to wit: Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, and West Feliciana. Emergency Rule 47 is issued under the authority of the Commissioner of Insurance for the State of Louisiana, pursuant to the following: Proclamation No. JBE 2021-165 issued on August 26, 2021 by Governor John Bel Edwards declaring a State of Emergency extending from August 26, 2021, through September 27, 2021; Proclamation No. JBE 2021-178 issued on September 24, 2021 extending the State of Emergency through October 24, 2021 unless terminated sooner; and R.S. 22:11.

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

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

Title 37
INSURANCE
Part XI. Rules

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

§4701. Benefits, Entitlements, Protections and Applicable Parishes

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

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

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

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

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

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

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, Proclamation No. JBE 2021-178, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

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

§4703. Applicability and Scope

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

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

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

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

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

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

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, Proclamation No. JBE 2021-178, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

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

§4705. Cancellation, Nonrenewal, and Nonreinstatement

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

with existing statutory requirements after the expiration of Emergency Rule 47 as provided for in §4749.

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

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

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

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

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

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, Proclamation No. JBE 2021-178, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

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

§4707. Renewal

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

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, Proclamation No. JBE 2021-178, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

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

§4709. Written Request for Cancellation by Insured

A. Except as provided for in §4737 herein, a cancellation shall not occur prior to the expiration of Emergency Rule 47 unless upon the documented written request or written

concurrence of the insured. This written consent may be in electronic format.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, Proclamation No. JBE 2021-178, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

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

§4711. New Policies

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

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, Proclamation No. JBE 2021-178, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

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

§4713. Claims Notification

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

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, Proclamation No. JBE 2021-178, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

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

§4715. Premium Offset

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

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, Proclamation No. JBE 2021-178, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

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

§4717. Obligation of Insured to Pay Premium

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

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

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

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, Proclamation No. JBE 2021-178, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

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

§4719. Timely Payment of Health Claims

A. Only to the extent necessary to permit the pending of claims during a premium payment delinquency by the

insured, the provisions of R.S. 22:1832-1834 and Regulation 74 related to timely payment of claims are hereby suspended.

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

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

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

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, Proclamation No. JBE 2021-178, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

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

§4721. Nonpayment of Health Claims

A. In the event a health insurance issuer pends a claim, as permitted pursuant to §17931, and is subsequently entitled to cancel or terminate a policy for nonpayment of premium, the health insurance issuer shall pay any remaining claims for which payment is required under §17931.B. After the first month of the grace period has lapsed, the health insurance issuer may deny payment on pended claims for services rendered to the insured during the period of nonpayment.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, Proclamation No. JBE 2021-178, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

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

§4723. Insureds Obligation to Cooperate in Claim Process

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

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, Proclamation No. JBE 2021-178, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

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

§4725. Physician Credentialing

A. The commissioner hereby suspends physician credentialing pursuant to R.S. 22:1009 such that there are no credentialing requirements with regard to any and all licensed physicians who provide medical services to insureds identified in §4701.A or §4701.B between 12:01

a.m. on August 26, 2021, and the expiration of Emergency Rule 47 as provided for in §4749.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, Proclamation No. JBE 2021-178, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

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

§4727. New Rate or Premium

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

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

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, Proclamation No. JBE 2021-178, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

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

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

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

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, Proclamation No. JBE 2021-178, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

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

§4731. Continuation of Health Coverage

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

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, Proclamation No. JBE 2021-178, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

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

§4733. Prescription Drug Coverage

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

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

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

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, Proclamation No. JBE 2021-178, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

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

§4735. Telemedicine Access

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

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

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

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

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, Proclamation No. JBE 2021-178, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

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

§4737. Fraud or Material Misrepresentation

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

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, Proclamation No. JBE 2021-178, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

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

§4739. Exemption from Compliance

A. Notwithstanding any other provision contained herein, the commissioner may exempt any insurer from compliance with Emergency Rule 47 upon the written request by the insurer setting forth in detail each and every reason for the exemption and then only if the commissioner determines that compliance with Emergency Rule 47 may be reasonably expected to result in said insurer being subject to undue hardship, impairment, or insolvency.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, Proclamation No. JBE 2021-178, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

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

§4741. Sanctions for Violations

A. The commissioner retains the authority to enforce violations of Emergency Rule 47. Accordingly, any insurer enumerated in Emergency Rule 47 or any other entity doing business in Louisiana and/or regulated by the commissioner

who violates any provision of Emergency Rule 47 shall be subject to regulatory action by the commissioner under any applicable provisions of the Louisiana Insurance Code.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, Proclamation No. JBE 2021-178, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

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

§4743. Sixty Day Period to Initiate Adjustment of Property Claims

A. In accordance with R.S. 22:1892(A)(3), Hurricane Ida and its aftermath qualifies as a catastrophic loss event that requires insurers to initiate loss adjustment of a property damage claim within thirty (30) days after notification of loss by the insured claimant.

B. In furtherance of R.S. 22:1892(A)(3), the severity of the devastation caused by Hurricane Ida and its aftermath qualifies for an additional 30 days for insurers to initiate loss adjustment of a property claim after notification of loss by the insured claimant.

C. Therefore, insurers shall have a total of 60 days to initiate loss adjustment of a property damage claim after notification of loss by the insured claimant.

D. This declaration is based on the representation that the additional time period is necessary due to the large volume of claims resulting directly from Hurricane Ida and its aftermath, and with the admonition that insurers will promptly identify, evaluate, and resolve these claims. Insurers must continue to provide timely service to their insured claimants by promptly acknowledging receipt of claims and making appropriate assignments for the adjustment of claims.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, Proclamation No. JBE 2021-178, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

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

§4745. Authority

A. The commissioner reserves the right to amend, modify, alter, extend, or rescind all or any portion of Emergency Rule 47.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, Proclamation No. JBE 2021-178, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

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

§4747. Severability Clause

A. If any section or provision of Emergency Rule 47 or its application to any person or circumstance is held invalid, such invalidity or determination shall not affect other section or provision or the application of Emergency Rule 47 to any person or circumstance that can be given effect without the invalid section or provision or application, and for these purposes the sections and provisions of Emergency Rule 47 and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, Proclamation No. JBE 2021-178, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

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

§4749. Effective Date

A. Emergency Rule 47 became effective at 12:01 a.m. on September 25, 2021 and shall continue in full force and

effect until either 11:59 p.m. on October 24, 2021 or 11:59 p.m. on the cessation date of the Governor's Proclamation No. JBE 2021-178, inclusive of any renewal thereof, whichever occurs first.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, Proclamation No. JBE 2021-178, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

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

James J. Donelon
Commissioner

2110#012

DECLARATION OF EMERGENCY

Department of Revenue Policy Services Division

Income Tax Withholding on Gaming Winnings (LAC 61:I.1525)

In accordance with the emergency provisions of the Administrative Procedures Act, R.S. 49:953.1 and Act 211 of the 2021 Regular Session of the Louisiana Legislature, and R.S. 47:1511, the Department of Revenue, Policy Services Division, ("the Department") is, by emergency rule, adopting LAC 61:I.1525. The purpose of this regulation is to require any person paying gaming winnings under the provisions of Act 141 of the 2020 Regular Session of the Louisiana Legislature and Act 80 of the 2021 Regular Session of the Louisiana Legislature to withhold Louisiana income tax. This Emergency Rule is effective October 8, 2021, rescinds the previous Emergency Rule issued on September 5, 2021, and will remain in effect for 180 days, unless renewed or revoked, or until the adoption of the final Rule, whichever comes first. The promulgation of this rule on an emergency basis is necessary to implement the required withholding as permits have been approved allowing the wagering. Act 141 of the 2020 Regular Session of the Louisiana Legislature and Act 80 of the 2021 Regular Session of the Louisiana Legislature respectively authorize fantasy sports contest and sports wagering gaming. This Emergency Rule requires every person or business that pays sports wagering and fantasy sports contest winnings won in Louisiana to withhold individual income taxes at the highest rate provided for by R.S. 47:32(A) if federal income taxes are required to be withheld by the Internal Revenue Service under 26 U.S.C. 3402 on the same winnings. This Emergency Rule clarifies that any person paying gaming winnings is required to conform to the electronic filing requirements for LDR Form L-3 and accompanying IRS Form W-2G.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 15. Income: Withholding Tax

§1525. Income Tax Withholding on Gaming Winnings

A. - A.2. ...

3. Any person that pays sports wagering and fantasy sports contest winnings won in Louisiana is required to withhold individual income taxes at the highest rate

provided for by R.S. 47:32(A) if federal income taxes are required to be withheld by the Internal Revenue Service under 26 U.S.C. 3402 on the same winnings.

B. - B.2.b. ...

3. Effective for taxable periods beginning on or after January 1, 2021, persons required to withhold and to remit income taxes on gaming winnings shall electronically file the LDR Form L-3 transmittal and accompanying IRS Form W-2G. Pursuant to the authority of R.S. 47:114(D)(2) and to provide simplicity on related federal filing requirements, the secretary grants an extension of time to file to February 28th to coincide with the federal due date.

a. Electronic Filing Options. The LDR Form L-3 and IRS Form W-2G shall be filed electronically in one of the manners as follows:

i. electronic filing using the LaWage electronic filing application via the LDR website, www.revenue.louisiana.gov; or

ii. any other electronic method authorized by the secretary.

4. Tax Preparer Undue Hardship Waiver of Electronic Filing Requirement

a. The secretary may waive the electronic filing requirement if it is determined that complying with the requirement would cause an undue hardship.

b. For the purposes of waiver of the electronic filing requirement, inability by the tax preparer to obtain broadband access at the location where LDR Forms L-3 and IRS Forms W-2G are prepared shall be considered an undue hardship and waiver of the requirement will be granted.

AUTHORITY NOTE: Promulgated in accordance with Act 80 of the 2021 Regular Session of the Louisiana Legislature, R.S. 47:32(A), R.S. 47:164, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 36:2877 (December 2010), amended by the Department of Revenue, Policy Services Division, LR 47:

Kimberly J. Lewis
Secretary

2110#063

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2021-2022 Oyster Season on Public Areas of Louisiana

In accordance with the emergency provisions of the Administrative Procedure Act, Louisiana Revised Statutes (R.S.) 49:953.1, which allows the Wildlife and Fisheries Commission (Commission) to use emergency procedures to set oyster seasons and under the authority of R.S. 56:433 and R.S. 56:435.1.1, which mandates that the Commission shall set oyster seasons each year in the natural reefs, the Commission does hereby set and declare the 2021/2022 oyster season in Louisiana state waters as follows:

The Sister Lake Public Oyster Seed Reservation as described in R.S. 56:434, shall open to the harvest of seed oysters for bedding purposes at one-half hour before sunrise

on Monday, October 25, 2021, and shall close to the harvest of seed oysters for bedding purposes at one-half hour after sunset on Monday, October 25, 2021.

The Sister Lake Public Oyster Seed Reservation shall open to the harvest of market oysters for direct sale at one-half hour before sunrise on Tuesday, October 26, 2021, and shall close to the harvest of market oysters at one-half hour after sunset on Friday, October 29, 2021.

Calcasieu Lake Public Oyster Area as described in R.S. 56:435.1.1 shall open one-half hour before sunrise on Monday, November 1, 2021.

These actions shall not supersede public health closures.

A. During the 2021/2022 open oyster season, the following provisions shall be in effect.

1. Any vessel from which any person(s) takes or attempts to take oysters from the public oyster seed grounds and reservations described above shall be limited to a daily take not to exceed 25 sacks of market oysters for direct sale per vessel, except for Calcasieu Lake where the daily and possession limits shall not exceed 10 sacks of market oysters for direct sale per vessel. A sack of oysters for the purposes of this Declaration of Emergency shall be defined as the size described in R.S. 56:440. If sacks smaller than the size described in R.S. 56:440 are used, the daily harvest and possession limit shall be based on the number of sacks used, not the size of the sack or other measures. The daily take and possession limit shall not apply to vessels harvesting seed oysters for bedding purposes. The possession limit shall not apply to vessels operating under a valid Oyster Cargo Vessel Permit, and these vessels shall not harvest oysters.

2. All vessels harvesting on the open public oyster seed grounds on Monday, October 25, 2021 shall be harvesting seed oysters for bedding purposes only and shall not have sacks or other containers typically used to hold oysters on board the harvest vessel.

3. A vessel is limited to either harvesting market oysters for direct sale (sacking) or harvesting seed oysters for bedding purposes on any one day and is specifically prohibited from doing both.

4. If any person on a vessel takes or attempts to take oysters from the public oyster areas, seed grounds or reservations described above, all oysters contained on that vessel shall be deemed to have been taken from said seed ground or reservation from the time harvest begins until all oysters are off-loaded dockside.

5. The harvest of seed oysters from a public oyster seed ground or reservation shall be for the purpose of moving the live oyster resource. The removal of more than 15 percent of non-living reef material in bedding loads is prohibited. All vessels shall allow on-board inspection and sampling of seed oyster loads by Department of Wildlife and Fisheries (LDWF) biologists and/or agents.

6. All oysters harvested from public areas, seed grounds or reservations for the purpose of market shall be uncontaminated, sealed and not gaping as described in R.S. 56:433.

7. All oysters harvested from public areas, seed grounds or reservations for the purpose of direct sale shall measure a minimum of 3 inches from hinge to bill as described in R.S. 56:433.

8. Prior to leaving public oyster areas, seed grounds or reservations with oysters harvested from said areas, all oysters must be sacked, the number of sacks shall be recorded in a log book, and each sack shall be properly tagged.

9. All vessels located in public oyster areas, seed grounds or reservations during those times between one-half hour after sunset and one-half hour before sunrise, shall have all oyster scrapers unshackled.

10. In Calcasieu Lake, oyster scrapers are prohibited. Oyster harvesting shall be limited to oyster tongs or by hand. Oyster tongs shall be made as a grasping device consisting of two pieces joined by a pivot or hinged like scissors used for picking up objects.

B. The following areas shall remain closed for the entire 2021/2022 oyster season.

1. The 2021 Sister Lake Cultch Plant within the following coordinates:

- a. 29 degrees 14 minutes 25.211 seconds
90 degrees 56 minutes 19.117 seconds
- b. 29 degrees 14 minutes 3.351 seconds
90 degrees 56 minutes 19.203 seconds
- c. 29 degrees 14 minutes 25.075 seconds
90 degrees 55 minutes 34.537 seconds
- d. 29 degrees 14 minutes 3.214 seconds
degrees 55 minutes 34.626 seconds

2. The public oyster seed grounds and reservations, as described in Louisiana Administrative Code (LAC) 76:VII.507, LAC 76:VII.509, LAC 76:VII.511 and LAC 76:VII.513, including all areas east of Mississippi River, Louisiana Department of Health (LDH) Shellfish Harvest Areas 1, 2, 3, 4, 5, 6, 7, 8, and the Vermilion/East and West Cote Blanche Bay/Atchafalaya Bay Public Oyster Seed Grounds.

3. Lake Mechant, Lake Tambour, Lake Chien, Lake Felicity, Deep Lake and Barataria Bay Public Oyster Seed Grounds as described in LAC 76:VII:517.

4. The Little Lake Public Oyster Seed Grounds as described in LAC 76:VII.521.

5. Hackberry Bay, Bay Junop and Bay Gardene Public Oyster Seed Reservations and as described in R.S. 56:434.

6. Oyster harvest on the Sabine Lake Public Oyster Area is prohibited as described in R.S. 56:435.1.

C. The secretary of LDWF is authorized to take emergency action as necessary to:

1. close areas if oyster mortalities are occurring, to delay the season or close areas where significant spat catch has occurred with good probability of survival, where it is found that there are excessive amounts of non-living reef material in seed oyster loads, if oyster resources and/or reefs are being adversely impacted, or if enforcement problems are encountered;

2. adjust daily take and/or possession limits as biological or enforcement data indicate a need;

3. adjust sacking-only areas and/or restrict the taking of seed oysters as biological or enforcement data indicate a need;

4. reopen an area previously closed if the threat to the resource has ended, or open areas if substantial oyster resources are located.

Prior to any action, the secretary shall notify the chair of the commission of the intention to make any or all of the changes indicated above.

Notice of any opening, delaying or closing of a season will be made by public notice at least 72 hours prior to such action unless such closure is ordered by the LDH for public health concerns.

Jerri G. Smitko
Chair

2110#023

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2021 Commercial and Recreational Lane Snapper Season Closure

Louisiana's commercial and recreational lane snapper season was previously opened on January 1, 2021. The regional administrator of NOAA Fisheries has informed the secretary that the 2021 commercial and recreational seasons for the harvest of lane snapper in the federal waters of the Gulf of Mexico will close October 18, 2021. Data indicate that the 2021 annual catch limit of 301,000 pounds has been projected to be met by that date. Compatible season regulations in state waters are preferable to provide effective rules and efficient enforcement for the fishery, and to prevent overfishing of the species in the long term.

In accordance with the emergency provisions of R.S. 49:953.1, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency rules to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary by the commission in LAC 76:VII.335.G.5 to modify opening and closing dates of any commercial or recreational reef fish seasons in Louisiana state waters when he is informed by the regional administrator of NOAA Fisheries that the seasons have been closed in adjacent federal waters, the secretary hereby declares:

The seasons for the commercial and recreational harvest of lane snapper in Louisiana state waters shall close at 12:01 a.m. on October 18, 2021 and shall remain closed until the start of the 2022 recreational and commercial seasons, currently scheduled to open on January 1, 2022. Effective with this closure, no person shall recreationally harvest or possess lane snapper whether within or without Louisiana waters. Furthermore, no person shall commercially harvest, possess, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell lane snapper whether within or without Louisiana waters. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing lane snapper taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

Jack Montoucet
Secretary

2110#019

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2021 Recreational Gray Triggerfish Season Closure

Louisiana's private recreational gray triggerfish season was previously opened on March 1, 2021. The regional administrator of NOAA Fisheries has informed the secretary that the recreational season for gray triggerfish in the federal waters of the Gulf of Mexico will close at 12:01 a.m. on September 15, 2021. Data indicate that the 2021 recreational annual catch target of 273,323 pounds has been projected to be met and a closure is necessary to prevent overfishing.

In accordance with the emergency provisions of R.S. 49:953.1, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency rules to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary by the commission in LAC 76:VII.335.G.5 to modify opening and closing dates of any commercial or recreational reef fish seasons in Louisiana state waters when he is informed by the regional administrator of NOAA Fisheries that the seasons have been closed in adjacent federal waters, the secretary hereby declares:

The season for the recreational harvest of gray triggerfish in Louisiana state waters shall close at 12:01 a.m. on Wednesday, September 15, 2021 and shall remain closed until the scheduled opening of the 2022 season on March 1, 2022. Effective with this closure, no person shall recreationally harvest or possess gray triggerfish whether within or without Louisiana waters.

Jack Montoucet
Secretary

2110#001

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2021 Recreational Red Grouper Season Closure

Louisiana's private recreational red grouper season was previously opened on January 1, 2021. The regional administrator of NOAA Fisheries has informed the secretary that the recreational season for red grouper in the federal waters of the Gulf of Mexico will close at 12:01 a.m. on September 15, 2021. Data indicate that the 2021 recreational annual catch target of 1,000,000 pounds gutted weight has been projected to be met and a closure is necessary to prevent overfishing.

In accordance with the emergency provisions of R.S. 49:953.1, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency rules to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary by the commission in LAC 76:VII.335.G.5 to

modify opening and closing dates of any commercial or recreational reef fish seasons in Louisiana state waters when he is informed by the regional administrator of NOAA Fisheries that the seasons have been closed in adjacent federal waters, the secretary hereby declares:

The season for the recreational harvest of red grouper in Louisiana state waters shall close at 12:01 a.m. on Wednesday, September 15, 2021 and shall remain closed until the scheduled opening of the 2022 season on January 1, 2022. Effective with this closure, no person shall recreationally harvest or possess red grouper whether within or without Louisiana waters.

Jack Montoucet
Secretary

2110#002

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Designation of a Temporary Natural Oyster Reef in Lake Barre

In accordance with emergency provisions of the Administrative Procedure Act, R.S. 49:953(H) which allows the Louisiana Wildlife and Fisheries Commission (Commission) to use emergency procedures to set oyster seasons, and in accordance with R.S. 56:6(12) and R.S. 56:434(A) which allows the Commission to enlarge the natural reefs of the state and to designate and set aside state water bottoms for the planting, growth, propagation, and policing of seed oysters, the Commission does hereby declare and designate a temporary natural reef on those public water bottoms of Lake Barre in Terrebonne Parish, more specifically as per the seasonal framework described below.

Due to the overall declining availability of oyster resources on the public oyster seed grounds, the lack of available state-owned water bottoms for oyster leasing, and an imminent marsh creation project that plans to transport sediment from the area designated as a borrow site, the designation of the Lake Barre Temporary Natural Reef is needed to allow harvest of any and all oyster resources before borrowing activities begin.

The Lake Barre Temporary Natural Reef shall be divided into two areas consisting of those state-owned water bottoms not currently under lease within the following description:

1. Lake Barre North Temporary Natural Reef located west of Lake Felicite in Terrebonne Parish within the following coordinates:

- a. 29 degrees 18 minutes 03.47 seconds N
90 degrees 35 minutes 22.78 seconds W
- b. 29 degrees 18 minutes 03.31 seconds N
90 degrees 34 minutes 47.92 seconds W
- c. 29 degrees 17 minutes 23.85 seconds N
90 degrees 34 minutes 47.54 seconds W
- d. 29 degrees 17 minutes 11.58 seconds N
90 degrees 34 minutes 18.26 seconds W

- e. 29 degrees 16 minutes 49.59 seconds N
90 degrees 34 minutes 17.49 seconds W
- f. 29 degrees 17 minutes 08.08 seconds N
90 degrees 35 minutes 19.94 seconds W
- g. 29 degrees 17 minutes 10.68 seconds N
90 degrees 35 minutes 21.87 seconds W

2. Lake Barre South Temporary Natural Reef located west of Lake Felicite in Terrebonne Parish within the following coordinates:

- a. 29 degrees 16 minutes 36.11 seconds N
90 degrees 34 minutes 11.55 seconds W
- b. 29 degrees 16 minutes 18.90 seconds N
90 degrees 32 minutes 51.55 seconds W
- c. 29 degrees 15 minutes 44.58 seconds N
90 degrees 32 minutes 51.55 seconds W
- d. 29 degrees 15 minutes 44.34 seconds N
90 degrees 34 minutes 11.50 seconds W

The Lake Barre Temporary Natural Reef shall open one-half hour before sunrise on Monday, October 11, 2021. The season shall close at one-half hour after sunset on Friday, October 22, 2021. The Lake Barre Temporary Natural Reef will open with the following provisions:

1. Sacking from the Lake Barre Temporary Natural Reef shall be prohibited, and all harvested oysters shall be used for bedding purposes only. No sacks or other containers typically used to hold oysters shall be on board harvest vessels.

2. If a vessel is harvesting from the Lake Barre Temporary Natural Reef, all oysters on that vessel are deemed to have been taken from the Lake Barre Temporary Natural Reef.

3. It shall be prohibited to harvest oysters from any private oyster lease and any area of the Lake Barre Temporary Natural Reef on the same day.

The Secretary of the Department of Wildlife and Fisheries is authorized to take emergency action as necessary to close the Lake Barre Temporary Natural Reef if enforcement problems are encountered.

All statutes, regulations, and policies pertaining to the use of public oyster seed grounds remain in effect except:

1. Any additional compensation requirements levied from time to time for construction, oil and gas exploration, or pipeline construction activities within this Temporary Natural Reef Area, and

2. The policy pertaining to non-renewal of expired oyster leases within this Temporary Natural Reef Area.

Notice of any opening, delaying or closing of a season will be made by public notice at least 72 hours prior to such action unless such closure is ordered by the Louisiana Department of Health for public health concerns.

This Declaration of Emergency will become effective on Monday, October 11, 2021 and shall remain in effect until 12:01 a.m., Saturday, October 23, 2021 at which time the temporary public oyster area declaration of emergency will expire.

Jerri G. Smitko
Chair

2110#024

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Joyce, Maurepas Swamp, and Salvador/Timken WMAs
Amended Deer Seasons

In accordance with the provisions of R.S. 49:953.1 and under the authority of R.S. 56:115 and 116, the Wildlife and Fisheries Commission hereby adopts the following Emergency Rule:

Due to the anticipated impacts of Hurricane Ida which made landfall on August 29, 2021, and which caused a storm surge and associated inland flooding on Joyce, Maurepas Swamp, and Salvador/Timken WMAs, the Wildlife and Fisheries Commission is recommending a reduction in the number of either-sex deer days for the 2021-2022 season. The reduction in days is intended to mitigate the anticipated reduction in fawn survival and subsequent lack of recruitment.

On Joyce and Maurepas Swamp WMAs, either-sex deer harvest will be amended to bucks only during firearms season of November 26-28, and primitive firearm season of January 8-9 and January 24-30. Either-sex deer hunting will be allowed during youth firearm season of November 6-7 and archery season of October 16-February 15.

On Salvador/Timken WMA, either-sex deer harvest will be amended to bucks only during firearm season of November 19-21, and primitive firearm season of December 20-26. Either-sex deer hunting will be allowed during archery season of November 1-January 31 and youth firearm season of October 9-10, October 16-17, October 23-24, and October 30-31.

This Emergency Rule shall become effective October 7, 2021, and remain in effect for the duration of the 2021-22 Deer Hunting Season. The Secretary of the Department of Wildlife and Fisheries is authorized to take any necessary steps on behalf of the Commission to promulgate and effectuate this Emergency Rule.

Jerri Smitko
Chair

2110#046

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Reopening of the 2021 Recreational
Red Snapper Season and Bag Limit Adjustment

Louisiana's private recreational red snapper season was previously set by the Wildlife and Fisheries Commission at its regular meeting on May 6, 2021 to be open on weekends only (Friday, Saturday, and Sunday) including the Mondays of Memorial Day and Labor Day beginning on May 28, 2021. The season closed on September 6, 2021 as previously scheduled. LA Creel data indicate that there is remaining allocation that can be fished, and a re-opening is warranted.

In accordance with the emergency provisions of R.S. 49:953.1, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency rules to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary by the commission in LAC 76:VII.335.G.5 to modify red snapper recreational daily harvest limits and red snapper recreational seasons if deemed necessary, and the authority delegated to Louisiana in 50 C.F.R. § 622.23 to manage certain aspects of the recreational red snapper harvest by the private angling component in the Gulf Exclusive Economic Zone (EEZ), the Secretary hereby declares:

The season for the recreational harvest of red snapper in federal and state waters off Louisiana will re-open at 12:01 a.m. on Friday, September 24, 2021 and remain open every day of the week until further notice at a daily bag and possession limit of four fish per person. The size limit remains at the previously established minimum size limit of 16 inches total length.

Jack Montoucet
Secretary

2110#009

Rules

RULE

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools
Charter School Fiscal Responsibilities
(LAC 28:CXXXIX.2511)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10), the Board of Elementary and Secondary Education has amended LAC 28:CXXXIX (Bulletin 126). Amendments better ensure alignment between BESE and local charter authorizing processes, provide for the inclusion of intentional questions requiring applicants to substantiate that the proposed school will improve outcomes for the intended student population, and reflect updated authorizing priorities aligned to national best practices. This Rule is hereby adopted on the day of promulgation.

Title 28 EDUCATION

Part CXXXIX. Bulletin 126—Charter Schools

Chapter 25. Charter School Fiscal Responsibilities

§2511. Cash Management and Investment

A. Each charter school board shall create and adopt a policy and implement procedures regarding cash management and investments of public funds. The policy shall protect public funds by minimizing the amount of unsecured funds to the extent practical.

B. Best practices identified for political subdivisions in R.S. 33:2955, Investment by Local Political Subdivisions and R.S. 39:1211, Banking Law for Political Subdivisions may be used as a guide for developing a cash management and investment policy for charter school boards. The use of any of the best practices shall not be interpreted to define charter schools as political subdivisions.

C. The cash management and investment policy shall contain procedures for determining the bank or other such entity in which public funds in an amount equal to the amount insured by the FDIC shall be deposited. The bank or other such entity shall be a stock-owned federally insured depository institution organized under the laws of this state or of any other state of the United States, or under the laws of the United States.

D. Each charter school board shall include in the policy a process for examination of the soundness of any banking institution considered as the fiscal agent or local depository prior to deposit of funds. Charter operators shall utilize the quarterly Federal Financial Institutions Examination Council's (FFIEC) Uniform Bank Performance Review (UBPR) to select an institution in which to deposit funds. Two metrics included in this report indicate the stability of a bank specifically, high capital ratio and non-current loans equity capital, and shall be reviewed prior to conducting business with this institution. Documentation shall be maintained to support the completion of this verification and made available for review if requested.

E. The policy shall contain procedures for identifying one or more methods for managing unsecured funds in order to minimize the risk of loss. Documentation shall be maintained to support the selection of one or more methods for managing unsecured funds and made available for review if requested. In order to minimize unsecured cash, the following methods for cash management and investments may be considered:

1. collateralization of funds offered to public entities, if available;
2. certificate of deposit laddering;
3. deposits in the Louisiana Asset Management Pool (LAMP);
4. deposits in the certificate of Deposit Account Registry Service (CDARS);
5. deposits in an insured cash sweep service; and
6. deposits in multiple banking institutions.

F. Adherence to the adopted policy shall be measured as part of the annual independent audit of the financial statements of each charter school. The audit shall note if the charter operator holds any unsecured cash as of the end of the fiscal year, as well as the amount.

G. Each charter school board shall create and adopt a policy in compliance with the aforementioned requirements no later than December 31, 2021.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, R.S. 17:3991, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 47:1491 (October 2021).

Shan N. Davis
Executive Director

2110#041

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of
School Personnel
(LAC 28:CXXXI.203)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10), the Board of Elementary and Secondary Education has amended LAC 28:CXXXI (Bulletin 746). Revisions are in response to the Educational Testing Services' (ETS) recent discontinuation of the Middle School Science exam (5440). The current exam (5440) will not be available after March 31, 2022. The new PRAXIS Middle School Science exam (5442) reflects expectations for teachers to be ready to engage, instruct, and support 21st century students. The new exam is aligned to Next Generation Science Standards (NGSS) and National Science Teacher Association (NSTA) standards which incorporate the Tasks of Teaching Science and the Science and Engineering Practices, in addition to input from national

advisory committees and over 1000 educators. This Rule is hereby adopted on the day of promulgation.

Title 28
EDUCATION

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

Chapter 2. Initial Teacher Certification

Subchapter B. Testing Required for Certification Areas

§203. Certification Exams and Scores (Formerly §243)

A. - E.1.b. ...

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

Certification Area	Name of Test	Number of Tests
Mentor Teacher	Louisiana Mentor Teacher Assessment Series—Elementary	2 coaching-related components
	Louisiana Mentor Teacher Assessment Series—Secondary ELA	2 coaching-related components
	Louisiana Mentor Teacher Assessment Series—Secondary Math	2 coaching-related components
	Louisiana Mentor Teacher Assessment Series—Universal	2 coaching-related components
Content Leader	Louisiana Content Leader Assessment Series	5

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1833 (October 2006), amended LR 36:485 and 488 (March 2010), LR 36:2265 (October 2010), LR 37:551 (February 2011), repromulgated LR 37:556 (February 2011), amended LR 37:3210 (November 2011), LR 39:1461 (June 2013), LR 40:277 (February 2014), LR 40:1680 (September 2014), LR 41:645 (April 2015), LR 41:916 (May 2015), LR 42:233 (February 2016), LR 43:1292 (July 2017), LR 44:264 (February 2018), LR 44:1999 (November 2018), LR 45:228, 230 (February 2019), repromulgated LR 45:403 (March 2019), amended LR 45:1458 (October 2019), LR 46:325 (March 2020), LR 46:557 (April 2020), LR 46:1374 (October 2020), LR 47:1492 (October 2021).

Chapter 3. Teaching Authorizations and Certifications

Subchapter C. Ancillary Teaching Certificates

§350. Mentor Teacher Ancillary Certificate

A. ...

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

1. Eligibility requirements for the provisional mentor teacher ancillary certificate are as follows. A teacher must:

a.i. have at least two years of successful teaching in accordance with LAC 28:CXLVII (Bulletin 130) and R.S.

17:3902, if teaching in a charter school without a valid type C, level 1 or higher certificate; and

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

B.1.b. - C.3. ...

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

5. Certified CLASS® observers may apply for the ancillary certificate, which makes the individual eligible to serve as mentors of undergraduate or post-baccalaureate teacher residents.

D. ...

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

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

F. For the 2020-2021 and 2021-2022 school years, the requirement that all undergraduate residents and post-baccalaureate candidates be placed with mentor teachers holding the ancillary mentor teacher certificate, the ancillary provisional mentor teacher certificate, or the Supervisor of Student Teaching certificate, is waived with the following contingencies.

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

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

a. two years of highly effective compass ratings;

b. national board certification;

c. statewide or national distinction for excellence in teaching;

d. experience as a TAP mentor, master teacher, executive master teacher, or certified TAP evaluator;

e. content leader experience, as evidenced by participation in content leader training or redelivery of professional development; or

f. master's or doctorate in education and exemplary experience hosting student teachers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:3902.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:230 (February 2019), amended LR 45:1460 (October 2019), LR 46:1379 (October 2020), LR 47:1492 (October 2021).

Chapter 6. Endorsements to Existing Certificates
Subchapter C. All Other Teaching Endorsement Areas
§675. Mentor Teacher

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

1. Certification. Individuals who have completed a BESE-approved mentor teacher training program and have a passing score on the Louisiana mentor teacher assessment series will be issued a mentor teacher endorsement.

a. Eligibility requirements for the mentor teacher ancillary certificate are as follows. A teacher must:

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

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

iii. have a passing score on the Louisiana mentor teacher assessment series.

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

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

4. Individuals who currently hold or are eligible to hold a Louisiana administrative or supervisory credential as listed in Chapter 7 of this Part may apply for the mentor teacher add-on endorsement, which makes the individual eligible to serve as a mentor of undergraduate or post-baccalaureate teacher residents without meeting the eligibility requirements for a mentor teacher ancillary certificate outlined in Chapter 3 of this Part

5. Individuals who currently hold or are eligible to hold National Institute for Excellence in Training (NIET) teacher evaluator training certification may apply for the mentor teacher add-on endorsement, which makes the individual eligible to serve as a mentor of undergraduate or post-baccalaureate teacher residents without meeting the eligibility requirements for a mentor teacher ancillary certificate outlined in Chapter 3 of this Part.

6. Certified CLASS® observers may apply for the mentor teacher add-on endorsement, which makes the individual eligible to serve as mentors of undergraduate or post-baccalaureate teacher residents without meeting the eligibility requirements for a mentor teacher ancillary certificate outlined in this Section.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 47:1492 (October 2021).

Shan N. Davis
Executive Director

2110#042

RULE

Board of Elementary and Secondary Education

Bulletin 1566—Pupil Progression Policies and Procedures
(LAC 28: XXXIX.305)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 1566—Pupil Progression

Policies and Procedures. The amendments clarify that a locally authorized charter operator shall have the autonomy to develop a Pupil Progression Plan (PPP) separate and apart from the local charter authorizer. The revision allows locally authorized charter operators to set policies and practices regarding pupil progression, aligned with federal law, state law, and BESE policy. This Rule is hereby adopted on the day of promulgation.

Title 28

EDUCATION

Part XXXIX. Bulletin 1566—Pupil Progression Policies and Procedures

Chapter 3. General Procedure for Development; Approval and Revision of a Pupil Progression Plan

§305. Submission Process

A. - A.2. ...

B. A local charter authorizer shall allow a locally authorized charter operator to submit a pupil progression plan in accordance with federal law, state law and BESE policy.

1. Following adoption of the pupil progression plan by the non-profit charter school board of directors, the plan shall not require approval or adoption from the local charter authorizer.

2. A locally authorized charter operator shall submit their pupil progression plan to the local charter authorizer prior to the annual submission to the Department of Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 1999), amended LR 27:188 (February 2001), LR 27:1517 (September 2001), LR 36:2002 (September 2010), LR 44:479 (March 2018), LR 47:1493 (October 2021).

Shan N. Davis
Executive Director

2110#043

RULE

Board of Elementary and Secondary Education

School Food Service
(LAC 28.LXXIX.1903 and CXV.2103)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education has amended LAC 28:LXXIX in Bulletin 741 (Nonpublic)—*Louisiana Handbook for Nonpublic School Administrators*; and LAC 28: CXV in Bulletin 741—*Louisiana Handbook for School Administrators*. The aforementioned revisions align state policy with state law to clarify the types of organizations eligible to participate in federal child nutrition programs; define “nutrition programs,” and define and specify the responsibilities of a “governing authority of a nutrition program provider.” This Rule is hereby adopted on the day of promulgation.

**Title 28
EDUCATION**

**Part CXV. Bulletin 741—Louisiana Handbook for
School Administrators**

Chapter 21. Support Services

§2103. School Food Service

A. "Nutrition program" means a program under which meals or snacks are served by any governing authority of a nutrition program provider in this state on a nonprofit basis to individuals in attendance, including any such program under which a nutrition program provider receives assistance out of the funds appropriated by the Congress of the United States. The USDA Child Nutrition Programs include the National School Lunch Program, the School Breakfast Program, the Summer Food Service Program, the Child and Adult Care Food Program, and any other nutrition program that may be included in the agreement between the governing authority of a nutrition program provider and the state Department of Education.

B. "Governing authority of a nutrition program provider" means any authority which has executed an agreement or contract with the state Department of Education to participate in a nutrition program. This includes schools, government entities, religious organizations, for profit and non-profit organizations, and any other organization approved under agreement with the LDE to participate in any nutrition program.

C. A recognized governing authority of a nutrition program provider shall be eligible to participate in the nutrition programs administered by the LDE, provided that all requirements set forth in the agreement with the state Department of Education are met and maintained. Approvals for participation, any adverse actions, and terminations, shall be in accordance with the signed agreement between the LDE and the governing authority of a nutrition program provider and in accordance with the federal regulations for the nutrition programs.

D. Reimbursement payment shall be made only for approved sites operating under an agreement between the governing authority of a nutrition program provider and the LDE.

1. Agreements shall be signed by the designated representative of each governing authority of a nutrition program provider.

E. Participating schools or other approved facilities shall adhere to the conditions of the agreement, all applicable federal and state laws, and all United States Department of Agriculture (USDA) regulations and policies governing the USDA Child Nutrition Programs under the LDE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:82 and R.S. 17:191 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1287 (June 2005), amended LR 38:3135 (December 2012), LR 39:2212 (August 2013), LR 47:1494 (October 2021).

**Title 28
EDUCATION**

**Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana
Handbook for Nonpublic School Administrators**

Chapter 19. Support Services

§1903. School Food Service

A. "Nutrition program" means a program under which meals or snacks are served by any governing authority of a

nutrition program provider in this state on a nonprofit basis to individuals in attendance, including any such program under which a nutrition program provider receives assistance out of the funds appropriated by the Congress of the United States. The USDA Child Nutrition Programs include the National School Lunch Program, the School Breakfast Program, the Summer Food Service Program, the Child and Adult Care Food Program, and any other nutrition program that may be included in the agreement between the governing authority of a nutrition program provider and the state Department of Education.

B. *Governing authority of a nutrition program provider* means any authority which has executed an agreement or contract with the state Department of Education to participate in a nutrition program. This includes schools, government entities, religious organizations, for profit and non-profit organizations, and any other organization approved under agreement with the LDE to participate in any nutrition program.

C. A recognized governing authority of a nutrition program provider shall be eligible to participate in the nutrition programs administered by the LDE, provided that all requirements set forth in the agreement with the state Department of Education are met and maintained. Approvals for participation, any adverse actions, and terminations, shall be in accordance with the signed agreement between the LDE and the governing authority of a nutrition program provider and in accordance with the federal regulations for the nutrition programs.

D. Reimbursement payment shall be made only for approved sites operating under an agreement between the governing authority of a nutrition program provider and the LDE.

1. Agreements shall be signed by the designated representative of each governing authority of a nutrition program provider.

E. Participating schools or other approved facilities shall adhere to the conditions of the agreement, all applicable federal and state laws, and all United States Department of Agriculture (USDA) regulations and policies governing the USDA Child Nutrition Programs under the LDE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), 17:82, 17:191, R.S. 17:391.1-391.10, and R.S. 44:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2349 (November 2003), amended LR 31:3080 (December 2005), LR 39:1443 (June 2013), LR 47:1494 (October 2021).

Shan N. Davis
Executive Director

2110#044

RULE

**Board of Regents
Office of Student Financial Assistance**

2021-2022 Chafee ETV Award Amount
(LAC 28:IV.1801 and 1809)

The Louisiana Board of Regents has amended its Scholarship/Grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, R.S. 17:3048.1, R.S. 17:3048.5 and

R.S. 17:3048.6).(SG21199R) This Rule is hereby adopted on the day of promulgation.

**Title 28
EDUCATION**

**Part IV. Student Financial Assistance—Higher
Education Scholarship and Grant Programs
Chapter 18. Chafee Educational and Training
Voucher Program**

§1801. General Provisions

A. - D. ...

E. Award Amount

1. A Chafee ETV recipient may receive up to \$5,000 during the academic year. The award amount is determined by the recipient's financial need as calculated in accordance with the Higher Education Act of 1965, as amended.

2. For the 2021-2022 academic year only, a Chafee ETV recipient may receive up to \$9,000 during the academic year. The award amount is determined by the recipient's financial need as calculated in accordance with the Higher Education Act of 1965, as amended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 36:2547 (November 2010), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:554 (March 2018), LR 47:1495 (October 2021).

**§1809. Responsibilities of Participating Institutions of
Higher Education**

A. - B.2. ...

C. Award Amount Determination

1. Institutions of higher education will determine the student's Chafee ETV amount based upon his financial need in accordance with the Higher Education Act of 1965, as amended, and will report that award amount to LOSFA.

2. Institutions of higher education shall provide students the opportunity to appeal the amount of the Chafee ETV amount if the award to the student is less than the maximum annual award amount. Such appeals shall be conducted in accordance with the institution of higher education's procedures for appealing title IV student aid eligibility. Immediately upon receipt of an appeal, the institution of higher education shall notify LOSFA of the appeal, the student's name, and the reason for awarding less than the full grant amount. In the event the student is not satisfied with the school's final decision on the appeal, the institution of higher education shall advise the student that he may appeal the institution of higher education's decision to the Department of Children and Family Services.

D. - E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 36:2549 (November 2010), repromulgated by the Board of Regents, Office of Student Financial Assistance, LR 44:556 (March 2018), LR 47:1495 (October 2021).

Robyn Rhea Lively
Senior Attorney

2110#016

RULE

**Tuition Trust Authority
Office of Student Financial Assistance**

START Saving Program
(LAC 28:VI.315)

The Louisiana Tuition Trust Authority has amended its START Saving Program rules (R.S. 17:3091 et seq.)(ST21198R) This Rule is hereby adopted on the day of promulgation.

**Title 28
EDUCATION**

**Part VI. Student Financial Assistance—Higher
Education Savings
Chapter 3. Education Savings Account
§315. Miscellaneous Provisions**

A. - B.42. ...

43. For the year ending December 31, 2020, the Louisiana Education Tuition and Savings Fund earned an interest rate of 1.40 percent.

44. For the year ending December 31, 2020, the Louisiana Savings Enhancement Fund earned an interest rate of 1.97 percent.

C. - S.2. ...

AUTHORITY NOTE: Promulgated in accordance with 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR 27:1221 (August 2001), LR 27:1884 (November 2001), LR 28:1761 (August 2002), LR 28:2335 (November 2002), LR 29:2038 (October 2003), repromulgated LR 29:2374 (November 2003), amended LR 30:791 (April 2004), LR 30:1472 (July 2004), LR 31:2216 (September 2005), LR 32:1434 (August 2006), LR 32:2240 (December 2006), LR 33:2359 (November 2007), LR 34:1886 (September 2008), LR 35:1492 (August 2009), LR 36:492 (March 2010), LR 36:2030 (September 2010), LR 38:1954 (August 2012), LR 39:2238 (August 2013), LR 40:1926 (October 2014), LR 41:1487 (August 2015), LR 42:1082 (July 2016), LR 42:1658 (October 2016), LR 43:1731 (September 2017), LR 44:1888 (October 2018), LR 45:1177 (September 2019), LR 47:1495 (October 2021).

Robyn Rhea Lively
Senior Attorney

2110#015

RULE

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

Pick N Procedure (LAC 35:XIII.11609)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 4:148, the Racing Commission has amended LAC 35:XIII.11609. The Rule better clarifies for the public

what happens to the portion of a Pick N wager in the instance that there is a change of racing surface due to conditions of the course. This Rule is hereby adopted on the day of promulgation.

Title 35
HORSE RACING
Part XIII. Wagering

Chapter 116. Pick N

§11609. Procedure

A. - F. ...

G. If the condition of the course warrants a change of racing surface in any of the legs of the Pick N races, and such change was not known to the public prior to the closing of wagering for the Pick N pool, the stewards shall declare the changed leg(s) an all win for Pick N wagering purposes only.

H. - L.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1014 (May 2002), amended LR 34:870 (May 2008), LR 45:1594 (November 2019), LR 47:1496 (October 2021).

Charles A. Gardiner III
Executive Director

2110#017

RULE

Department of Health
Board of Dentistry

Continuing Education Requirements
(LAC 46:XXXIII.1615)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760 (8), the Department of Health and Hospitals, Board of Dentistry has amended LAC 46:XXXIII.1615. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part XXXIII. Dental Health Profession

Chapter 16. Continuing Education Requirements

§1615. Approved Courses

A. - A.5. ...

6. American Association of Dental Boards;

7. colleges and universities with dental programs which are accredited by the Commission on Dental Accreditation of the American Dental Association when continuing education courses are held under their auspices;

8. armed services and veterans' administration dental departments;

9. national, state and district associations and/or societies of all specialties in dentistry recognized by the board, and study clubs approved by said specialty societies;

10. American Heart Association as a provider of cardiopulmonary resuscitation courses (Course "C" Basic Life Support for the Health Care Provider);

11. the American Red Cross as a provider of the cardiopulmonary resuscitation course Red Cross professional rescue course;

12. the Accreditation Council for Continuing Medical Education (ACCME).

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8), and (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:662 (June 1994), amended LR 22:24 (January 1996), LR 24:1118 (June 1998), LR 35:1238 (July 2009), LR 38:817 (March 2012), LR 45:1762 (December 2019), LR 47:1496 (October 2021).

Arthur Hickham, Jr.
Executive Director

2110#027

RULE

Department of Health
Bureau of Health Services Financing

Adult Residential Care Providers
Licensing Standards
(LAC 48:I.Chapter 68)

The Department of Health, Bureau of Health Services Financing has amended LAC 48:I.Chapter 68 as authorized by R.S. 36:254 and 40:2166.1-40:2166.8. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 68. Adult Residential Care Providers

Subchapter A. General Provisions

§6801. Introduction

A. ...

B. An ARCP serves individuals in a congregate setting and is operational 24 hours per day, seven days per week, with a coordinated array of supportive personal services, 24-hour supervision and assistance (scheduled and unscheduled), activities and health-related services that are designed to:

B.1. - D. ...

E. The Department of Health (LDH) does not require, and will not issue ARCP licenses for the provision of lodging and meals only or homeless shelters.

E.1. - H. ...

1. Upon approval of the application for renewal of licensure, an existing ARCP shall receive a new ARCP license with its level of service, pursuant to R.S. 40:2166.5.

EXAMPLE: ARCP level 1-personal care homes; ARCP level 2-shelter care homes; ARCP level 3-assisted living facilities; ARCP level 4-adult residential care provider.

2. An existing ARCP shall be required to submit to the department a written attestation which certifies that the ARCP is, and/or shall be in compliance with these provisions by August 15, 2015.

3. If an existing ARCP is electing to begin providing medication administration after August 15, 2015, the ARCP shall be required to submit to the department a written attestation which certifies that the licensing requirements to provide such services have been met.

4. Failure of an existing ARCP to submit the required attestation(s) shall be grounds for either denial of license or revocation of licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1086 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:1496 (October 2021).

§6803. Definitions and Abbreviations

Cessation of Business—provider is non-operational and/or has stopped offering or providing services to the community.

Change of Ownership (CHOW)—the addition, substitution, or removal, whether by sale, transfer, lease, gift, or otherwise, of a licensed health care provider subject to this rule by a person, corporation, or other entity which results in a CHOW or change of controlling interest of assets or other equity interests of the licensed entity may constitute a CHOW of the licensed entity. An example of an action that constitutes a CHOW includes, but is not limited to, the leasing of the licensed entity.

1. - 4. Repealed.

Department—the Louisiana Department of Health (LDH).

HSS—the LDH, Office of the Secretary, Health Standards Section.

Level 2 ARCP—an ARCP that provides adult residential care for compensation to nine or more residents, but no more than 16, who are unrelated to the licensee or operator in a congregate living setting.

Level 3 ARCP—an ARCP that provides adult residential care for compensation to 17 or more residents who are unrelated to the licensee or operator in independent apartments equipped with kitchenettes, whether functional or rendered nonfunctional for reasons of safety.

NOTE: Kitchenettes are not required in apartments designated for the specialized dementia care program.

Level 4 ARCP—an ARCP that provides adult residential care including intermittent nursing services for compensation to 17 or more residents who are unrelated to the licensee or operator in independent apartments equipped with kitchenettes, whether functional or rendered nonfunctional for reasons of safety.

NOTE: Kitchenettes are not required in apartments designated for the specialized dementia care program.

May—Repealed.

Non-Operational—the ARCP location is not open for business operation on designated days and hours as stated on the licensing application and business location signage.

Nursing Director—a registered nurse (RN) licensed by the state of Louisiana who directs or coordinates nursing services in the ARCP.

PRN—Repealed.

Resident Representative—a person who has been authorized by the resident in writing to act upon the resident's direction regarding matters concerning the resident's health or welfare, including having access to personal records contained in the resident's file and receiving information and notices about the overall care, condition and services for the resident. No member of the governing body, administration or staff or an ARCP or any member of their family shall serve as the resident's representative unless they are related to the resident by blood or marriage.

Shall—Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:2166.1-2166.8 and R.S. 40:1101.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1086 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1976 (October 2017), LR 47:1497 (October 2021).

§6805. Licensure Requirements

A. All ARCPs shall be licensed by LDH. The department is the only licensing authority for ARCPs in the state of Louisiana. It shall be unlawful to operate an ARCP without possessing a current, valid license issued by the department. The license shall:

A.1. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1088 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:1497 (October 2021).

§6807. Initial Licensure Application Process

A. An initial application for licensing as an ARCP shall be obtained from the department. A completed initial license application packet for an ARCP shall be submitted to and approved by the department prior to an applicant providing ARCP services. An applicant shall submit a completed initial licensing packet to the department, which shall include:

1. - 5.b. ...

6. proof of general liability insurance of at least \$300,000 per occurrence;

7. proof of worker's compensation insurance as required by state law;

8. proof of professional liability insurance of at least \$100,000 per occurrence/\$300,000 per annual aggregate, or proof of self-insurance of at least \$100,000, along with proof of enrollment as a qualified health care provider with the Louisiana Patient's Compensation Fund (PCF):

a. if the ARCP is self-insured and is not enrolled in the PCF, professional liability limits shall be \$1,000,000 per occurrence/\$3,000,000 per annual aggregate.

NOTE: The LDH/HSS shall specifically be identified as the certificate holder on any policies and any certificates of insurance issued as proof of insurance by the insurer or producer (agent).

9. if applicable, a clinical laboratory improvement amendments (CLIA) certificate or a CLIA certificate of waiver;

10. a completed disclosure of ownership and control information form;

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

12. the days and hours of operation;

13. an FNR approval for a level 4 ARCP;

14. a copy of the letter approving architectural plans from the OSFM;

15. the organizational chart of the ARCP; and

16. any documentation or information required by the department for licensure.

B. ...

C. Once the initial licensing application packet has been approved by the department, the ARCP applicant shall notify the department of readiness for an initial licensing survey within 90 days. If an applicant fails to notify the department of readiness for an initial licensing survey within 90 days of approval, the initial licensing application shall be closed. After an initial licensing application is closed, an applicant who is still interested in becoming an ARCP must submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process subject to any FNR requirements.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1088 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:1497 (October 2021).

§6809. Initial Licensing Surveys

A. - D. ...

1. The provider shall submit an acceptable plan of correction to LDH for approval, and the provider shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license. The required components of a plan of correction shall:

a. address how corrective actions were accomplished for those residents found to have been affected by the deficient practice;

b. describe how other residents that have the potential to be affected by the deficient practice will be identified; and what will be done for them;

c. include the measures that will be put in place or the system changes that will be made to ensure that the deficient practice will not recur;

d. indicate how the facility plans to monitor its performance; and

e. include dates when corrective action will be completed. This date shall not exceed 60 days from exit date of survey.

2. ...

3. If all such noncompliance or deficiencies are not corrected on the follow-up survey, or if new deficiencies are cited on the follow-up survey, the provisional license shall expire and the provider shall be required to begin the initial licensing process again by submitting a new initial license application packet, fee and any required FNR approval.

E. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1089 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:1498 (October 2021).

§6811. Types of Licenses and Expiration Dates

A. - A.3. ...

4. Provisional License

a. The department, in its sole discretion, may issue a provisional license to an existing licensed ARCP for a period not to exceed six months, for any of the following reasons, including but not limited to:

i. the existing ARCP has more than three validated complaints in one licensed year period;

ii. the existing ARCP has been issued a deficiency that involved placing a participant at risk for serious harm or death;

iii. the existing ARCP has failed to correct deficient practices within 60 days of being cited for such deficient practices or at the time of a follow-up survey; or

iv. the existing ARCP is not in substantial compliance with all applicable federal, state, departmental, and local statutes, laws, ordinances, rules, regulations, and fees at the time of renewal of the license.

v. Repealed.

A.4.b. - B. ...

1. If a timely administrative appeal has been filed by the provider regarding the license revocation, suspension, or termination, the administrative appeal shall be suspensive, and the provider shall be allowed to continue to operate and provide services until such time as the DAL or department issues a decision on the license revocation, suspension, or termination.

B.2. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1089 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:1498 (October 2021).

§6813. Changes in Licensee Information or Personnel

A. - B.2.g. ...

C. A CHOW of the ARCP shall be reported in writing to the department within five business days of the CHOW. The license of an ARCP is not transferable or assignable; the license of an ARCP cannot be sold. The new owner shall submit the legal CHOW document, all documents required for a new license, and the applicable licensing fee. Level 4 ARCPs shall also submit a FNR application for approval. Once all application requirements have been completed and approved by the department, a new license shall be issued to the new owner.

D. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1090 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:1498 (October 2021).

§6815. Renewal of License

A. License Renewal Application. The ARCP shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the

existing current license. The license renewal application packet shall include:

1. - 6.b. ...

7. proof of professional liability insurance in accordance with §6807;

8. proof of general liability insurance of at least \$300,000 per occurrence;

9. proof of worker's compensation insurance as required by state law; and

10. any other documentation required by the department.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1091 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:1498 (October 2021).

§6817. Denial of License, Revocation of License, Denial of License Renewal, Operation without License, Penalty

A. - D.15. ...

E. When a licensed ARCP receives a notice of license revocation or suspension, the ARCP shall notify its current residents and their representatives/family members (if applicable) of the license revocation or suspension action. The notice shall:

1. include the following:

- a. the action taken by the department;
- b. whether the facility is appealing the action; and
- c. information regarding a resident's rights to select another ARCP; and

2. be posted in a conspicuous place inside the licensed premises where residents can access the notice.

F. In the event an ARCP license is revoked or renewal is denied, any owner, officer, member, manager, or director of such ARCP is prohibited from owning, managing, directing or operating another ARCP for a period of two years from the date of the final disposition of the revocation or denial action.

1. - 3. Repealed.

G. Operation without License and Penalty

1. An ARCP shall not operate without a license issued by the department. Any such provider operating without a license shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$100 for each day of operation without a license up to a maximum of \$1,000 or imprisonment of not more than six months, or both. It shall be the responsibility of the department to inform the appropriate district attorney of the alleged violation to assure enforcement.

2. If an ARCP is operating without a license issued by the department, the department shall have the authority to issue an immediate cease and desist order to that provider. Any such provider receiving such a cease and desist order from the department shall immediately cease operations until such time as that provider is issued a license by the department.

3. The department shall seek an injunction in the Nineteenth Judicial District Court against any provider who receives a cease and desist order from the department under §6817.B and who does not cease operations immediately.

Any such provider against whom an injunction is granted shall be liable to the department for attorney fees, costs, and damages.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1091 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:1499 (October 2021).

§6819. Notice and Appeal of License Denial, License Revocation and Denial of License Renewal

A. - C. ...

1. The ARCP shall request the administrative appeal within 30 days of the receipt of the results of the administrative reconsideration. The ARCP may forego its rights to an administrative reconsideration, and if so, the ARCP shall request an administrative appeal within 30 days of the receipt of the notice of the license denial, license revocation, or denial of license renewal. The request for administrative appeal shall be in writing and shall be submitted to the DAL or its successor.

C.2. - E.5.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1092 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:1499 (October 2021).

§6823. Statement of Deficiencies

A. - C.3. ...

4. The request for administrative reconsideration of the deficiencies must be made to the department's HSS.

5. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1093 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:1499 (October 2021).

§6825. Cessation of Business

A. Except as provided in §6881, §6882, and §6883 of these licensing regulations, a license shall be immediately null and void if an ARCP ceases to operate.

B. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1094 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:1499 (October 2021).

§6829. Policy and Procedures

A. The ARCP shall have written policies and procedures approved by the governing body that, at a minimum, address the following:

1. - 15. ...

16. record-keeping including, but limited to the use of electronic signature authentication and identification for the electronic signature of a resident and/or the resident's representative in accordance with R.S. 40:1163.1 or current law;

17. infection control measures, including but not limited to the use of personal protective equipment (PPE), as appropriate;

18. fall assessment and prevention; and

19. any other area required in accordance with memorandums issued by the department's HSS.

B. - B.9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1095 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1976 (October 2017), LR 47:1499 (October 2021).

§6831. Visitation by Members of the Clergy During a Declared Public Health Emergency

A. For purposes of §6831 and §6832, a public health emergency (PHE) is a declaration made pursuant to the Louisiana Health Emergency Powers, R.S. 29:760 et seq.

B. For purposes of §6831 and §6832, clergy shall be defined as follows:

1. as a minister, priest, preacher, rabbi, imam, Christian Science practitioner; or

2. other similar functionary of a religious organization; or

3. an individual reasonably believed to be such a clergy member by the person consulting him.

C. For purposes of §6831 and §6832, immediate family shall mean the following in order of priority:

1. spouse;

2. natural or adoptive parent, child, or sibling;

3. stepparent, stepchild, stepbrother, or stepsister;

4. father-in-law, mother-in-law, daughter-in-law, son-in-law, brother-in-law, or sister-in-law;

5. grandparent or grandchild; or

6. spouse of a grandparent or grandchild; or

7. legal or designated representative of the resident.

D. For purposes of §6831 and §6832, resident shall mean a resident or client of a licensed ARCP in Louisiana, or the legal or designated representative of the resident or client.

E. A licensed ARCP shall comply with any federal law, regulations, requirement, order or guideline regarding visitation in ARCPs issued by any federal government agency during a declared PHE. The provisions of the licensing rules in §6829.F-I shall be preempted by any federal statute, regulation, requirement, order or guideline from a federal government agency that requires an ARCP to restrict resident visitation in a manner that is more restrictive than the rules.

F. An ARCP facility shall comply with any Louisiana state health officer (SHO) order or emergency notice regarding visitation in ARCPs during a declared PHE.

G. An ARCP facility shall comply with any executive order or proclamation issued by the governor of the state of Louisiana regarding visitation in ARCPs during a declared PHE.

H. The provisions of this Section regarding visitation by members of the clergy shall apply to all ARCPs licensed by the Department of Health.

I. Subject to the requirements of §6831.E-G, each ARCP shall allow members of the clergy to visit residents of the ARCP during a declared PHE when a resident, or his legal or designated representative, requests a visit with a member of the clergy, subject to the following conditions and requirements:

1. Each ARCP shall have a written policy and procedure addressing visitation by members of the clergy. A

copy of the written policy and procedure shall be available, without cost, to the resident and his legal or designated representative, upon request. The ARCP shall provide a link to an electronic copy of the policy and procedure to a member of the clergy, upon request.

2. An ARCP's policy and procedure regarding clergy visitation may adopt reasonable time, place, and manner restrictions, provided that such restrictions are implemented by the ARCP, in consultation with appropriate medical personnel, for the purpose of mitigating the possibility of transmission of any infectious agent or infectious disease or for the purpose of addressing the medical condition or clinical consideration of an individual resident.

3. An ARCP's policy and procedure on clergy visitation shall, at a minimum, require the following:

a. that the ARCP give special consideration and priority for clergy visitation to residents receiving end-of-life care;

b. that a clergy member will be screened for infectious agents or infectious diseases, utilizing at least the current screening or testing methods and protocols recommended by the Centers for Disease Control and Prevention (CDC), as applicable; if there is a current Louisiana SHO order or emergency notice that requires more rigorous screening or testing methods, or protocols, then the ARCP shall utilize those methods and protocols;

c. that a clergy member not be allowed to visit an ARCP resident if such clergy member has obvious signs or symptoms of an infectious agent, or infectious disease, or if such clergy member tests positive for an infectious agent, or infectious disease;

d. that a clergy member not be allowed to visit an ARCP resident if the clergy member refuses to comply with the provisions of the ARCP's policy and procedures or refuses to comply with the ARCP's reasonable time, place, and manner restrictions;

e. that a clergy member be required to wear PPE as determined appropriate by the ARCP, considering the resident's medical condition or clinical considerations; at the ARCP's discretion PPE may be made available by the ARCP to clergy members.

f. that an ARCP's policy and procedure include provisions for compliance with a Louisiana SHO order or emergency notice and with any governor's executive order or proclamation limiting visitation during a declared PHE; and

g. that an ARCP's policy and procedure include provisions for compliance with any federal law, regulations, requirements, orders, or guidelines regarding visitation in ARCPs issued by any federal government agency during a declared PHE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:1500 (October 2021).

§6832. Visitation by Immediate Family Members and Other Designated Persons During a Declared Public Health Emergency

A. A licensed ARCP shall comply with any federal law, regulation, requirement, order, or guideline regarding visitation in ARCPs issued by any federal government agency during a declared PHE. The provisions of the

licensing rules in §6832.B-E shall be preempted by any federal statute, regulation, requirement, order or guideline from a federal government agency that require an ARCP to restrict resident visitation in a manner that is more restrictive than the rules.

B. ARCPs shall comply with any Louisiana SHO order or emergency notice regarding visitation in ARCPs during a declared PHE.

C. ARCPs shall comply with any executive order or proclamation issued by the governor of the state of Louisiana regarding visitation in an ARCP during a declared PHE.

D. The provisions of this Section regarding visitation by immediate family members of the resident and other designated persons shall apply to all ARCPs licensed by the Department of Health.

E. Subject to the requirements of §6832.A-C, each ARCP shall allow immediate family members and other designated persons to visit a resident of the ARCP during a declared PHE when a resident, or his legal or designated representative, requests a visit with immediate family members and other designated persons, subject to the following conditions and requirements:

1. Each ARCP shall have a written policy and procedure addressing visitation by immediate family members and other designated persons. A copy of the written policy and procedure shall be available, without cost, to the resident and his legal or designated representative, upon request. The ARCP shall provide a link to an electronic copy of the policy and procedure to immediate family members and other designated persons, upon request.

2. An ARCP's policy and procedure regarding visitation by immediate family members and other designated persons may adopt reasonable time, place, and manner restrictions, provided that such restrictions are implemented by the ARCP, in consultation with appropriate medical personnel, for the purpose of mitigating the possibility of transmission of any infectious agent or infectious disease or for the purpose of addressing the medical condition or clinical considerations of an individual resident.

3. An ARCP's policy and procedure on visitation by immediate family members and other designated persons shall, at a minimum, require the following:

a. that the ARCP give special consideration and priority for visitation by immediate family members and other designated persons to residents receiving end-of-life care;

b. that visitation by immediate family members of the residents and other designated persons will be screened for infectious agents or infectious diseases, utilizing at least the current screening or testing methods and protocols recommended by the CDC, as applicable; if there is a current Louisiana SHO order or emergency notice that requires more rigorous screening or testing methods and protocols, then the ARCP shall utilize those methods and protocols;

c. that an immediate family member or other designated person not be allowed to visit an ARCP resident if such immediate family member or other designated person

has obvious signs or symptoms of an infectious agent or infectious disease, or if such immediate family member or other designated person tests positive for an infectious agent or infectious disease;

d. that an immediate family member or other designated persons not be allowed to visit an ARCP resident if the immediate family member and other designated persons refuses to comply with the provisions of the ARCP's policy and procedure or refuses to comply with the provisions of the ARCP's policy and procedure or refuses to comply with the ARCP's reasonable time, place, and manner restrictions;

e. that immediate family members and other designated persons be required to wear PPE as determined appropriate by the ARCP, considering the resident's medical condition or clinical consideration; at the ARCP's discretion, PPE may be made available by the ARCP to immediate family members and other designated persons;

f. that an ARCP's policy and procedure include provisions for compliance with a Louisiana SHO order or emergency notice and with any governor's executive order or proclamation limiting visitation during a declared PHE; and

g. that an ARCP's policy and procedure include provisions for compliance with any federal law, regulations, requirements, orders, or guidelines regarding visitation in ARCPs issued by any federal government agency during a declared PHE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:1500 (October 2021).

Subchapter C. Residency Criteria, Person-Centered Service Plans, and Residency Agreements

§6833. Pre-Residency and Continued Residency

A. - A.8. ...

B. The ARCP shall complete and maintain a pre-residency screening of the prospective resident to assess the applicant's needs and appropriateness for residency.

1. The pre-residency screening shall include:

a. the resident's physical and mental status, including but not limited to, fall risk assessment;

1.b. - 2. ...

C. Prohibited Health Conditions. There are individuals who are not eligible for residency in ARCPs because their conditions and care needs are beyond the scope of the ARCP's capacity to deliver services and ensure residents' health, safety, and welfare. ARCPs may not enter into agreements with residents with such conditions. These prohibited health conditions include:

1. unstageable, stage 3, or stage 4 pressure ulcers;

2. use of feeding tubes, including but not limited to, nasogastric or gastrostomy tubes;

C.3. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1095 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:1501 (October 2021).

§6835. Person-Centered Service Plan

A. - A.1. ...

2. If the resident's person-centered service plan includes staff administration of medication or intermittent nursing services, the assessment for those services shall be completed by an RN.

B. - D. ...

E. All plans, reviews, and updates shall be signed by the resident or the resident's representative, if applicable. The signature of the resident's representative on such documents may be submitted electronically in accordance with R.S. 40:1163.1 or current law pertaining to electronic signature authentication and identification, or signed in person.

F. All plans, reviews, and updates shall be signed by the ARCP staff. If the resident's PCSP includes staff administration of medication or intermittent nursing services, an RN shall also sign the plans, reviews, and updates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1096 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:1502 (October 2021).

Subchapter D. Adult Residential Care Provider Services §6839. General Provisions

A. - B.2. ...

3. The ARCP shall provide a sanitary environment to avoid sources and transmission of infections and communicable diseases which meet or exceed the latest criteria established by the CDC, Occupational Safety and Health Administration (OSHA), and *State Sanitary Code*.

C. Number of Residents. The maximum number of residents that an ARCP shall serve will be based upon the level and plan as approved by the OSFM and/or the department's HSS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1097 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:1502 (October 2021).

§6843. Medication Administration

A. The ARCP shall have written policies and procedures on medication administration including self-administration, assistance with self-administration, gratuitous administration or third party administration, and staff administration of medications. There shall also be policies regarding obtaining and refilling medications, storing and controlling medications, disposing of medications, documentation of medication administration, and assistance with self-administration.

B. - C.2.b.v. ...

c. Assistance with self-administration of medications shall not include:

i. - iv. ...

v. placing medications in a feeding tube;

vi. mixing medications with foods or liquids; or

vii. filling a single day or multi-day pill organizer for the resident.

3. Staff Administration of Medication

a. - c. ...

d. The ARCP shall require pharmacists to perform a monthly review of all ordered medication regimens for possible adverse drug interactions and to advise the ARCP and the prescribing health care provider when adverse drug interactions are detected. The ARCP shall have documentation of this review and notification in the resident's record.

B.3.e. - F.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1098 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:1502 (October 2021).

§6845. Intermittent Nursing Services

A. - B.1. ...

2. The ARCP shall have written policies and procedures governing intermittent nursing services, including but not limited to the following:

a. - h. ...

i. infection control policies and procedures that meet or exceed the latest criteria established by the CDC, OSHA, and *State Sanitary Code*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1100 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:1502 (October 2021).

§6847. Transportation

A. - C.2. ...

D. When transportation services are provided by the ARCP, the ARCP shall:

1. ensure drivers are trained in cardio pulmonary resuscitation (CPR) and first aid, and in assisting residents in accordance with the individual resident's needs;

D.2 - F.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1100 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:1502 (October 2021).

§6849. Meals Provided by the ARCP

A. - H. ...

I. All food preparation areas (excluding areas in residents' units) shall be maintained in accordance with LAC Title 51 *Sanitary Code*. Pets are not allowed in food preparation and serving areas.

J. - P. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1101 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:1502 (October 2021).

Subchapter E. Resident Protection

§6855. Resident Rights

A. ARCPs shall have a written policy on resident rights and shall post and distribute a copy of those rights. In addition to the basic civil and legal rights enjoyed by other adults, residents shall have the rights listed below. ARCP

policies and procedures must be in compliance with these rights. Residents shall:

1. - 12. ...

13. be notified, along with their representative in writing by the ARCP when the ARCP's license status is modified, suspended, revoked or denied renewal and to be informed of the basis of the action and the right to select another ARCP in accordance with §6817.E.1-2;

14. - 22. ...

23. be informed of how to lodge a complaint with the HSS, the Office of Civil Rights, the Americans with Disabilities Act, the Office of the State Ombudsman, and the Advocacy Center. Contact information including telephone numbers and addresses for these entities shall be posted in a prominent location which is easily accessible to residents;

24. - 24.a. ...

b. the ARCP personnel knock before entering the apartment or room(s) and not enter without the resident's consent, except in case of an emergency or unless medically contraindicated; and

25. have the right to private and uncensored communications, including receiving and sending unopened mail.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1103 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:1502 (October 2021).

§6861. Resident Personal Property and Funds

A. - B.2. ...

3. If an ARCP offers the service of safekeeping readily accessible personal funds up to \$200, and if a resident wishes to entrust funds, the ARCP shall:

a. obtain written authorization from the resident and/or the resident's representative, if applicable, as to safekeeping of funds;

b. provide each resident with a receipt listing the amount of money the ARCP is holding in trust for the resident;

c. maintain a current balance sheet containing all financial transactions to include the signatures of staff and the resident for each transaction; and

d. afford the resident the right to examine the account during routine business hours.

4. If an ARCP offers the service of assisting with management of funds in excess of \$200, the following shall apply.

a. The ARCP shall obtain written authorization to manage the resident's funds from the resident and the representative if applicable.

b. The resident shall have access through quarterly statements and, upon request, financial records.

c. The ARCP shall keep funds received from the resident for management in an individual account in the name of the resident.

d. Unless otherwise provided by state law, upon the death of a resident, the ARCP shall provide the executor or director of the resident's estate, or the resident's representative, if applicable, with a complete accounting of all the resident's funds and personal property being held by

the ARCP. The ARCP shall release the funds and property in accordance with all applicable state laws.

5. If ARCP staff is named as representative payee by Social Security or the Railroad Retirement Board or as fiduciary by the U.S. Department of Veterans Affairs, in addition to meeting the requirements of those agencies, the ARCP shall hold, safeguard, manage and account for the personal funds of the resident as follows.

a. The ARCP shall deposit any resident's personal funds in excess of \$50 in an interest bearing account (or accounts) separate from the ARCP's operating accounts, and that credits all interest earned on the resident's funds to that account. In pooled accounts, there shall be a separate accounting for each resident's share.

b. The ARCP shall maintain a resident's personal funds that do not exceed \$50 in a non-interest bearing account, interest bearing account, or petty cash fund.

c. The ARCP shall establish and maintain a system that assures a full, complete and separate accounting, according to generally accepted accounting principles, of each resident's personal funds entrusted to the ARCP on the resident's behalf.

i. The system shall preclude any comingling of resident funds with ARCP funds or with the funds of any person other than another resident.

ii. The individual financial record shall be available through quarterly statements and on request to resident and/or the resident's representative, if applicable.

5.d. - 6.c.ii. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1104 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:1503 (October 2021).

Subchapter F. Requirements Related to Staff, Record-Keeping and Incident and Accident Reports

§6863. General Provisions

A. - C. ...

D. A staff member trained in the use of CPR and first aid shall be on duty at all times.

E. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1105 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1976 (October 2017), LR 47:1503 (October 2021).

§6865. Staffing Requirements

A. - A.1.b. ...

c. Director Qualifications

i. - ii.(d). ...

iii. Additionally, for level 4 ARCPs the director shall have successfully completed an adult residential care/assisted living director certification/training program consisting of, at a minimum, 12 hours of training that has been approved by any one of the following organizations:

(a) - (d). ...

(e). any of the national assisted living associations, including the:

- (i). ...
- (ii). Argentum;
- (iii). LeadingAge; or
- (iv). National Association of Long Term

Care Administrators Board (NAB).

A.1.c.iv. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1105 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1977 (October 2017), LR 47:1503 (October 2021).

§6867. Staff Training

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

B. The following training topics shall be covered in orientation and annually thereafter for all staff and ARCP contracted providers having direct contact with residents:

- 1. - 5. ...
- 6. infection control, including, but not limited to PPE,

as appropriate.

C. - C.5. ...

D. Continuing Education for Directors

1. All directors shall obtain 12 continuing education units per year that have been approved by any one of the following organizations:

- a. - d. ...
- e. any of the national assisted living associations, including:
 - i. - ii. ...
 - iii. LeadingAge; or
 - f. any of the nationally recognized organizations for long term care that offers continuing education for assisted living providers, such as NAB.

D.2. - E. ...

F. Dementia Training

1. All employees shall be trained in the care of persons diagnosed with dementia and dementia-related practices that include or that are informed by evidence-based care practices. All new employees shall receive such training within 90 days from the date of hire and annually as required in accordance with §6867.F.1-10.b.

2. - 2.b.ii. ...

c. Employees who have only incidental contact with residents shall receive general written information provided by the ARCP on interacting with residents with dementia within 90 days of employment and annually.

3. ...

a. Employees who provide direct face-to-face care to residents shall be required to obtain at least two hours of dementia-specific training within 90 days of employment and annually. This training shall include the following topics:

- i. - ii. ...

b. All other employees shall receive general written information provided by the ARCP on interacting with residents with dementia within 90 days of employment and annually.

4. - 10.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1106 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1977 (October 2017), LR 47:1504 (October 2021).

§6869. Record Keeping

A. - B.9. ...

C. Resident Records. An ARCP shall maintain a separate record for each resident. Such record shall be current and complete and shall be maintained in the ARCP in which the resident resides and readily available to ARCP staff and department staff. Each record shall contain the information below including but not limited to:

1. - 14. ...

15. advance directives and/or Louisiana physician orders for scope of treatment (LaPOST), if any;

16. requirements for assistance in emergency evacuation; and

17. documentation of any third party services provided and documentation of any notifications provided to the resident's representative regarding services.

D. - D.4. ...

5. In the event of a CHOW, the resident records shall remain with the ARCP.

D.6. - E.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1107 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:1504 (October 2021).

Subchapter G. Emergency Preparedness

§6879. Notification

A. - E. ...

F. Effective immediately upon notification of an emergency declared by the Secretary, all ARCPs licensed in Louisiana shall file an electronic report with the ESF-8 Portal and its applications during a declared emergency, disaster, or a PHE.

1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1111 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:1504 (October 2021).

§6881. Authority to Re-open After an Evacuation, Temporary Relocation or Temporary Cessation of Operation

A. The following applies to any ARCP that evacuates, temporarily relocates or temporarily ceases operation at its licensed location due to an emergency either declared or non-declared, in accordance with state statutes.

A.1. - G.2.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

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

41:1112 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:1504 (October 2021).

§6882. Inactivation of License Due to a Declared Disaster or Emergency

A. An ARCP licensed in a parish which is the subject of an executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766, may seek to inactivate its license for a period not to exceed one year, provided that the following conditions are met:

1. the licensed provider shall submit written notification to the HSS within 60 days of the date of the executive order or proclamation of emergency or disaster that:

a. the ARCP has experienced an interruption in the provisions of services as a result of events that are the subject of such executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766;

b. the licensed ARCP intends to resume operation as an ARCP in the same service area;

c. includes an attestation that the emergency or disaster is the sole causal factor in the interruption of the provision of services;

d. includes an attestation that all residents have been properly discharged or transferred to another provider; and

e. provides a list of each resident and where that resident is discharged or transferred to;

2. the licensed ARCP resumes operating as an ARCP in the same service area within one year of the issuance of an executive order or proclamation of emergency or disaster in accordance with R.S. 29:724 or R.S. 29:766;

3. the licensed ARCP continues to pay all fees and cost due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties; and

4. the licensed ARCP continues to submit required documentation and information to the department.

B. Upon receiving a completed written request to inactivate an ARCP license, the department shall issue a notice of inactivation of license to the ARCP.

C. Upon completion of repairs, renovations, rebuilding or replacement, an ARCP which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met.

1. The ARCP shall submit a written license reinstatement request to the licensing agency of the department 60 days prior to the anticipated date of reopening.

a. The license reinstatement request shall inform the department of the anticipated date of opening, and shall request scheduling of a licensing survey.

b. The license reinstatement request shall include a completed licensing application with appropriate licensing fees.

2. The provider resumes operating as an ARCP in the same service area within one year.

D. Upon receiving a completed written request to reinstate an ARCP license, the department shall conduct alicensing survey. If the ARCP meets the requirements for licensure and the requirements under this Section, the department shall issue a notice of reinstatement of the ARCP license.

1. The licensed capacity of the reinstated license shall not exceed the licensed capacity of the ARCP at the time of the request to inactivate the license.

E. No CHOW in the ARCP shall occur until such ARCP has completed repairs, renovations, rebuilding or replacement construction, and has resumed operations as an ARCP.

F. The provisions of this Section shall not apply to an ARCP which has voluntarily surrendered its license and ceased operation.

G. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the ARCP license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:1505 (October 2021).

§6883. Inactivation of License Due to a Non-Declared Disaster or Emergency

A. A licensed ARCP in an area or areas which have been affected by a non-declared emergency or disaster may seek to inactivate its license, provided that the following conditions are met:

1. the licensed ARCP shall submit written notification to the HSS within 30 days of the date of the non-declared emergency or disaster stating that:

a. the ARCP has experienced an interruption in the provisions of services as a result of events that are due to a non-declared emergency or disaster;

b. the licensed ARCP intends to resume operation as an ARCP provider in the same service area;

c. the licensed ARCP attests that the emergency or disaster is the sole causal factor in the interruption of the provision of services; and

d. the licensed ARCP's initial request to inactivate does not exceed one year for the completion of repairs, renovations, rebuilding or replacement of the facility.

NOTE: Pursuant to these provisions, an extension of the 30-day deadline for the initiation of request may be granted at the discretion of the department.

2. the licensed ARCP continues to pay all fees and costs due and owed to the department including, but not limited to, annual licensing fee and outstanding civil monetary penalties and/or civil fines; and

3. the licensed ARCP continues to submit required documentation and information to the department, including, but not limited to cost reports.

B. Upon receiving a completed written request to temporarily inactivate an ARCP license, the department shall issue a notice of inactivation of license to the ARCP.

C. Upon the facility's receipt of the department's approval of request to inactivate the facility's license, the

facility shall have 90 days to submit plans for the repairs, renovations, rebuilding or replacement of the facility, if applicable, to the OSFM and the OPH as required.

D. The licensed ARCP shall resume operating as an ARCP in the same service area within two years of the approval renovations/construction plans by the OSFM and the OPH as required.

EXCEPTION: If the facility requires an extension of this timeframe due to circumstances beyond the facility's control, the department will consider an extended time period to complete construction or repairs. Such written requests for extension shall show facility's active efforts to complete construction or repairs and the reasons for request for extension of facility's inactive license. Any approval for extension is at the sole discretion of the department.

E. Upon completion of repairs, renovations, rebuilding or replacement of the facility, an ARCP which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met:

1. the ARCP shall submit a written license reinstatement request to the licensing agency of the department;

2. the license reinstatement request shall inform the department of the anticipated date of opening and shall request scheduling of a licensing or physical environment survey, where applicable; and

3. the license reinstatement request shall include a completed licensing application with appropriate licensing fees.

F. Upon receiving a completed written request to reinstate an ARCP license, the department may conduct a licensing or physical environment survey. The department may issue a notice of reinstatement if the facility has met the requirements for licensure including the requirements of this Subsection.

G. No CHOW in the ARCP shall occur until such ARCP has completed repairs, renovations, rebuilding or replacement construction and has resumed operations as an ARCP.

H. The provisions of this Subsection shall not apply to an ARCP which has voluntarily surrendered its license and ceased operation.

I. Failure to comply with any of these provisions of this Subsection shall be deemed a voluntary surrender of the ARCP license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:1505 (October 2021).

Subchapter H. Physical Environment

§6885. General Requirements and Authority

A. - B. ...

C. Design Criteria. The project shall be designed in accordance with the following criteria:

1. - 2.

3. the current department licensing regulations for ARCPs.

D. - P. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1113 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:1506 (October 2021).

§6889. Resident Dining and Common Areas

A. - J. ...

K. Adult Residential Care Providers in Shared Businesses

1. ...

2. Entrance. If more than one business occupies the same building, premises, or physical location, the ARCP shall have its own entrance. This separate entrance shall have appropriate signage and shall be clearly identifiable as belonging to the ARCP.

3. Nothing in this Section shall prohibit a health care provider occupying the same building, premises, or physical location as another health care provider from utilizing the entrance, hallways, stairs, elevators, or escalators of another health care provider to provide access to its separate entrance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1115 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:1506 (October 2021).

§6891. Resident Personal Space

A. - C.9. ...

D. Requirements for Resident Apartments in levels 3 and 4

1. All apartments in levels 3 and 4 shall be independent and shall contain at a minimum the following areas:

a. - b. ...

c. a kitchenette that can be distinguished by sight from other areas in the apartment;

NOTE: Kitchenettes are not required in apartments designated for the specialized dementia care program.

d. - e. ...

2. Square Footage in Level 3 and 4 ARCPs

a. Efficiency/studio apartments shall have a minimum of 200 net square feet of floor space, excluding bathrooms and closets and/or wardrobes.

b. - 13. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1115 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1977 (October 2017), LR 47:1506 (October 2021).

Dr. Courtney N. Phillips
Secretary

2110#055

RULE

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

Home and Community-Based Services Waivers
Residential Options Waiver
(LAC 50:XXI.Chapters 161-169)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities have amended LAC 50:XXI.Chapters 161-169 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

**PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community Based Services
Waivers**

Subpart 13. Residential Options Waiver

Chapter 161. General Provisions

§16101. Introduction

A. The Residential Options Waiver (ROW), a 1915(c) home and community-based services (HCBS) waiver, is designed to assist participants in leading healthy, independent and productive lives to the fullest extent possible and promote the full exercise of their rights as citizens of the state of Louisiana. The ROW is person-centered incorporating the participant's support needs and preferences with a goal of integrating the participant into their community. The ROW provides opportunities for eligible individuals with developmental disabilities to receive HCBS services that allow them to transition to and/or remain in the community. These individuals would otherwise require an intermediate care facility for individuals with intellectual disabilities (ICF/IID) level of care.

B. The Residential Options Waiver services are provided with the goal of promoting independence through strengthening the participant's capacity for self-care, self-sufficiency and community integration utilizing a wide array of services, supports and residential options. The ROW is person-centered incorporating the participant's support needs and preferences, while supporting the dignity, quality of life, and security with the goal of integrating the participant into the community.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2154 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1764 (December 2019), LR 47:1507 (October 2021).

§16103. Program Description

A. ...

B. The ROW offers an alternative to institutional care with the objectives to:

1. promote independence for participants through the provision of services meeting the highest standards of quality and national best practices, while ensuring health and safety through a comprehensive system of participant safeguards;

2. offer an alternative to institutionalization and costly comprehensive services through the provision of an array of services and supports that promote community inclusion and independence by enhancing and not replacing existing informal networks; and

3. offer access to services which would protect the health and safety of the participant.

C. ROW services are accessed through a single point of entry in the human services district or authority. All waiver participants choose their support coordination and direct service provider agencies through the freedom of choice process.

1. The plan of care (POC) shall be developed using a person-centered process coordinated by the participant's support coordinator. The initial POC is developed during this person-centered planning process and approved by the human services district or authority. Annual reassessments may be approved by the support coordination agency supervisor as allowed by Office for Citizens with Developmental Disabilities (OCDD) policy.

D. ...

E. The total expenditures available for each waiver participant is established through an assessment of individual support needs and may not exceed the approved ICF/IID Inventory for Client and Agency Planning (ICAP) rate/ROW budget level established for that individual except as approved by the OCDD assistant secretary, deputy assistant secretary, or his/her designee to prevent institutionalization. ROW acuity/budget cap level(s) are based upon each participant's ICAP assessment tool results and may change as the participant's needs change.

1. When the department determines that it is necessary to adjust the ICF/IID ICAP rate, each waiver participant's annual service budget may be adjusted to ensure that the participant's total available expenditures do not exceed the approved ICAP rate. A reassessment of the participant's ICAP level will be conducted to determine the most appropriate support level.

2. The average participant's expenditures for all waiver services shall not exceed the average Medicaid expenditures for ICF/IID services.

3. Participants may exceed assigned ROW acuity/budget cap level(s) to access defined additional support needs to prevent institutionalization on a case by case basis according to policy and as approved by the OCDD assistant secretary or his/her designee.

4. If it is determined that the ROW can no longer meet the participant's health and safety and/or support the participant, the case management agency will conduct person centered discovery activities.

5. All Medicaid service options will be explored, including ICF/IID placement, based upon the assessed need.

F. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2154 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1764 (December 2019), LR 47:1507 (October 2021).

§16104. Settings for Home and Community Based Services

A. ROW participants are expected to be integrated in and have full access to the greater community while receiving services, to the same extent as individuals without disabilities. Providers shall meet the requirements of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) home and community-based setting requirements for home and community-based services (HCBS) waivers as delineated in LAC 50:XXI.901 or any superseding rule.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1764 (December 2019), amended LR 47:1508 (October 2021).

§16105. Participant Qualifications

A. In order to qualify for Residential Options Waiver (ROW), individuals of all ages must meet all of the following criteria:

1. - 2. ...

3. be on the intellectual/developmental disabilities (IDD) request for services registry (RFSR), unless otherwise specified through programmatic allocation in §16107 of this Chapter;

4. meet the requirements for an ICF/IID level of care which requires active treatment for developmental disabilities under the supervision of a qualified developmental disabilities professional;

5. ...

6. have justification based on a uniform needs-based assessment and a person-centered planning discussion that the ROW is the OCDD waiver that will meet the needs of the individual;

7. be a resident of Louisiana;

8. be a citizen of the United States or a qualified alien; and

9. have assurance that health and welfare of the individual can be maintained in the community with the provision of the ROW services.

B. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2155 (October 2015), amended by the

Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2530 (December 2017), LR 45:1764 (December 2019), LR 47:1508 (October 2021).

§16106. Money Follows the Person Rebalancing Demonstration

A. The Money Follows the Person (MFP) Rebalancing Demonstration is a federal demonstration grant awarded by the Centers for Medicare and Medicaid Services to the Department of Health. The MFP demonstration is a transition program that targets individuals using qualified institutional services and moves them to home and community-based long-term care services. The MFP rebalancing demonstration will stop allocation of opportunities when the demonstration expires.

1. For the purposes of these provisions, a qualified institution is a nursing facility, hospital, or Medicaid enrolled intermediate care facility for individuals with intellectual disabilities (ICF/IID).

B. Individuals must meet the following criteria for participation in the MFP Rebalancing Demonstration.

1. Individuals with a developmental disability must:

a. occupy a licensed, approved Medicaid enrolled nursing facility, hospital or ICF/IID bed for at least three consecutive months; and

b. be Medicaid eligible, eligible for state developmental disability services, and meet an ICF/IID level of care.

2. ...

C. Individuals in the demonstration are not required to have a protected date on the developmental disabilities request for services registry (RFSR).

D. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2155 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:1508 (October 2021).

§16107. Programmatic Allocation of Waiver Opportunities

A. The intellectual/developmental disabilities request for services registry, hereafter referred to as "the registry," shall be used to identify individuals with intellectual and/or developmental disabilities who are waiting for an OCDD waiver opportunity. Individuals who are found eligible for developmental disabilities services using standardized tools, and who request waiver services will be added to the registry. The request for services registry (RFSR) is arranged by urgency of need and date of application for developmentally disabled (DD) waiver services.

B. The ROW serves eligible individuals in the following populations and is based on the following priorities:

1. Priority 1. The one-time transition of persons eligible for developmental disability (DD) services in either OAAS Community Choices Waiver (CCW) or OAAS Adult Day Health Care (ADHC) Waiver to the ROW.

2. Priority 2. Individuals living at Pinecrest Supports and Services Center or in a publicly operated ICF/IID when it was transitioned to a private ICF/IID through a cooperative endeavor agreement (CEA facility), or their

alternates. Alternates are defined as individuals living in a private ICF/IID who will give up the private ICF/IID bed to an individual living at Pinecrest or to an individual who was living in a publicly operated ICF/IID when it was transitioned to a private ICF/IID through a cooperative endeavor agreement. Individuals requesting to transition from Pinecrest are awarded a slot when one is requested and their health and safety can be assured in an OCDD waiver. This also applies to individuals who were residing in a state operated facility at the time the facility was privatized and became a CEA facility.

3. Priority 3. Individuals on the registry who have the highest level of need and the earliest registry date shall be notified in writing when a funded OCDD waiver opportunity is available and that he/she is next in line to be evaluated for a possible waiver assignment, and the ROW shall have justification based on a uniform needs-based assessment and a person-centered planning that the ROW is the OCDD waiver that will best meet the needs of the individual.

4. Priority 4. Individuals transitioning from ICF/IID facilities utilizing ROW conversion.

C. OCDD has the responsibility to monitor the utilization of ROW opportunities. At the discretion of OCDD, specifically allocated waiver opportunities may be reallocated to better meet the needs of citizens with developmental disabilities in the state of Louisiana.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2155 (October 2015), LR 42:62 (January 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2530 (December 2017), LR 45:1764 (December 2019), LR 47:1508 (October 2021).

§16109. Admission Denial or Discharge Criteria

A. Admission to the ROW Program shall be denied if one of the following criteria is met.

1. ...
2. The individual does not meet the requirements for an ICF/IID level of care.
3. - 8. ...

B. Participants shall be discharged from the ROW if any of the following conditions are determined:

1. ...
2. loss of eligibility for an ICF/IID level of care;
3. - 5 ...
6. admission to an ICF/IID or nursing facility with the intent to stay and not to return to waiver services;
7. ...
8. the participant fails to cooperate in the eligibility renewal process or the implementation of the approved POC, or the responsibilities of the ROW participant;
9. continuity of stay for consideration of Medicaid eligibility under the special income criteria is interrupted as a result of the participant not receiving ROW services during a period of 30 consecutive days;
 - a. continuity of stay is not considered to be interrupted if the participant is admitted to a hospital, nursing facility, or ICF/IID.

i. Repealed.

b. the participant shall be discharged from the ROW if the treating physician documents that the institutional stay will exceed 90 days; or

10. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2443 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2156 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1765 (December 2019), LR 47:1509 (October 2021).

Chapter 163. Covered Services

§16301. Assistive Technology and Specialized Medical Equipment and Supplies

A. Assistive technology and specialized medical equipment and supplies (AT/SMES) service includes providing specialized devices, controls, or appliances which enable a participant to increase his/her ability to perform activities of daily living, ensure safety, and/or to perceive, control, and communicate within his/her environment.

1. This service also includes items that meet at least one of the following criteria:

- a. items that are necessary for life support;
- b. items that are necessary to address physical conditions, along with ancillary supplies;
- c. address physical conditions;
- d. items that will increase, maintain, or improve ability of the participant to function more independently in the home and/or community; and
- e. equipment necessary to the proper functioning of such items.

2. This service also includes medically necessary durable and non-durable equipment not available under the Medicaid State Plan and repairs to such items and equipment necessary to increase/maintain the independence and well-being of the participant.

a. All equipment, accessories and supplies must meet all applicable manufacture, design and installation requirements.

b. The services under the Residential Options Waiver are limited to additional services not otherwise covered under the Medicaid State Plan.

3. The services are limited to additional services not otherwise covered under the state plan, including EPSDT, but consistent with waiver objectives of avoiding institutionalization.

4. - 5. Repealed.

B. AT/SMES services provided through the ROW include the following services:

1. the evaluation of assistive technology needs of a participant including a functional evaluation of the impact of the provision of appropriate assistive technology and appropriate services to the participant in the customary environment of the participant;

2. services consisting of selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

3. coordination of necessary therapies, interventions or services with assistive technology devices;

4. ...

5. training or technical assistance, on the use for the participant, or where appropriate, family members, guardians, advocates, authorized representatives of the participant, professionals, or others;

6. all service contracts and warranties included in the purchase of the item by the manufacturer;

7. equipment or device repair and replacement of batteries and other items that contribute to ongoing maintenance of the equipment or device;

a. separate payment will be made for repairs after expiration of the warranty only when it is determined to be cost effective; and

8. services consisting of purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices for participants.

C. - D. ...

E. Service Exclusions

1. Assistive technology devices and specialized equipment and supplies that are of general utility or maintenance and items that are not of direct medical or remedial benefit to the participant are excluded from coverage.

2. Any equipment, device, appliance or supply that is covered and has been approved under the Medicaid State Plan is excluded from coverage.

3. For adults over the age of 20 years, specialized chairs, whether mobile or travel are not covered.

F. Provider Participation Requirements. Providers of AT/SMES services must meet the following participation requirements. The provider must:

1. be enrolled in the Medicaid Program;

2. provide documentation on manufacturer's letterhead that the agency listed on the Louisiana Medicaid Enrollment Form and Addendum (PE-50) is:

a. authorized to sell and install assistive technology, specialized medical equipment and supplies, or devices for assistance with activities of daily living; and

b. has training and experience with the application, use fitting and repair of the equipment or devices they propose to sell or repair; and

3. Upon completion of the work and prior to payment, the provider shall give the participant a certificate of warranty for all labor and installation and all warranty certificates.

a. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2443 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2156 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:1509 (October 2021).

§16303. Community Living Supports

A. Community living supports (CLS) are provided to a participant in his/her own home and in the community to achieve and/or to maintain the outcomes of increased

independence, productivity, and enhanced family functioning, to provide relief of the caregiver, and to provide for inclusion in the community. Community living supports may be a self-directed service.

B. Community living supports focus on the achievement of one or more goals as indicated in the participant's approved plan of care by incorporating teaching and support strategies. Supports provided are related to the acquisition, improvement, and maintenance of independence, autonomy and adaptive skills. These skills include:

1. self-help skills;

2. socialization skills;

3. cognitive and communication skills; and

4. ...

C. Place of Service. CLS services are furnished to adults and children who live in a home that is leased or owned by the participant or his/her family. Services may be provided in the home or community, with the place of residence as the primary setting.

D. Community living supports may be shared by up to three participants who may or may not live together, and who have a common direct service provider agency. In order for CLS services to be shared, the following conditions must be met.

1. An agreement must be reached among all of the involved participants, or their legal guardians, regarding the provisions of shared CLS services. If the person has a legal guardian, their approval must also be obtained.

2. The health and welfare must be assured for each participant.

3. Each participant's plan of care must reflect shared services and include the shared rate for the service indicated.

4. A shared rate must be billed.

5. The cost of transportation is built in to the community living services rate and must be provided when integral to community living services.

E. Service Exclusions

1. Community living supports staff are not allowed to sleep during billable hours of community living supports.

2. Payment will not be made for routine care and support that is normally provided by the participant's family or for services provided to a minor by the child's parent or step-parent or by a participant's spouse.

3. ...

4. The participant and community living supports staff may not live in the same place of residence.

5. Payment does not include room and board or the maintenance, upkeep, and improvement of the provider's or family's residence.

6. Community living supports may not be provided in a licensed respite care facility.

7. Community living supports services are not available to participants receiving any of the following services:

a. - c. ...

d. monitored in-home caregiving (MIHC).

8. Community living supports may not be billed at the same time on the same day as:

a. ...

b. prevocational services;

c. ...

d. respite care services-out of home;

- e. transportation-community access;
- f. monitored in-home caregiving (MIHC); or
- g. adult day health care.

9. Payment will not be made for services provided by a relative who is:

- a. parent(s) of a minor child;
- b. legal guardian of an adult or child with developmental disabilities;
- c. spouse of or legally responsible adult for the participant; or
- d. power of attorney, curator, or authorized responsible representative for the waiver participant.

F. Provider Qualifications. CLS providers must be licensed by the Department of Health as a home and community-based services provider and meet the module requirements for personal care attendant in LAC 48:I.Chapter 50.

1. Family members who provide CLS services must meet the same standards as providers who are unrelated to the participant.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2443 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2157 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1765 (December 2019), LR 47:1510 (October 2021).

§16305. Companion Care

A. Companion care services provide supports to assist the participant in achieving and/or maintaining increased independence, productivity and community inclusion as identified in the participant's plan of care. These services are designed for individuals who live independently and can manage their own household with limited supports. The companion provides personal care and supportive services to a participant who resides as a roommate with his/her caregiver. This service includes:

- 1. - 2. ...

B. Companion care services can be arranged by licensed providers who hire companions. The participant must be able to self-direct services to companion. The companion is a principal care provider who is at least 18 years of age, who lives with the participant as a roommate, and provides services in the participant's home. The companion is a contracted employee of the provider agency and is paid as such by the provider.

C. Provider Responsibilities

1. The provider organization shall develop a written agreement that defines all of the shared responsibilities between the companion and the participant. This agreement becomes a part of the participant's plan of care. The written agreement shall include, but is not limited to:

- a. - c. ...

2. Revisions to this agreement must be facilitated by the provider and approved as part of the participant's plan of care following the same process as would any revision to a plan of care. Revisions can be initiated by the participant, the companion, the provider, or a member of the participant's support team.

3. The provider is responsible for performing the following functions which are included in the daily rate:

- a. ...

b. conducting an initial inspection of the participant's home with on-going periodic inspections of a frequency determined by the provider;

c. making contact with the companion at a minimum of once per week, or more often as specified in the participant's plan of care; and

d. providing 24-hour oversight, back-up staff, and companion supervision.

- 4. ...

D. Responsibilities of the companion include:

1. providing assistance with activities of daily living (ADLs);

- a. - c. Repealed.

2. community integration;

3. providing transportation;

4. coordinating and assisting as needed with transportation to medical/therapy appointments;

5. participating in and following the participants plan of care and any support plans;

6. maintaining documentation/records in accordance with state and provider requirements;

7. being available in accordance with a pre-arranged time schedule as outlined in the participant's plan of care;

8. purchasing own personal items and food; and

9. being available 24 hours a day (by phone contact) to the participant to provide supports on short notice as a need arises.

E. Service Limits

1. The provider must provide relief staff for scheduled and unscheduled absences, available for up to 360 hours (15 days) per plan of care year. The companion care provider's rate includes funding for relief staff for scheduled and unscheduled absences.

F. Service Exclusions

1. Companion care is not available to individuals receiving the following services:

- a. - d. ...

e. monitored in-home caregiving (MIHC).

2. Companion care services are not available to participants under the age of 18.

3. Payment will not be made for services provided by a relative who is a:

a. parent(s) of a minor child;

b. legal guardian of an adult or child with developmental disabilities; or

c. spouse of the participant.

4. Payment does not include room and board or maintenance, upkeep, and improvement of the participants or provider's property.

5. transportation is billed by the vocational provider.

G. Provider Qualifications. Providers must be licensed by the Department of Health as a home and community-based services provider and meet the module requirements for personal care attendant in LAC 48:I.Chapter 50.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2444 (November 2007), amended by the

Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2158 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1765 (December 2019), LR 47:1511 (October 2021).

§16307. Day Habilitation Services

A. Day habilitation services are aimed at developing activities and/or skills acquisition to support or further community integration opportunities outside of a participant's home that promote independence and autonomy and assist him/her in developing a full life in his/her community. Services should focus on habilitation activities that enable the participant to attain maximum skills based on his/her valued outcomes. These services should be provided in a variety of community venues, and these venues and services should routinely correspond with the context of the skill acquisition activity to enhance the habilitation activities. Overarching goals of the program shall include regular community inclusion and the opportunity to build towards maximum. The primary focus of day habilitation services is acquisition of new skills or maintenance of existing skills based on individualized preferences and goals.

1. The skill acquisition and maintenance activities should include formal strategies for teaching the personalized skills and include the intended outcome for the participant.

2. Personalized progress for the skill acquisition and maintenance activities should be routinely reviewed and evaluated, with revisions made as necessary to promote continued skill acquisition.

3. As a participant develops new skills, his/her training should move along a continuum of habilitation services offered toward greater independence and self-reliance.

B. Day habilitation services may serve to reinforce skills or lessons taught in school, therapy, or other settings. Day habilitation services shall:

1. focus on enabling the participant to attain his/her maximum skills;

2. be coordinated with any physical, occupational, or speech therapies listed in the participant's plan of care; and

3. be furnished on a regularly scheduled basis and limited to no more than eight hours a day, five days per week.

a. Services are based on a 15 minute unit of service and on time spent at the service site by the participant.

b. Services shall not exceed 32 units of service on any given day or 160 units in any given week in a plan of care.

c. Any time less than 15 minutes of service is not billable or payable.

d. No rounding up of units is allowed.

4. - 4.d.Repealed.

C. The day habilitation provider is responsible for all transportation between day habilitation sites.

1. Transportation is only provided on the day that a day habilitation service is provided.

2. Transportation services are offered and billable as a component of day habilitation. Transportation may be provided to and/or from the participant's residence or a location agreed upon by the participant or authorized representative.

D. Participants may receive more than one type of vocational or habilitative service per day as long as the service and billing criteria are followed and as long as requirements for the minimum time spent on site are adhered to.

E. Service Exclusions

1. Time spent in transportation between the participant's residence/location and the day habilitation site is not to be included in the total number of day habilitation service hours per day, except when the transportation is for the purpose of travel training.

a. Travel training for the purpose of teaching the participant to use transportation services may be included in determining the total number of service hours provided per day. Travel training must be included in the participants plan of care.

2. ...

3. Day habilitation services cannot be billed for at the same time on the same day as:

a. community living supports;

b. professional services, except when there are direct contacts needed in the development of a support plan;

c. respite—out of home;

d. adult day health care;

e. monitored in-home caregiving (MIHC);

f. prevocational services; or

g. supported employment.

F. Provider Qualifications. Providers must be licensed by the Department of Health as a home and community-based services provider and meet the module requirements for adult day care in LAC 48:I.Chapter 50.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2445 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2158 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1765 (December 2019), LR 47:1512 (October 2021).

§16309. Dental Services

A. Dental services are available to adult participants over the age of 21 as of component of the ROW. Covered dental services include:

1. adult diagnostic services (radiographs, complete series including bitewing);

2. ...

3. prophylaxis, new and patient of record adult (cleanings).

B. Service Exclusions

1. ROW dental services are not available to children (up to 21 years of age). Children access dental services through EPSDT.

2. All available Medicaid State Plan services must first be exhausted prior to accessing ROW dental services.

C. Provider Qualifications. Providers must have a current, valid license to provide dental services from the Louisiana State Board of Dentistry for the specific dental services in all specialty areas provided to the participant.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2445 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2159 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:1512 (October 2021).

§16311. Environmental Accessibility Adaptations

A. Environmental accessibility adaptations are physical adaptations to the participant's home or vehicle which are necessary to ensure health, welfare, and safety of the participant, or which enable the participant to function with greater independence, without which the participant would require additional supports or institutionalization. Environmental adaptations must be specified in the participant's plan of care.

1. ...

B. Environmental adaptation services to the home and vehicle include the following:

1. performance of necessary assessments to determine the type(s) of modifications that are needed;

2. training the participant and the provider in the use and maintenance of the environmental adaptation(s);

3. repair of equipment and/or devices, including battery purchases for vehicle lifts and other reoccurring replacement items that contribute to the ongoing maintenance of the approved adaptation(s); and

4. standard manufacturer provided service contracts and warranties.

C. Home adaptations which pertain to modifications that are made to a participant's primary residence. Such adaptations to the home may include bathroom modifications, ramps, or other adaptations to make the home accessible to the participant.

1. The service must be for a specific approved adaptation.

2. The service may include the installation of ramps and grab-bars, widening of doorways, modification of bathroom facilities, or installation of specialized electric and plumbing systems which are necessary to accommodate the medical equipment and supplies which are necessary for the welfare of the participant.

3. - 4. Repealed.

D. Modifications may be applied to rental or leased property only with the written approval of the landlord and approval of OCDD.

1. - 2. Repealed.

E. All environmental accessibility adaptations to home and to a vehicle must meet all applicable standards of manufacture, design, and installation.

F. Service Exclusions for Home Adaptations

1. ...

2. Home modifications shall not be furnished to adapt living arrangements that are owned or leased by paid caregivers or providers of waiver services.

3. Home modifications may not include modifications which add to the total square footage of the home, except when the additional square footage is necessary to make the required adaptations function appropriately.

EXAMPLE: if a bathroom is very small and a modification cannot be done without increasing the total square footage, this would be considered as an approvable cost.

a. When new construction or remodeling is a component of the service, payment for the service is to only cover the difference between the cost of typical construction and the cost of specialized construction.

4. Home modifications may not include modifications to the home which are of general utility and not of direct medical or remedial benefit to the participant, including, but not limited to:

a. - g. ...

5. Home modification funds may not be used for service warranties and contracts above those provided by the manufacturer at the time of purchase (e.g., extended warranties, extended service contracts).

G. Vehicle adaptations pertain to modifications to a vehicle that is the waiver participant's primary means of transportation in order to accommodate his/her special needs.

1. Such adaptations to the vehicle may include a lift, or other adaptations, to make the vehicle accessible to the participant or for the participant to drive.

2. The service must be for a specific approved adaptation.

H. Service Exclusions for Vehicle Adaptations

1. Payment will not be made to:

a. ...

b. purchase or lease of a vehicle.

2. Vehicle modification funds may not be used for modifications which are of general utility and are not of direct medical or remedial benefit to the participant.

3. Vehicle modification funds may not be used for regularly scheduled upkeep and maintenance of a vehicle, except upkeep and maintenance of the modifications.

4. ...

5. Vehicle modification funds may not be used for service warranties and contracts above those provided by the manufacturer at the time of purchase (e.g., extended warranties, extended service contracts).

I. - I.4. ...

J. Provider Qualifications. In order to participate in the Medicaid Program, providers must meet the following qualifications.

1. Home Adaptations. Providers of environmental accessibility adaptations for the home must:

a. be registered through the State Licensing Board for Contractors as a home improvement contractor. The provider must have a current license from the State Licensing Board for Contractors for any of the following building trade classifications:

i. general contractor;

ii. home improvement; or

iii. residential building; or

b. If a current Louisiana Medicaid provider of durable medical equipment, have documentation from the manufacturing company (on its letterhead) that confirms that the provider is an authorized distributor of a specific product that attaches to a building. The letter must specify the product and state that the provider has been trained on its installation.

2. Vehicle Adaptations. Providers of environmental accessibility adaptations to vehicles must be licensed by the Louisiana Motor Vehicle Commission as a specialty vehicle dealer and accredited by the National Mobility Equipment

Dealers Association under the Structural Vehicle Modifier category.

3. All environmental adaptations providers must comply with all applicable local (city or parish) occupational license(s).

4. All environmental adaptation providers, as well as the person performing the service (i.e., building contractors, plumbers, electricians, engineers, etc.), must meet any state or local requirements for licensure or certification. When state and local building or housing code standards are applicable, modifications to the home shall meet such standards, and all services shall be provided in accordance with applicable State or local requirements.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2446 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2159 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:1513 (October 2021).

§16313. Host Home

A. Host home services are personal care and supportive services provided to a participant who lives in a private home with a family who is not the participant's parent, legal representative, or spouse. Host home families are a stand-alone family living arrangement in which the principle caregiver in the host home assumes the direct responsibility for the participant's physical, social, and emotional well-being and growth in a family environment. Host home services are to take into account compatibility with the host home family members, including age, support needs, and privacy needs.

B. Host home services include assistance with:

1. personal care, assistance with the activities of daily living and adaptive living needs;
2. leisure activities, assistance to develop leisure interests and daily activities in the home setting;
3. social development/family inclusion, assistance to develop relationships with other members of the household; and
4. community inclusion supports in accessing community services and activities and pursuing and developing recreational and social interests outside the home.

5. Repealed.

NOTE: Natural supports are also encouraged and supported when possible. Supports are to be consistent with the participant's skill level, goals, and interests.

C. Host home provider agencies oversee and monitor the host home contractor to ensure the availability, quality, and continuity of host home services. Host home provider agencies are responsible for the following functions:

1. arranging, training, and overseeing host home services (host home family);
2. making an initial inspection and periodic inspections of the host home and upon any significant changes in the host family unit or significant events which may impact the participant;
3. having 24-hour responsibility over host home services to the participant, which includes back-up staffing

for scheduled and unscheduled absences of the host home family for up to 360 hours (15 days) as authorized by the participant's plan of care; and

4. providing relief staffing in the participant's home or in another host home family's home.

D. Host home contractors are responsible for:

1. attending the participant's plan of care meeting and participating, including providing information needed in the development of the plan;

2. following all aspects of the participant's plan of care and any support plans;

3. maintaining the participant's documentation;

4. assisting the participant in attending appointments (i.e., medical, therapy, etc.) and undergoing any specialized training deemed necessary by the provider agency, or required by the department, to provide supports in the host home setting;

5. following all requirements for staff as in any other waiver service including immediately reporting to the department and applicable authorities any major issues or concerns related to the participant's safety and well-being; and

6. providing transportation as would a natural family member.

E. Host home contractors who serve children are required to provide daily supports and supervision on a 24-hour basis.

1. If the participant is a child, the host home family is to provide the supports required to meet the needs of a child as any family would for a minor child.

2. Support needs are based on the child's age, capabilities, health, and special needs.

3. A host home family can provide compensated supports for up to two participants, regardless of the funding source.

F. - H. ...

I. Service Exclusions

1. ...

2. Payment will not be made for the following:

- a. respite care services-out of home;
- b. shared living/shared living conversion;
- c. community living supports;
- d. companion care;
- e. monitored in-home caregiving (MIHC);
- f. transportation-community access; or
- g. one-time transition services.

3. ...

4. Payment will not be made for services provided by a relative who is a:

- a. parent(s) of a minor child;
- b. legal guardian of an adult or child with developmental disabilities;
- c. parent(s) for an adult child, regardless of whether or not the adult child has been interdicted; or
- d. spouse of the participant.

5. Children eligible for Title IV-E services are not eligible for host home services.

6. Payment does not include room and board or maintenance, upkeep, or improvement of the host home family's residence.

7. Environmental adaptations are not available to participants receiving host home services since the

participant's place of residence is owned or leased by the host home family.

J. Provider Qualifications

1. Home host service provider agencies must meet the following qualifications:

a. - b. ...

c. screen, train, oversee and provide technical assistance to the host home family in accordance with OCDD requirements, including the coordination of an array of medical, behavioral and other professional services geared to persons with developmental disabilities (DD); and

d. provide on-going assistance to the host home family so that all HCBS waiver health and safety assurances, monitoring, and critical incident reporting requirements are met.

2. Agencies serving children must be licensed by the Department of Children and Family Services as a Class "A" Child Placing Agency under the Specialized Provider Licensing Act (R.S. 46:1401-46:1430), LAC 67:V.Chapter 73.

3. Agencies serving adults must be licensed by the Department of Health as a home and community-based services provider and meet the module requirements for substitute family care in LAC 48:I.Chapter 50.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2447 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2160 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1765 (December 2019), LR 47:1514 (October 2021).

§16317. Nursing Services

A. Nursing services are medically necessary services ordered by a physician and provided by a licensed registered nurse or a licensed practical nurse under the supervision of a registered nurse, within the scope of the State's Nurse Practice Act. Nursing services provided in the ROW are an extension of nursing services provided through the Home Health Program covered under the Medicaid State Plan.

1. Nursing services must be included in the participant's plan of care and must have the following:

- a. physician's order,
- b. physician's letter of medical necessity,
- c. Form 90-L,
- d. Form 485,
- e. individual nursing service plan,
- f. summary of medical history, and
- g. skilled nursing checklist.

2. The participant's nurse must submit updates every 60 days and include any changes to the participant's needs and/or physician's orders.

B. Consultations include assessments, health related training/education for the participant and the participant's caregivers, and healthcare needs related to prevention and primary care activities.

1. Assessment services are offered on an individualized basis only and must be performed by a registered nurse

2. ...

3. Health related training and education service is the only nursing procedure which can be provided to more than one participant simultaneously.

C. Service Limitations

1. Services are based on 15-minute units of service.

D. Service Requirements

1. Nursing services are secondary to EPSDT services for participants under the age of 21 years. Participants under the age of 21 have access to nursing services (home health and extended care) under the Medicaid State Plan.

2. Adults have access only to home health nursing services under the Medicaid State Plan. Participants must access and exhaust all available Medicaid State Plan services prior to accessing ROW nursing services.

E. Provider Qualifications

1. In order to participate in the Medicaid Program, a provider agency must possess a current, valid license as a home health agency under R.S. 40:2116.31-40:2116.40 as verified by the LDH Health Standards Section; or

2. If under the ROW shared living conversion model, a provider agency must be licensed by the Department of Health as a home and community-based services provider and meet the module requirements for supervised independent living-conversion in LAC 48:I.Chapter 50.

2.a - 4.b. Repealed.

E. Staffing Requirements

1. Nursing services shall be provided by individuals with either a current, valid license as a registered nurse from the State Board of Nursing or a current, valid license as a practical nurse from the Board of Practical Nurse Examiners.

2. Nurses must have one-year experience serving persons with developmental disabilities. Experience may include any of the following:

a. full-time experience gained in advanced and accredited training programs, (i.e., masters or residency level training programs) which includes treatment services to persons with a developmental disability;

b. paid, full-time nursing experience in specialized service/treatment settings for persons with a developmental disability (i.e., intermediate care facilities for persons with a developmental disability);

c. paid, full-time nursing experience in multi-disciplinary programs for persons with a developmental disability (i.e., mental health treatment programs for persons with dual diagnosis - mental illness and a developmental disability); or

d. paid, full-time nursing experience in specialized educational, vocational, and therapeutic programs or settings for persons with a developmental disability (i.e., school special education program).

3. Two years of part-time experience (minimum of 20 hours per week) may be substituted for one year of full-time experience.

4. The following activities do not qualify for the required experience:

a. volunteer nursing experience; or

b. experience gained by caring for a relative or friend with developmental disabilities.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2449 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2161 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:1515 (October 2021).

§16319. One-Time Transitional Services

A. One-time transitional services are non-recurring set-up expenses to assist a participant who is moving from an institutional setting to his or her own home. The participant's support coordinator assists in accessing funds and making arrangements in preparation for moving into the residence.

B. One-time transitional services may be accessed for the following:

1. non-refundable security deposit;
2. utility deposits (set-up/deposit fee for telephone service);
3. essential furnishings to establish basic living arrangements, including:
 - a. bedroom furniture;
 - b. living room furniture;
 - c. tables and chairs;
 - d. window blinds; and
 - e. kitchen items (i.e., food preparation items, eating utensils, etc.);
4. moving expenses; and
5. health and safety assurances (i.e., pest eradication, one-time cleaning prior to occupancy, etc.).

C. Service Limits

1. There is a one-time, lifetime maximum services cap of \$3,000 per participant.

2. Service expenditures will be prior authorized and tracked by the prior authorization contractor.

D. Service Exclusions

1. One-time transitional services may not be used to pay for the following:

- a. housing, rent, or refundable security deposits; or
- NOTE: Non-refundable security deposits are not to include rental payments.

1.b. - 3....

E. The Office for Citizens with Developmental Disabilities shall be the entity responsible for coordinating the delivery of one time transitional services. Providers must have a BHSF (Medicaid) provider enrollment agreement as a transition support provider as verified by Department of Health (LDH) Health Standards Section.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2449 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2162 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1766 (December 2019), LR 47:1516 (October 2021).

§16321. Personal Emergency Response System (PERS)

A. Personal emergency response system (PERS) service is an electronic device connected to the participant's phone that enables him or her to secure help in an emergency. The service also includes an option in which the participant would wear a portable help button. The device is programmed to emit a signal to the PERS response center where trained professionals respond to the participant's emergency situation.

B. Participant Qualifications. PERS service is most appropriate for participants who:

1. are able to identify when they are in an emergency situation and then able to activate the system requesting assistance; and
 2. are unable to summon assistance by dialing 911 or other emergency services available to the general public.
3. Repealed.

C. Coverage of the PERS is limited to the rental of the electronic device. PERS services shall include the cost of maintenance and training the participant to use the equipment.

D. Service Exclusions

1. ...
2. PERS services are not available to participants who receive 24-hour direct care supports.

E. Provider Qualifications

1. ...
2. Providers must comply with all applicable federal, state, county (parish), and local laws and regulations.
3. Providers must meet manufacturers specifications, response requirements, maintenance records, and enrollee education.

4. The provider's response center shall be staffed by trained professionals.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2249 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2162 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:1516 (October 2021).

§16323. Prevocational Services

A. Prevocational services are activities designed to assist a participant in acquiring and maintaining basic work-related skills necessary to acquire and retain competitive employment. Overall goals of the program include regular community inclusion and development of work skills and habits to improve the employability of the participant.

B. Prevocational services should be offered that engage workers in real and simulated employment tasks to determine vocational potential. Services focus on teaching concepts and skills, such as following directions, attending to tasks, task completion, problem solving, and job safety skills. All prevocational services are to be reflective of the participant's plan of care and directed toward habilitation rather than teaching a specific job skill.

1. The primary focus of prevocational services is the acquisition of employment related skills based on the participant's vocational preferences and goals.

2. Activities associated with prevocational services should include formal strategies for teaching the skills and the intended outcome for the participant.

3. Personalized progress for the activities should be routinely reviewed and evaluated with revisions made as necessary.

4. As an Employment First state, the state's strategy to facilitate participant transition from prevocational services to supported employment and/or employment in the participant's occupation of choice includes individually identifying persons receiving prevocational services and targets them for transition to integrated employment opportunities.

a. This is accomplished through a revised person-centered process prominently featuring the values and principles of the state's Employment First initiative.

b. As part of this implementation, the support team must clearly identify integrated community-based vocational goals, action steps, and timelines. This is reviewed on at least a quarterly basis and revised as needed.

c. Success is measured by the individual's transition to an integrated employment setting in addition to the state meeting national core indicator integrated employment targets.

C. Prevocational services are provided to participants who are working or will be able to work in a paid work setting.

1. Participants need intensive ongoing support to perform in a paid work setting because of their disabilities.

2. In the event participants are compensated in the prevocational services, pay must be in accordance with the United States Fair Labor Standards Act of 1985.

D. Individual goals are identified and included in the participant's plan of care. These goals are re-assessed at least quarterly, or more often as needed, and revised as appropriate.

1. During the person-centered planning process, support coordinators identify various types of activities the participant enjoys participating in or would like to participate in given personal preferences and goals.

a. These activities are included in the participant's plan of care and monitored to ensure that the participant has the opportunity to participate.

b. These activities are to include formal strategies for teaching the skills and the intended outcome for the participant. Personalized progress for the activities should be routinely reviewed and evaluated with revisions made as necessary.

2. Support coordinators are to monitor and ensure that meaningful activities are occurring and that the participant is not being exploited.

3. Support coordinators are required to visit the participant at the prevocational site to ensure that the participant is participating in meaningful activities, is satisfied with services, and is free from abuse/neglect. This is documented in the Case Management Information System.

E. The prevocational provider is responsible for all transportation between prevocational sites. All transportation costs are included in the reimbursement rate for

prevocational services. The participant must be present to receive this service. Transportation may be provided between the participant's residence, or other location as agreed upon by the participant or authorized representative, and the prevocational site. The participant's transportation needs shall be documented in the plan of care.

F. Service Limitations

1. Services shall be limited to no more than eight hours a day, five days per week, based on a 15-minute unit of service. The 15-minute units of services must be spent at the service site by the participant.

a. Any time less than 15 minutes of service is not billable or payable.

b. No rounding up of units of service is allowed.

2. Prevocational services are not available to individuals who are otherwise eligible to participate in special education or related services programs as defined under Sections 602(16) and (17) of the Education of the Handicapped Act, through a local educational agency, or in vocational rehabilitation services through a program funded under Section 110 of the Rehabilitation Act of 1973.

3. Prevocational services cannot be billed for at the same time of the day as the following:

a. community living supports;

b. professional services, except when there are direct contacts needed in the development of a support plan;

c. respite-out of home;

d. adult day healthcare;

e. monitored-in-home caregiving (MIHC);

f. day habilitation services; or

g. supported employment.

4. Transportation is only provided on the day that a prevocational service is provided.

a. Time spent in transportation between the participant's residence/location and the prevocational site is not to be included in the total number of prevocational service hours per day, except when the transportation is for the purpose of travel training. Travel training must be included in the participant's plan of care.

b. ...

c. Transportation-community access services shall not be used for transportation to or from any prevocational services

G. Restrictions

1. Participants receiving prevocational services may also receive day habilitation or individualized supported employment services, but these services cannot be provided during the same time.

2. Prevocational services are expected to be time limited to four years after which time the participant should be prepared for competitive employment in the community. This four-year time frame may be extended if needed.

3. If a participant is compensated, compensation must be less than 50 percent of minimum wage and must be in accordance with the United States Department of Labor's Fair Labor Standards Act. If a participant is paid above 50 percent of minimum wage, there must be a review every six months to determine the suitability of continuing prevocational services or changing vocational services to supported employment.

H. Provider Qualifications. Providers must be licensed by the Department of Health as a home and community-

based services provider and meet the module requirements for adult day care in. LAC 48:11. Chapter 50.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2450 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2162 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1766 (December 2019), LR 47:1516 (October 2021).

§16325. Professional Services

A. Professional services are direct services to participants based on the participant's need, which assist the participant, unpaid caregivers, and/or paid caregivers in carrying out the participant's approved plan and which are necessary to improve the participant's independence and inclusion in his/her community. The participant must be present in order for the professional to bill for services. Professional services include nutritional services, speech therapy, occupational therapy, physical therapy, social work, and psychological services. All services are to be included in the participant's plan of care. The specific service provided to a participant must be within the professional's area of specialty and licensing.

B. Professional services include services provided by the following licensed professionals:

1. - 6. ...

C. Professional services can include:

1. assessments and/or re-assessments specific to the area of specialty with the goal of identifying status and developing recommendations, treatment, and follow-up;

2. providing training to the participant, family, and caregivers with the goal of increased skill acquisition and proficiency;

3. intervening in a crisis situation with the goal of stabilizing and addressing issues related to the cause(s) of the crisis. Activities may include development of support plan(s), training, documentation strategies, counseling, on-call supports; back-up crisis supports, on-going monitoring, and intervention;

4. provide consultative services and recommendations as the need arises;

5. providing information to the participant, family, and caregivers, along with other support team members, to assist in planning, developing, and implementing a participant's plan of care;

6. providing training and counseling services for natural supports and caregivers in a home setting with the goal of developing and maintaining healthy, stable relationships;

a. ...

b. services are intended to maximize the emotional and social adjustment and well-being of the individual, family, and caregiver;

7. providing nutritional services, including dietary evaluation and consultation with individuals or their care provider;

a. services are intended to maximize the individual's nutritional health;

8. providing therapy to the participant necessary to the development of critical skills; and

9. assistance in increasing independence, participation, and productivity in the participant's home, work, and/or community environments.

NOTE: Psychologists and social workers will provide supports and services consistent with person-centered practices and Guidelines for Support Planning.

D. Service Exclusions

1. Private insurance must be billed and exhausted prior to accessing waiver funds. Professional services may only be furnished and reimbursed through ROW when the services are medically necessary, or have habilitative or remedial benefit to the participant.

2. Children must access and exhaust services through the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program prior to accessing waiver funds.

E. Provider Qualifications. The provider of professional services must be a Medicaid-enrolled provider. Each professional must possess a current valid Louisiana license to practice in his/her field and have at least one year of experience post licensure in his/her area of expertise.

1. Enrollment of individual practitioners. Individual practitioners who enroll as providers of professional services must:

a. ...

b. have a minimum of one year experience delivering services to persons with developmental disabilities.

1.c. - 2. ...

a. The following provider agencies may enroll to provide professional services:

i. - ii. ...

iii. a supervised independent living agency licensed by the department to provide shared living services;

iv. a substitute family care agency licensed by the department to provide host home services; or

v. a federally qualified health center (U.S. Department of Health and Human Services, Health Resources and Services Administration (HRSA) grant recipient or Clinical Laboratory Improvement Amendments (CLIA) certificate holder).

b. - c. ...

3. All professionals delivering professional services must meet the required one year of service delivery experience as defined by the following:

a. full-time experience gained in advanced and accredited training programs (i.e. master's or residency level training programs), which includes treatment services for persons with a developmental disability;

b. paid, full-time professional experience in specialized service/treatment settings for persons with a developmental disability (i.e., intermediate care facilities for persons with a developmental disability);

c. paid, full-time professional experience in multi-disciplinary programs for persons with a developmental disability (i.e., mental health treatment programs for persons with dual diagnosis – mental illness and a developmental disability); or

d. paid, full-time professional experience in specialized educational, vocational, and therapeutic

programs or settings for persons with a developmental disability (i.e., school special education program).

NOTE: Two years of part-time experience (minimum of 20 hours per week) may be substituted for one year of full-time experience.

e. Repealed.

4. The following activities do not qualify for the required experience:

- a. volunteer professional experience; or
- b. experience gained in caring for a relative or friend with a developmental disability.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2450 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2163 (October 2015), by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, amended LR 47:1518 (October 2021).

§16327. Respite Care Services—Out of Home

A. Respite care services—out of home are provided on a short-term basis to participants who are unable to care for themselves due to the absence of, or need for, relief of caregivers who normally provide care and support. Services are provided by a center-based respite provider.

1. ...

a. Repealed.

2. While receiving respite care services, the participant's routine is maintained in order to attend school, school activities or other community activities. Community activities and transportation to and from these activities in which the participant typically engages in are to be available while receiving respite services-out of home.

a. These activities should be included in the participant's approved plan of care. This will provide the participant the opportunity to continue to participate in typical routine activities.

b. Transportation costs to and from these activities are included in the respite services-out of home rate.

B. Service Limits

1. Respite care services are limited to 720 hours per participant, per POC year.

2. The process for approving hours in excess of 720 hours must go through the established approval process with proper justification and documentation.

3. Federal financial participation (FFP) will be claimed for the cost of room and board only if it is provided as part of respite care furnished in a respite center approved by the state that is not a private residence.

C. Service Exclusions

1. ...

2. Respite care services-out of home is not a billable waiver service to participants receiving the following services:

- a. community living supports;
- b. companion care;
- c. host home;

d. shared living; or

e. monitored in-home caregiving (MIHC).

3. Respite care services-out of home cannot be provided in a personal residence.

4. Payment will not be made for transportation-community access.

D. Provider Qualifications. Providers must be licensed by the Department of Health as a home and community-based services provider and meet the module requirements for center-based respite in LAC 48:I.Chapter 50.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2451 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2164 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1767 (December 2019), LR 47:1519 (October 2021).

§16329. Shared Living Services

A. Shared living services are provided to a participant in his/her home and community to achieve, improve, and/or maintain social and adaptive skills necessary to enable the participant to reside in the community and to participate as independently as possible. Services are chosen by the participant and developed in accordance with his/her goals and wishes with regard to compatibility, interests, age and privacy in the shared living setting.

1. - 1.g....

2. Shared living services focus on the participant's preferences and goals.

3. Supports provided are related to the acquisition, improvement, and maintenance in level of independence, autonomy, and adaptive skills and are to be included in each participant's plan of care. This includes:

- a. self-care skills,
- b. adaptive skills, and
- c. leisure skills.

4. The overall goal is to provide the participant the ability to successfully reside with others in the community while sharing supports.

5. Shared living services take into account the compatibility of the participants sharing services, which includes individual interests, age of the participants, and the privacy needs of each participant.

a. Each participant's essential personal rights of privacy, dignity and respect, and freedom from coercion are protected.

6. The shared living setting is selected by each participant among all available alternatives and is identified in each participant's plan of care.

a. Each participant has the ability to determine whether or with whom he or she shares a room.

b. Each participant has the freedom of choice regarding daily living experiences, which include meals, visitors, and activities.

c. Each participant is not limited in opportunities to pursue community activities.

7. Shared living services may be shared by up to four participants who have a common shared living provider agency.

8. Shared living services must be agreed to by each participant and the health and welfare must be able to be assured for each participant.

a. If the person has a legal guardian, the legal guardian's approval must also be obtained.

b. Each participant's plan of care must reflect the shared living services and include the shared rate for the service indicated.

9. The shared living service setting is integrated in, and facilitates each participant's full access to, the greater community, which includes providing participants with the same opportunities as individuals without disabilities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

B. An ICF/IID may elect to permanently relinquish its ICF/IID license and all of its Medicaid facility need review approved beds from the total number of certificate of need (CON) beds for that home and convert it into a shared living waiver home or in combination with other ROW residential options as deemed appropriate in the approved conversion agreement.

1. ...

2. ICF/IID residents who choose transition to a shared living waiver home must also agree to conversion of their residence.

3. ...

4. All shared living service participants are required to have an individualized back-up staffing plan and an individualized emergency evacuation plan which are to be submitted with their plan of care.

5. Shared living services are not located in a building that is a publicly or privately operated facility that provides inpatient institutional treatment, or in a building on the grounds of, or immediately adjacent to, a public institution, or disability-specific housing complex. Shared living services are not provided in settings that are isolated from the larger community.

6. Family members who provide shared living services must meet the same standards as unrelated provider agency staff.

7. Shared living service providers are responsible for providing 24-hour staff availability along with other identified responsibilities as indicated in each participant's individualized plan of care. This includes responsibility for each participant's routine daily schedule, for ensuring the health and welfare of each participant while in his or her place of residence and in the community, and for any other waiver services provided by the shared living services provider.

8. Shared living services may be provided in a residence that is owned or leased by the provider or that is owned or leased by the participant. Services may not be provided in a residence that is owned or leased by a legally responsible relative of the participant. If shared living services are provided in a residence that is owned or leased by the provider, any modification of the conditions must be supported by specific assessed needs and documented in the participant's plan of care. The provider is responsible for the

cost of, and implementation of, the modification when the residence is owned or leased by the provider.

9. In a provider-owned or controlled residential setting, the following additional conditions must be met. Any modifications of the conditions must be supported by a specific assessed need and documented in the plan of care:

a. the unit or room is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the participant receiving services, and the participant has, at a minimum, the same responsibilities and protections from eviction that the tenants have under the landlord/tenant laws of the state, parish, city, or other designated entity;

b. each participant has privacy in their sleeping or living unit, which requires the following:

i. units have lockable entrance doors, with appropriate staff having keys to doors;

ii. participants share units only at the participant's choice; and

iii. participants have the freedom to furnish and decorate their sleeping or living units;

c. participants have the freedom and support to control their own schedules and activities, and have access to food at any time;

d. participants are able to have visitors of their choosing at any time; and

e. the setting is physically accessible to the participant.

C. Shared Living Options

1. Shared Living Conversion Option. The shared living conversion option is only allowed for providers of homes which were previously licensed and Medicaid certified as an ICF/IID for up to a maximum of eight licensed and Medicaid-funded beds on October 1, 2009.

a. The number of participants for the shared living conversion option shall not exceed the licensed and Medicaid-funded bed capacity of the ICF/IID on October 1, 2009, or up to six individuals, whichever is less.

b. The ICF/IID used for the shared living conversion option must meet the department's operational, programming and quality assurances of health and safety for all participants.

c. - d. ...

2. Shared Living Non-Conversion (New) Option. The shared living non-conversion option is allowed only for new or existing ICF/IID providers to establish a shared living waiver home for up to a maximum of three individuals.

a. The shared living waiver home must be located separate and apart from any ICF/IID.

b. - d. ...

3. ICF/IID providers who convert an ICF/IID to a shared living home via the shared living conversion model must be approved by OCDD and licensed by HSS prior to providing services in this setting, and prior to accepting any ROW participant or applicant for residential or any other developmental disability service(s).

4. An ICF/IID provider who elects to convert to a shared living home via the shared living conversion process shall obtain the approval of all of the residents of the home(s) (or the responsible parties for these residents) regarding the conversion of the ICF/IID prior to beginning the process of conversion.

5. ICF/IID providers who elect to convert to a shared living home via the shared living conversion process shall submit a licensing application for a HCBS provider license, shared living module.

D. Service Exclusions and Limitations

1. Payment does not include room and board or maintenance, upkeep or improvements of the participant's or the provider's property.

2. - 5. ...

6. The following services are not available to participants receiving shared living services:

a. ...

b. respite care services-out of home;

c. - d. ...

e. monitored in-home caregiving (MIHC);

f. transportation-community access; or

g. environmental accessibility adaptations (if housing is leased or owned by the provider).

7. Shared living services are not available to participants 17 years of age and under.

8. The shared living services rate includes the cost of transportation.

a. The provider is responsible for providing transportation for all community activities except for vocational services.

b. Transportation for vocational services is included in the rate of the vocational service.

9. All Medicaid State Plan nursing services must be utilized and exhausted.

10. Payment will not be made for services provided by a relative who is a:

a. parent(s) of a minor child;

b. legal guardian of an adult or child with developmental disabilities;

c. parent(s) for an adult child regardless of whether or not the adult child has been interdicted; or

d. spouse of the participant.

11. The shared living staff may not live in the participant's place of residence.

E. Provider Qualifications. Providers must be licensed by the Department of Health as a home and community-based services provider and meet the module requirements for supervised independent living and/or supervised independent living-conversion in LAC 48:I.Chapter 50.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2452 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2164 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1767 (December 2019), LR 47:1519 (October 2021).

§16333. Support Coordination

A. Support coordination services are provided to all participants to provide assistance in gaining access to needed waiver services and Medicaid State Plan services, as well as needed medical, social, education, and other services, regardless of the funding source for the services. Support coordination services include assistance with the selection of

service providers, development/revision of the plan of care, and monitoring of services.

1. - 2. ...

3. Support coordination services includes on-going support and assistance to the participant.

B. When participants choose to self-direct their waiver services, the support shall provide information, assistance, and management of the service being self-directed.

C. Service Limits

1. Support coordination shall not exceed 12 units. A calendar month is a unit.

2. ROW will utilize support coordination for assisting with the moving of individuals from the institutions. Up to 90 consecutive days or per LDH policy, but not to exceed 180 days will be allowed for transition purposes.

a. Payment will be made upon certification and may be retroactive no more than 90 days or per LDH policy, but not to exceed 180 days prior to the certification date.

3. OCDD supports and services centers are prohibited from providing case management/support coordination services in the ROW.

D. Provider Qualifications. Providers must have a current, valid license as a case management agency and meet all other requirements for targeted case management services as set forth in case management, LAC 48:I.Chapter 49.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2453 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2165 (October 2015), by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, amended LR 47:1521 (October 2021).

§16335. Supported Employment

A. Supported employment is competitive work in an integrated work setting, or employment in an integrated work setting in which the participant is working toward competitive work, consistent with strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, with ongoing support services to those participants for whom competitive employment has not traditionally occurred.

1. Supported employment services consists of intensive, ongoing supports and services necessary for a participant to achieve the desired outcome of employment in a community setting in the state of Louisiana where a majority of the persons employed are without disabilities.

2. Supported employment services are provided to participants who are not served by Louisiana Rehabilitation Services or through a local education agency under the Individuals with Disabilities Education Act and who need more intense, long-term monitoring and who usually cannot be competitively employed because supports cannot be successfully reduced due to the nature of their disability, and natural supports would not meet this need.

B. Supported employment services provide supports in the following areas:

1. Individual placement. A supported employment placement strategy in which an employment specialist (job

coach) assists a person locating competitive employment, providing training, and supporting, then gradually reducing time and assistance at the worksite.

2. Services that assist a participant to develop and operate a micro-enterprise. This consists of:

- a. assisting the participant to identify potential business opportunities;
- b. assistance in the development of a business plan, including potential sources of business financing and other assistance related to developing and launching a business;
- c. identification of the supports that are necessary for the participant to operate the business; and
- d. ongoing assistance, counseling, and guidance once the business has been launched.

3. Enclave. An employment situation in competitive employment in which a group of eight or fewer workers with disabilities are working at a particular work setting performing similar general job tasks. The disabled workers may be disbursed throughout the company and among non-disabled workers or congregated as a group in one part of the business.

4. Mobile Work Crew. A group of eight or fewer workers with disabilities who perform work in a variety of locations under the supervision of a permanent employment specialist (job coach/supervisor).

C. When supported employment services are provided at a work site in which persons without disabilities are employees, payment will be made only for the adaptations, supervision and training required by individuals receiving waiver services as a result of their disabilities, but payment will not be made for the supervisory activities rendered as a normal part of the business setting.

D. The provider is responsible for all transportation to all work sites related to the provision of services. Transportation to and from the service site is offered and billable as a component of the supported employment service.

1. Transportation is payable only when a supported employment service is provided on the same day.

2. Time spent in transportation to and from the program shall not be included in the total number of services hours provided per day.

E. - F.2. ...

G. Service Limits. Participants may receive more than one type of vocational or habilitation service per day as long as the billing criteria is followed and as long as the requirements for the minimum time spent on site are adhered to. The required minimum number of service hours per day, per participant are as follows:

1. Individual placement-one hour (four units). One-on-one services shall be billed in quarterly hour units and shall be based on the person centered plan and the ROW budget.

2. Services that assist a participant to develop and operate a micro-enterprise-one hour (four units).

3. Mobile crew/enclave services shall be in quarterly hour units of service and shall not exceed 8,320 units of service per POC year, without additional documentation. Mobile crew and enclave services are an eight hours per day, five days per week service.

4. Repealed.

H. Service Exclusions and Restrictions. Participants receiving individual supported employment services may also receive prevocational or day habilitation services. However, these services cannot be provided during the same service hours. Participants receiving group supported employment services may also receive prevocational or day habilitation services; however, these services cannot be provided in the same service day.

1. ...

2. Supportive employment cannot be billed for the same time as any of the following services:

- a. community living supports;
- b. professional services (except those direct contacts needed to develop a behavioral management plan);
- c. respite services-out of home;
- d. adult day health care; or
- e. monitored in-home care giving (MIHC).

3. Any time less than the minimum 15 minute unit of service is provided for any model is not billable or payable.

a. - e. Repealed.

4. Time spent in transportation to and from the program shall not be included in the total number of services hours provided per day.

a. Travel training for the purpose of teaching the participant how to use transportation services may be included in determining the total service numbers hours provided per day, but only for the period of time specified in the POC.

b. Transportation is payable only when a supported employment service is provided on the same day.

5. FFP will not be claimed for incentive payments, subsidies, or unrelated vocational training expenses, such as the following:

a. incentive payments made to an employer to encourage or subsidize the employer's participation in a supported employment program;

b. payments that are passed through to users of supported employment programs; or

c. payments for vocational training that is not directly related to an individual's supported employment program.

6. Supported employment services are not available to individuals who are otherwise eligible to participate in special education or related services programs, as defined under Sections 602(16) and (17) of the Education of the Handicapped Act, through a local educational agency or in vocational rehabilitation services through a program funded under Section 110 of the Rehabilitation Act of 1973.

a. - c. Repealed.

7. No rounding up of service units is allowed.

8. Billing for multiple vocational or habilitative services at the same time is prohibited.

I. Provider Qualifications. Supported employment services may be delivered either by an adult day care center provider or a community rehabilitation program provider.

1. Adult day care center provider agencies must be licensed by the Department of Health as home and community-based services providers and meet the module requirements for adult day care in LAC 48:I.Chapter 50.

2. Community Rehabilitation Program provider agencies must possess a Louisiana rehabilitation services compliance certificate from Louisiana Rehabilitation Services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2453 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2166 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1767 (December 2019), LR 47:1521 (October 2021).

§16337. Transportation-Community Access

A. Transportation-community access services are provided to assist the participant in becoming involved in his or her community. The service encourages and fosters the developmental of meaningful relationships in the community which reflects the participant's choice and values. This service provides the participant with a means of access to community activities and resources. The goal is to increase the participant's independence, productivity, and community inclusion and to support self-directed employees benefits as outlined in the participant's POC.

1. Transportation-community access services are to be included in the participant's plan of care.

2. The participant must be present for the service to be billed.

a. - b. Repealed.

3. Prior to accessing transportation-community access services, the participant is to utilize free transportation provided by family, friends, and community agencies.

4. When appropriate, the participant should access public transportation or the most cost-effective method of transportation prior to accessing transportation-community access services.

B. Service Limits

1. Community access trips are limited to no more than three round trips per day and must be arranged for geographic efficiency.

2. ...

C. Service Exclusions

1. Transportation-community access services shall not replace the following services:

a. transportation services to medically necessary services under the Medicaid State Plan;

b. transportation services provided as a means to get to and from school; or

c. transportation services to or from day habilitation, prevocational services, or supported employment services.

2. Transportation-community access services are not available to participants receiving the following services:

a. shared living;

b. host home; or

c. companion care.

d. - e. Repealed.

3. ...

4. Transportation-community access services may not be billed for the same day at the same time as community living supports.

D. Provider Qualifications. Friends and family members who furnish transportation-community access services to waiver participants must be enrolled as Medicaid non-emergency medical transportation (NEMT) family and friends providers with the Department of Health (Bureau of Health Services Financing).

1. In order to receive reimbursement for transporting Medicaid recipients to waiver services, family and friends must maintain compliance with the following:

a. state minimum automobile liability insurance coverage;

b. possess a current state inspection sticker; and

c. possess a current valid driver's license.

2. - 3.a....

4. NEMT (family and friends transportation) providers may provide for up to three identified waiver participants.

E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2454 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2166 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1768 (December 2019), LR 47:1523 (October 2021).

§16339. Housing Stabilization Transition Services

A. Housing stabilization transition services enable participants who are transitioning into a permanent supportive housing unit, including those transitioning from institutions, to secure their own housing. This service is provided while the participant is in an institution and preparing to exit the institution using the waiver. The service includes the following components:

1. - 1.h....

2. assisting a participant to view and secure housing, as needed. This may include the following:

a. - d. ...

e. locating furnishings;

3. - 5. ...

B. This service is only available to participants upon referral from the support coordinator, and is not duplicative of other waiver services, including support coordination.

1. participants must be residing in a state of Louisiana permanent supportive housing unit; or

2. participants must be linked for the state of Louisiana permanent supportive housing selection process.

C. Participants are limited to receiving no more than 165 combined units of this service and the housing stabilization transition service. This limit on combined units can only be exceeded with written approval from OCDD.

D. Provider Qualifications. The permanent supportive housing (PSH) agency must be under contract and enrolled

with the Department of Health statewide management organization for behavioral health services, and must also either:

1. meet the requirements for completion of the training program as verified by the PSH director; or

2. have at least one year of completion of housing support team experience in the PSH program as verified by the PSH director.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2169 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:1523 (October 2021).

§16341. Housing Stabilization Services

A. Housing stabilization services enable waiver participants to maintain their own housing as set forth in the participant's approved plan of care. Services must be provided in the home or a community setting. Housing stabilization services include the following components:

1. conducting a housing assessment identifying the participant's preferences related to housing (type, location, living alone or with someone else, accommodations needed, and other important preferences), and needs for support to maintain housing, including:

a. - h. ...

2. assisting a participant to view and secure housing, as needed and may include the following:

a. arranging or providing transportation;

b. assisting in securing supporting documents/records;

c. completing/submitting applications;

d. securing deposits; and

e. locating furnishings;

3. - 3.c....

4. participating in the development of the plan of care, incorporating elements of the housing stabilization service provider plan, and in plan of care renewal and updates, as needed;

5. providing supports and interventions according to the individualized housing stabilization service provider plan. If additional supports or services are identified as needed outside of the scope of housing stabilization services, the needs must be communicated to the support coordinator;

a. - c. Repealed.

6. providing ongoing communication with the landlord or property manager regarding:

a. the participant's disability;

b. accommodations needed; and

c. components of emergency procedures involving the landlord or property manager; and

7. if at any time the participant's housing is placed at risk (i.e., eviction, loss of roommate or income), housing stabilization services will provide supports to retain housing or locate and secure housing to continue community-based supports, including locating new housing, sources of income, etc.

B. This service is only available upon referral from the support coordinator, and is not duplicative of other waiver services, including support coordination.

1. Participants must be residing in a state of Louisiana permanent supportive housing unit; or

2. participants must be linked for the state of Louisiana permanent supportive housing selection process.

C. Participants are limited to receiving no more than 165 combined units of this service and the housing stabilization transition service. This limit on combined units can only be exceeded with written approval from OCDD.

D. Provider Qualifications. The permanent supportive housing (PSH) agency must be under contract and enrolled with the Department of Health and statewide management organization for behavioral health services, and must also either:

1. meet the requirements for completion of the training program as verified by the PSH director; or

2. have at least one year of completion of housing support team experience in the PSH program as verified by the PSH director.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2170 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:1524 (October 2021).

§16343. Adult Day Health Care Services

A. Adult day health care (ADHC) services shall be furnished as specified in the POC and at an ADHC facility in a non-institutional, community-based setting encompassing both health/medical, and social services needed to ensure the optimal functioning of the participant.

B. ADHC services include those core service requirements identified in the ADHC licensing standards (LAC 48:I.4243), in addition to the following:

1. ...

2. transportation between the participant's place of residence and the ADHC (if the participant is accompanied by the ADHC staff) in accordance with licensing standards;

3. - 6. ...

7. health education classes;

8. individualized health/nursing services; and

9. meals. Meals shall not constitute a full nutritional regimen (three meals per day), but shall include a minimum of two snacks and a hot, nutritious lunch per day.

a. Repealed.

C. The number of people included in the service per day depends on the licensed capacity and attendance at each facility. The average capacity per facility is 49 participants.

D. Nurses shall be involved in the participant's service delivery as specified in the plan of care (POC) or as needed. Each participant has a plan of care from which the ADHC shall develop an individualized service plan based on the participant's POC. If the individualized service plan calls for certain health and nursing services, the nurse on staff shall ensure that the services are delivered while the participant is at the ADHC facility.

E. ...

F. The following services are not available to ADHC recipients:

1. monitored in-home caregiving (MIHC).

2. - 4. Repealed.

G. Provider Qualifications:

1. ADHC providers must be licensed according to the adult day health care provide licensing requirements contained in the Revised Statutes (R.S. 40:2120.41-40:2120.47).

2. ADHC providers must be enrolled as a Medicaid ADHC provider.

3. ADHC providers must comply with LDH rules and regulations.

4. Qualifications for ADHC center staff are set forth in the *Louisiana Administrative Code*.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 42:62 (January 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1768 (December 2019), LR 47:1524 (October 2021).

§16345. Monitored In-Home Caregiving Services

A. Monitored in-home caregiving (MIHC) services are provided to a participant living in a private home with a principal caregiver. The principal caregiver shall be contracted by the licensed HCBS provider having a MIHC service module. The principal caregiver shall reside with the participant. Professional staff employed by the HCBS provider shall provide oversight, support and monitoring of the principal caregiver, service delivery, and participant outcomes through on-site visits, training, and daily web-based electronic information exchange.

1. The goal of this service is to provide a community-based option that provides continuous care, supports, and professional oversight.

2. This goal is achieved by promoting a cooperative relationship between a participant, a principal caregiver, the professional staff of a monitored in-home caregiver agency provider, and the participant’s support coordinator.

B. The principal caregiver is responsible for supporting the participant to maximize the highest level of independence possible by providing necessary care and supports that may include:

1. - 4. ...

5. supervision or assistance while escorting or accompanying the individual outside of the home to perform tasks, including instrumental activities of daily living, health maintenance or other needs as identified in the plan of care and to provide the same supervision or assistance as would be rendered in the home; and

6. ...

C. Service Exclusions and Restrictions

1. Participants electing monitored in-home caregiving are not eligible to receive the following Residential Options Waiver services during the period of time that the participants are receiving monitored in-home caregiving services:

- a. community living supports (CLS);
- b. companion care supports;
- c. host home;
- d. shared living supports;
- e. adult day health Care services; and
- f. day habilitation, pre-vocational, or supportive employment services.

2. - 5. Repealed.

D. Monitored in-home caregiving: providers must be agency providers who employ professional nursing staff, including a registered nurse and a care manager, and other professionals to train and support principal caregivers to perform the direct care activities performed in the home.

1. The agency provider must assess and approve the home in which services will be provided, and enter into contractual agreements with caregivers whom the agency has approved and trained.

2. The agency provider will pay per diem stipends to caregivers.

3. The agency provider must capture daily notes electronically and use the information collected to monitor participant health and caregiver performance.

4. The agency provider must make such notes available to support coordinators and the state, upon request.

5. Repealed.

E. The MIHC provider must use secure, web-based information collection from principal caregivers for the purposes of monitoring participant health and caregiver performance. All protected health information must be transferred, stored, and otherwise utilized in compliance with applicable federal and state privacy laws. Providers must sign, maintain on file, and comply with the LDH HIPAA business associate addendum.

F. The department shall reimburse for monitored in-home caregiving services based on a two-tiered model which is designed to address the participant’s acuity.

G. Provider Qualifications

1. MIHC providers must be licensed according to the home and community based service provider licensing requirements contained in the R.S. 40:2120.2-2121.9.

2. MIHC providers must enroll as a Medicaid monitored in-home caregiving provider.

3. MIHC providers must comply with LDH rules and regulations.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1768 (December 2019), amended LR 47:1525 (October 2021).

Chapter 165. Self-Direction Initiative

§16501. Self-Direction Service Option

A. Self-direction is a service delivery option which allows participants (or their authorized representative) to exercise employer authority in the delivery of their authorized self-directed services (community living supports).

1. Participants are informed of all available services and service delivery options, including self-direction, at the time of the initial assessment, annually, or as requested by participants or their authorized representative. Participants, who are interested in self-direction, need only notify their support coordinator, who will facilitate the enrollment process.

2. A contracted fiscal/employer agent is responsible for processing the participant's employer-related payroll, withholding and depositing the required employment-related taxes, and sending payroll reports to the participant or his/her authorized representative.

3. Support coordinators assist participants by providing the following activities:

- a. the development of the participant's plan of care;
- b. organizing the unique resources the participant needs;
- c. training participants on their employer responsibilities;
- d. completing required forms for participation in self-direction;
- e. back-up service planning;
- f. budget planning;
- g. verifying that potential employees meet program qualifications; and
- h. ensuring participant's needs are being met through services.

B. Participant Eligibility. Selection of the self-direction option is strictly voluntary. To be eligible to participate in the self-direction service option, waiver participants must:

1. be able to participate in the self-direction option without a lapse in or decline in quality of care or an increased risk to health and welfare;

2. complete the training programs (e.g., initial enrollment training) designated by OCDD; and

a. - a.ii. Repealed.

3. understand the rights, risks, and responsibilities of managing his or her own care and effectively managing his or her plan of care.

NOTE: If the waiver participant is unable to make decisions independently, the participant must have a willing decision maker (an authorized representative as listed on the participant's plan of care) who understands the rights, risks, and responsibilities of managing the care and supports of the participant within the plan of care.

a. - b. Repealed.

C. Participant Responsibilities. Responsibilities of the waiver participant or his or her authorized representative include the following:

1. Participants must adhere to the health and welfare safeguards identified by the support team, including the following:

a. the application of a comprehensive monitoring strategy and risk assessment and management system; and

b. compliance with the requirement that employees under this option must have criminal background checks prior to working with waiver participants;

2. Waiver participant's participation in the development and management of the approved personal purchasing plan.

a. This annual budget is determined by the recommended service hours listed in the participant's POC to meet his needs.

b. The participant's individual budget includes a potential amount of dollars within which the participant, or his/her authorized representative, exercises decision-making responsibility concerning the selection of services and service providers.

c. - d.iv. Repealed.

3. Participants are informed of the self-direction option at the time of the initial assessment, annually, or as requested by participants or their authorized representative. If the participant is interested, the support coordinator will provide more information on the principles of self-determination, the services that can be self-directed, the

roles and responsibilities of each service option, the benefits and risks of each service option, and the process for enrolling in self-direction.

4. Prior to enrolling in self-direction, the participant or his/her authorized representative is trained by the support coordinator on the process for completing the following duties:

a. best practices in recruiting, hiring, training, and supervising staff;

b. determining and verifying staff qualifications;

c. the process for obtaining criminal background checks on staff;

d. determining the duties of staff based on the service specifications;

e. determining the wages for staff within the limits set by the state;

f. scheduling staff and determining the number of staff needed;

g. orienting and instructing staff in duties;

h. best practices for evaluating staff performance;

i. verifying time worked by staff and approving timesheets;

j. terminating staff, as necessary;

k. emergency preparedness planning; and

l. back-up planning.

5. This training also includes a discussion on the differences between self-direction and other service delivery options (which includes the benefits, risks, and responsibilities associated with each service option) and the roles and responsibilities of the employer, support coordinator, and fiscal/employer agent.

6. Participants who choose self-direction verify that they have received the required training by signing the service agreement form.

D. Termination of Self-Direction Service Option. Termination of participation in the self-direction service option requires a revision of the POC, the elimination of the fiscal agent and the selection of the Medicaid-enrolled waiver service provider(s) of choice.

1. Voluntary Termination. The waiver participant may choose at any time to withdraw from the self-direction service option and return to the traditional provider agency management of services.

a. Proper arrangements will be made by the support coordinator to ensure that there is no lapse in services.

b. Should the request for voluntary withdrawal occur, the participant will receive counseling and assistance from his or her support coordinator immediately upon identification of issues or concerns in any of the above situations.

2. Involuntary Termination. The department may terminate the self-direction service option for a participant and require him or her to receive provider-managed services under the following circumstances:

a. the participant does not receive self-directed services for 90 days or more;

b. the health, safety, or welfare of the participant is compromised by continued participation in the self-direction service option;

c. the participant is no longer able to direct his own care and there is no responsible representative to direct the care;

d. there is misuse of public funds by the participant or the authorized representative;

e. over three payment cycles in the period of a year, the participant or authorized representative:

i. permits employees to work over the hours approved in the participant's plan of care or allowed by the participant's program;

ii. places barriers to the payment of the salaries and related state and federal payroll taxes of direct support staff;

iii. fails to follow the personal purchasing plan and the POC;

iv. fails to provide required documentation of expenditures and related items; or

v. fails to cooperate with the fiscal agent or support coordinator in preparing any additional documentation of expenditures; or

f. the participant or the authorized representative consistently violates Medicaid program rules or guidelines of the self-direction option.

3. When action is taken to terminate a participant from self-direction involuntarily, the support coordinator immediately assists the participant in accessing needed and appropriate services through the ROW and other available programs, ensuring that no lapse in necessary services occurs for which the participant is eligible. There is no denial of services, only the transition to a different payment option. The participant and support coordinator are provided with a written notice explaining the reason for the action and citing the policy reference.

E. Employees of participants in the self-direction service option are not employees of the fiscal agent or the department.

1. Employee Qualifications. All employees under the self-direction option must:

a. be at least 18 years of age on the date of hire;

b. pass required criminal background checks; and

c. be able to complete the tasks identified in the plan of care.

F. Relief coverage for scheduled or unscheduled absences, which are not classified as respite care services, can be covered by other participant-directed providers and the terms can be part of the agreement between the participant and the primary companion care provider.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2455 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2167 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:1525 (October 2021).

Chapter 167. Provider Participation

§16701. General Provisions

A. - E. ...

F. Any ROW service may be provided by a member of the participant's family, provided that the family member is not the legally responsible relative.

1. Services may not be provided by an individual who lives with the participant, whether or not the individual is a family member.

2. An exception to the lives with exclusion applies to adult companion care and monitored in-home caregiving since these services are based on a roommate/in-home caregiver providing supports to the participant.

3. Payment for services rendered are approved by prior and post authorization as outlined in the POC.

4. During periods of emergency, participants may live with their direct support staff on a temporary basis as allowed, in writing, by the OCDD Assistant Secretary or designee.

G. - G.3.a. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2455 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2168 (October 2015), LR 42:63 (January 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:1527 (October 2021).

§16703. Staffing Restrictions and Requirements

A. - B. ...

1. Relatives must also comply with the following requirements:

a. become an employee of the participant's agency of choice and meet the same standards as direct support staff who are not related to the individual;

b. - c.ii. ...

2. Family members who may provide services include:

a. parents of an adult child;

b. siblings;

c. grandparents;

d. aunts, and uncles; and

e. cousins.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2168 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:1527 (October 2021).

Chapter 169. Reimbursement

§16901. Unit of Reimbursement

A. - F. ...

G. Transition expenses from an ICF/IID or nursing facility to a community living setting are reimbursed at the cost of the service(s) up to a lifetime maximum rate of \$3,000.

H. - J. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services

Financing and the Office for Citizens with Developmental Disabilities, LR 39:1049 (April 2013), LR 41:2168, 2170 (October 2015), LR 42:63 (January 2016), LR 42:900 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2530 (December 2017), LR 45:1769 (December 2019), LR 47:1527 (October 2021).

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

Dr. Courtney N. Phillips
Secretary

2110#056

RULE

Department of Health Bureau of Health Services Financing

Reimbursement to Federally Qualified Health Centers and Rural Health Clinics for Coronavirus Disease 2019 (COVID-19) Vaccine Administration (LAC 50:XI.10703 and 16703)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:XI.10703 and §16703 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part XI. Clinic Services

Subpart 13. Federally Qualified Health Centers

Chapter 107. Reimbursement Methodology §10703. Alternate Payment Methodology

A. - G. ...

H. During the Coronavirus Disease 2019 (COVID-19) public health emergency, Louisiana Medicaid will establish an alternative payment methodology (APM) for FQHC providers to be reimbursed at the standard vaccine administration payment rates listed on the COVID-19 vaccine and treatment fee schedule outside of the facility's current all-inclusive prospective payment system rate on file. This APM will only be allowed when the COVID-19 vaccine is administered without the performance of an evaluation and management procedure on the same date of service.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1033 (June 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 44:1894 (October 2018), LR 44:2162 (December 2018), LR 45:434 (March 2019), LR 46:182 (February 2020), LR 47:1528 (October 2021).

Subpart 15. Rural Health Clinics Chapter 167. Reimbursement Methodology §16703. Alternate Payment Methodology

A. - G. ...

H. During the Coronavirus Disease 2019 (COVID-19) public health emergency, Louisiana Medicaid will establish an alternative payment methodology (APM) for RHC providers to be reimbursed at the standard vaccine administration payment rates listed on the COVID-19 vaccine and treatment fee schedule outside of the facility's current all-inclusive prospective payment system rate on file. This APM will only be allowed when the COVID-19 vaccine is administered without the performance of an evaluation and management procedure on the same date of service.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1036 (June 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 44:1903 (October 2018), LR 44:2168 (December 2018), LR 45:435 (March 2019), amended LR 46:185 (February 2020), LR 47:1528 (October 2021).

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

Dr. Courtney N. Phillips
Secretary

2110#057

RULE

Department of Health Licensed Professional Counselors Board of Examiners

Notification of Change (LAC 46:LX.111 and 2709)

In accordance with the applicable provisions of the Louisiana Administrative Procedures Act (R.S.49:950 et seq.) and through the authority of the Mental Health Counselor Licensing Act (R.S. 37:1101 et seq.), the Louisiana Licensed Professional Counselors Board of Examiners has clarified reporting requirements.

The Louisiana Licensed Professional Counselors Board of Examiners has adopted §111 and §2709 for publication in the July 20, 2021 edition of the Louisiana Register. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS REVISED

Part LX. Licensed Professional Counselors

Subpart 1. Licensed Professional Counselors

Chapter 1. General Provisions

§111. Notification of Change

A. ...

B. Every licensed or provisional licensed professional counselor shall immediately notify in writing the Licensed Professional Counselors Board of Examiners of any and all status changes with the justice system, including notification of arrest, charges, convictions. Failure to comply with this rule within 30 days of change will result in disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 26:493 (March 2000), amended LR 29:129 (February 2003), LR 41:709 (April 2015), LR 47:1528 (October 2021).

Subpart 2. Professional Standards for Licensed Marriage and Family Therapists and Provisional Licensed Marriage and Family Therapists

Chapter 27. General Provisions

§2709. Notification of Change

A. ...

B. Every licensed or provisionally licensed marriage and family therapist shall immediately notify in writing the Licensed Professional Counselors Board of Examiners of any and all status changes with the justice system, including notification of arrest, charges, convictions. Failure to comply with this rule within 30 days of change will result in disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:153 (February 2003), amended LR 41:740 (April 2015), LR 47:1529 (October 2021).

Jamie S. Doming
Executive Director

2110#010

RULE

Department of Health

Licensed Professional Counselors Board of Examiners

Tele-Supervision (LAC 46:LX.605 and 3315)

In accordance with the applicable provisions of the Louisiana Administrative Procedures Act (R.S.49:950 et seq.) and through the authority of the Mental Health Counselor Licensing Act (R.S. 37:1101 et seq.), the Louisiana Licensed Professional Counselors Board of Examiners has amended the tele-supervision requirement to allow all supervision hours to be conducted online with synchronous videoconferencing.

The Louisiana Licensed Professional Counselors Board of Examiners has adopted Chapter 6, Section 605 and Chapter 33, Section 3315 for publication in the July 20, 2021, edition of the Louisiana Register. This Rule is hereby adopted on the day of promulgation.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS REVISED
Part LX. Licensed Professional Counselors Board of
Examiners**

**Subpart 1. Licensed Professional Counselors
Chapter 6. Application, Practice, and Renewal
Requirements for Provisional Licensed
Professional Counselors**

§605. Supervised Practice Requirements

A. - A.2.a.i.(b).(i). ...

(c). Supervision Hours. A minimum of 100 hours of face-to-face supervision by a LPC Supervisor. Up to 100 percent of the supervision hours may be conducted by synchronous videoconferencing on a HIPAA compliant platform:

A.2.a.i.(c)(i). - B.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 41:715 (April 2015), amended by the Department of Health, Licensed Professional Counselors Board of Examiners LR 45:278 (February 2019), LR 47:1529 (October 2021).

**Subpart 2. Professional Standards for Licensed
Marriage and Family Therapists and Provisional
Licensed Marriage and Family Therapists
Chapter 33. Requirements for Licensure and
Provisional Licensure**

**§3315. Application, Practice, and Renewal
Requirements for Provisional Licensed
Marriage and Family Therapists**

A. - A.7. ...

B. Definitions for Supervision
* * *

Qualified Supervision—supervision of the clinical services of a provisional licensed marriage and family therapist by a board-approved supervisor or supervisor candidate for the purpose of qualifying the provisional licensed marriage and family therapist for licensure as an LMFT in Louisiana in accordance with the plan of supervision approved by the advisory committee. Under no circumstances shall any contact that is not face-to-face (such as interaction by conventional correspondence, telephone, e-mail, instant message, etc.) between an LMFT board-approved supervisor or supervisor candidate and a provisional licensed marriage and family therapist be considered qualified supervision unless such contact is pre-approved by the advisory committee as part of the supervisee's plan of supervision. Up to 100 percent of face-to-face supervision hours may be conducted via synchronous videoconferencing on a HIPAA compliant platform.
* * *

C. - C. 2. ...

a. Up to 100 hours of face-to-face supervisor contact received during the completion of the applicant's qualifying academic experience graduate program that is systemically oriented as determined by the advisory

committee may be counted toward the required 200 hours of qualified supervision. Of these 100 hours, only 50 hours may be counted as individual supervision. 100 percent of the face-to-face supervision hours may be conducted via synchronous videoconferencing on a HIPAA compliant platform.

C.3. - F.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 26:493 (March 2000), amended LR 29:129 (February 2003), LR 41:709 (April 2015), LR 47:1529 (October 2021).

Jamie S. Doming
Executive Director

2110#011

RULE

Department of Insurance Office of the Commissioner

Regulation 87—Louisiana Citizens Property Insurance Corporation—Producer Binding Requirements (LAC 37:XIII.Chapter 121)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and through the authority granted under R.S. 22:1 et seq., and specifically R.S. 22:11, the Department of Insurance has amended Regulation 87—Louisiana Citizens Property Insurance Corporation Producer Binding Requirements. The Department of Insurance has amended Regulation 87 to conform with changes to the plan of operations of Louisiana Citizens Property Insurance Corporation. This Rule is hereby adopted on the day of promulgation.

Title 37 INSURANCE

Part XIII. Regulations

Chapter 121. Regulation Number 87—Louisiana Citizens Property Insurance Corporation Producer Binding Requirements

§12103. Authority

A. Regulation 87 is promulgated by the Board of Directors of the Louisiana Citizens Property Insurance Corporation, pursuant to the authority granted under the Louisiana Insurance Code, Title 22, R.S. 22:2313.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2313 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1872 (September 2007), amended LR 47:1530 (October 2021).

§12105. Applicability and Scope

A. Regulation 87 applies to all insurance producers who are eligible to sell insurance policies issued by Louisiana Citizens Property Insurance Corporation pursuant to R.S. 22:2313(A), and that have applied to the Louisiana Citizens Property Insurance Corporation and have met the qualifications for binding authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2313 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1872 (September 2007), amended LR 47:1530 (October 2021).

§12107. Definitions

A. For the purposes of Regulation 87, the following terms shall have the meaning or definition as indicated herein.

E.P.I.C.—the Citizens policy management and claim computer system or its successor.

Louisiana Policy Management System (LPMS)—
Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2313 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1873 (September 2007), amended LR 47:1530 (October 2021).

§12109. Licensing

A. Pursuant to R.S. 22:12, no person shall be authorized to transact or shall transact the business of insurance in the state of Louisiana without complying with the provisions of the Louisiana Insurance Code.

B. Except as otherwise provided in R.S. 22:1544(B) and 22:1562(C)(1), no person shall act as or hold himself out to be an insurance producer unless licensed by the department as required by R.S. 22:1543.

C. In accordance with R.S. 22:1543(B), an insurance producer is not authorized to sell, solicit, make an application for, procure, or place for others any policies for any lines of insurance as to which the insurance producer is not qualified and duly licensed in the state of Louisiana.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2313 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1873 (September 2007), amended LR 47:1530 (October 2021).

§12111. Qualifications for Binding Authority

A. In order to bind coverage for the FAIR Plan and the Coastal Plan through Citizens, each duly licensed insurance producer must meet the following requirements:

1. ...

2. complete any previously approved and required Citizens education seminar, as well as review and follow all training documents, rules, and guidelines provided on Citizens' website

3. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2313 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1873 (September 2007), amended LR 47:1530 (October 2021).

§12113. Procedures to Implement Binding Authority

A. The insurance producer shall list all unlicensed employees that shall have access to the E.P.I.C. system in order for the insurance producer to bind property and casualty insurance coverage for their clients with Citizens.

B. If the insurance producer is an insurance agency, it shall list each unlicensed employee or insurance producer that shall have access to the E.P.I.C. system in order for the insurance producer to bind property and casualty insurance coverage for their clients with Citizens.

C. Each insurance producer, whether an individual or an agency, shall assign an administrator who shall have the responsibility and authority to add and/or delete unlicensed employees, including insurance producers, who have been authorized to access the E.P.I.C. system. The administrator shall provide each unlicensed employee, including insurance producers, an E.P.I.C. system access code, and the administrator and insurance producer shall select a secure password to access the E.P.I.C. system. The administrator shall be responsible for managing the E.P.I.C. system interface with the insurance producer, whether an individual or an agency, and maintaining up-to-date information in the E.P.I.C. system.

D. Citizens will publish and maintain technical computer system requirements for the E.P.I.C. system. Instructions for using the E.P.I.C. system will be available on a web site created and maintained by Citizens. Insurance producers are responsible for ensuring that their computer systems and internal resources meet the technical computer system requirements and that their unlicensed employees, including insurance producers if an insurance agency, are properly trained on the use of the E.P.I.C. system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2313 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1873 (September 2007), amended LR 47:1530 (October 2021).

§12115. Procedures for Application to Bind Coverage

A. ...

B. The insurance producer authorized to bind coverage with Citizens on the E.P.I.C. system shall provide a valid Louisiana property and casualty insurance producer license number issued by the department in each application for property and casualty coverage with Citizens utilizing the E.P.I.C. system. The administrator shall be responsible for maintaining an up-to-date list of insurance producers with the current insurance producer license number issued by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2313 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1874 (September 2007), amended LR 47:1531 (October 2021).

§12117. Education and Training

A. Each authorized insurance producer and each authorized employee of an insurance producer shall attend any certified continuing education seminar that may be required by Citizens in order to maintain their binding authority. Citizens will provide appropriate notice to authorized insurance producers should a continuing education requirement be identified.

B. Each new insurance producer and each employee of a new insurance producer shall attend any previously approved and required Citizens education seminar, as well as review and follow all training documents, rules and guidelines provided on Citizens' website. As a prerequisite for authorization to bind coverage, new producers and existing producers must comply with this Regulation 87.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2313 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1874 (September 2007), amended LR 47:1531 (October 2021).

§12119. Errors and Omission Insurance

A. Each insurance producer, including the insurance agency if applicable, must provide documentary proof to Citizens that it has met and is carrying a required minimum of \$1,000,000 per occurrence and \$1,000,000 annual aggregate of professional liability coverage at the time of application for binding authority. Proof of professional liability coverage shall include, at a minimum, documentation that verifies the liability insurer, the amount of coverage and the duration of coverage. The administrator of the insurance producer shall update this proof of professional liability coverage in the E.P.I.C. system each year in advance of the expiration date of the coverage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2313 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1874 (September 2007), amended LR 47:1531 (October 2021).

§12123. Premium Payments Requirements

A. An insurance producer shall submit to Citizens an electronic payment, via the E.P.I.C. system, of the \$65 non-refundable application fee in order to receive a coverage confirmation letter. The policyholder, or the producer or mortgage company on behalf of the policyholder, has 14 days from the effective date of the coverage confirmation Letter to submit a minimum payment of 25 percent of the quoted policy premium plus 100 percent of all policy fees and taxes. If the minimum payment is not received by Citizens by the fourteenth day, the quote will expire. The E.P.I.C. system will allow payment electronically with either a credit card or an electronic transfer of funds (ETF). Both methods require a completed Funds Authorization Form to be submitted to Citizens via the E.P.I.C. system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2313 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1874 (September 2007), amended LR 47:1531 (October 2021).

§12125. Suspension and Termination of Binding Authority

A. - C. ...

D. An unlicensed employee who demonstrates a consistent pattern of submitting procedural errors or substantive errors on applications to bind coverage with Citizens may be denied the right to access the E.P.I.C. system on behalf of the insurance producer until such time as Citizens has determined that the subject unlicensed employee has taken the actions required by Citizens to rectify the errors. The insurance producer, and if applicable an insurance agency, who is responsible for the unlicensed employee who has been sanctioned herein shall be subject to suspension or termination of the binding authority privileges as deemed appropriate by Citizens pursuant to the guidelines set forth in Subsections B, C, E and F.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2313 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1875 (September 2007), amended LR 47:1531 (October 2021).

James J. Donelon
Commissioner

2110#029

RULE

Department of Insurance Office of the Commissioner

Regulation 118—Requirements in the Event of a Declared Emergency (LAC 37:XIII.Chapter 179)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and through the authority granted under R.S. 22:1 et seq., and specifically R.S. 22:11, the Department of Insurance has adopted Regulation 118—Requirements in the Event of a Declared Emergency. The Department of Insurance has promulgated Regulation 118 to comply with Acts 2021, No. 223, §1 of the Regular Session of the Louisiana Legislature that enacted R.S. 22:11(C), which requires the commissioner to promulgate rules and regulations to govern the business of insurance in the event of a declaration of emergency. This Rule is hereby adopted on the day of promulgation.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 179. Regulation 118—Requirements in the Event of a Declared Emergency

§17901. Purpose

A. The purpose of Regulation 118 is:

1. to establish requirements and set forth the procedure for the commissioner to implement rules and regulations on the business of insurance in the event of a declared emergency or public health emergency pursuant to the authority granted in La. R.S. 22:11(C);

2. to provide for a process for supplementing existing rules and regulations with emergency rules and regulations particular to the unique needs of a declared emergency or public health emergency;

3. to set forth the model requirements to be implemented in the event of a declared emergency or public health emergency having such effect as necessitates intervention by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:1532 (October 2021).

§17903. Applicability and Scope

A. Regulation 118 shall apply to any and all insurers, health maintenance organizations, producers, all other entities regulated by the Louisiana Department of Insurance, health care providers, and individuals and to any and all kinds of insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:1532 (October 2021).

§17905. Definitions

A. As used in this Regulation 118, the following terms shall have the meanings specified.

Commissioner—the Commissioner of the Louisiana Department of Insurance.

Declaration of Emergency—an executive order or proclamation by the governor declaring a disaster or state of emergency pursuant to R.S. 29:724 or a public health emergency pursuant to R.S. 29:766.

Declared Emergency—a disaster or state of emergency declared by the governor pursuant to R.S. 29:724 or a public health emergency declared by the governor pursuant to R.S. 29:766.

Department—the Louisiana Department of Insurance.

Insurer—every person or entity engaged in the business of making contracts of insurance, other than a fraternal benefit society, as defined in R.S. 22:46(10), and any other person or entity doing business in Louisiana and/or regulated by the commissioner.

Standing Rule—model language to be used for emergency rules to be promulgated by the department pursuant to Title 22 and the Administrative Procedure Act, comprising the rules and regulations specified in §17913 through 17961 of this Regulation 118.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:1532 (October 2021).

§17907. Emergency Powers, Generally

A. In the event of a declared emergency, the commissioner may issue an Emergency Rule to govern the business of insurance. Such Emergency Rule shall include, but not be limited to, the following:

1. provide for the implementation of the standing rule, including specification of any sections which are not to be implemented during the declared emergency;

2. provide for any requirements to be imposed in addition to the standing rule during the declared emergency;

3. specify the geographic area to which the Emergency Rule applies;

4. specify the duration for which the Emergency Rule applies, including an effective date which shall not precede the date of declaration of emergency.

B. The commissioner may promulgate additional Emergency Rules pursuant to the authority granted to the commissioner by Title 22 and the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:1532 (October 2021).

§17909. Effect of Emergency Rule Implementing Standing Rule

A. The effect of the commissioner's issuance of an Emergency Rule providing for the implementation of the

standing rule shall be to incorporate by reference each element of the standing rule except for those sections expressly specified to not be implemented during the declared emergency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:1532 (October 2021).

§17911. Application of Subsequent Sections

A. Sections 17913 through 17961 of this Chapter comprise the standing rule and shall have no effect except as specified in any Emergency Rule promulgated pursuant to §17907.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:1533 (October 2021).

§17913. Benefits, Entitlements, Protections and Applicable Parishes

A. The benefits, entitlements and protections of the Emergency Rule shall be applicable to insureds, policyholders, members, subscribers, enrollees and certificate holders (hereinafter “insureds”) who, as of 12:01 a.m. on the effective date of the Emergency Rule, have an insurance policy, insurance contract, or certificate of coverage for any of the kinds of insurance enumerated in §17915, as delineated below, and who meet one of the following criteria.

1. Any person who, as of the effective date of the Emergency Rule, resided in the geographic area specified in the Emergency Rule. Said person is entitled to the protections of the Emergency Rule for the kinds of insurance enumerated in §17915.A and B.

2. For the kinds of insurance enumerated in §17915.B, any person whose primary place of employment was in, or whose permanent employer had assigned said person to a business located in the geographic area specified in §17913.A.1, shall be eligible for the benefits, entitlements and protections of the Emergency Rule if said person verifies such employment status by written documentation to his health insurance issuer. No health insurance issuer shall unreasonably withhold eligibility to insureds upon receipt of such written documentation.

3. For the kinds of insurance enumerated in §17915.A, any insured who does not reside in the geographic area specified in §17913.A.1, but has filed with an authorized insurer or surplus lines insurer a notice of loss on a property claim for damage caused by the disaster or emergency and its aftermath to property located in the geographic area specified in §17913.A, shall be entitled to contact the insurer and request the benefits, entitlements, and protections of the Emergency Rule. These insurers are directed to work with their insureds who have filed a notice of loss on a property claim for damage caused by the disaster or emergency and its aftermath and provide accommodation as applicable, relevant and appropriate.

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

defined in R.S. 22:46(17.1) operating in Louisiana (sometimes hereinafter referred to as a surplus lines insurer).

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:1533 (October 2021).

§17915. Applicability and Scope

A. The Emergency Rule shall apply to any and all kinds of insurance set forth in R.S. 22:47, including, but not limited to, life, vehicle, liability, workers’ compensation, burglary and forgery, fidelity, title, fire and allied lines, steam boiler and sprinkler leakage, crop, marine and transportation, miscellaneous, homeowners’, credit life, credit health and accident, credit property and casualty, annuity, surety, and industrial fire. The applicability of the Emergency Rule to health and accident insurance is specified in §17915.B.

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

C. Sections 17917 and 17929.B & C of the Emergency Rule shall apply to only those kinds of insurance provided for in §17915.A and those types of insurers specified in §17913.B.

D. Sections 17925, 17931, 17933, 17937, 17939.A, 17943, 17945, and 17947 of the Emergency Rule shall apply only to those kinds of insurance provided for in §17915.B and those health insurance issuers specified in §17913.C.

E. All provisions of the Emergency Rule not expressly limited in §17915.C and D shall apply to all types of insurers and all kinds of insurance as defined in §17913 and §17915.

F. Nothing in §17915 shall be interpreted to apply the provisions of the Emergency Rule to policies of insurance issued for the benefit of insureds not subject to the benefits, entitlements, and protections enumerated in §17913.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:1533 (October 2021).

§17917. Cancellation, Nonrenewal, and Nonreinstatement

A. The Emergency Rule hereby suspends any notice of cancellation, notice of nonrenewal, nonreinstatement or any other notice related to any of the types of insurance

enumerated in §17915 that was in force and effect at 12:01 a.m. on the effective date of the Emergency Rule, and any such notice shall be null and void and have no force or effect. Furthermore, any such notice shall be reissued de novo to the insured in accordance with existing statutory requirements after the expiration of the Emergency Rule.

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

C. No policy shall be cancelled or nonrenewed solely because of a claim that is filed during, or is caused by, the disaster or emergency or its aftermath.

D. Unless otherwise expressly authorized in writing by the commissioner, the cancellation, nonrenewal or nonreinstatement of any insurance policy related to any of the types of insurance enumerated in §17915 is hereby suspended and shall not be allowed until after the expiration of the Emergency Rule as provided for in §17961.

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

F. As set forth in §17949, the Emergency Rule shall not prevent an insurer from cancelling or terminating an insurance policy for fraud or material misrepresentation on the part of the insured.

G. Any temporary postponement of cancellation or nonrenewal pursuant to the Emergency Rule shall not remain in effect beyond 60 days unless presented by the commissioner to the Senate Insurance Committee and House Insurance Committee for review and approval by either committee prior to any extension.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:1533 (October 2021).

§17919. Renewal

A. The renewal conditions of all kinds of insurance enumerated in §17915 that are subject to renewal after the effective date of the Emergency Rule are suspended and shall be deferred until the expiration of the Emergency Rule as provided for in §17961. All policies subject to renewal after the effective date of the Emergency Rule shall continue in full force and effect at the previously established premium until the expiration of the Emergency Rule as provided for in §17961. The previously established premium for renewals by authorized insurers shall be based on the rate structure, rating plan and manual rules that are approved by the commissioner, regardless of whether their effective date was before or during the Emergency Rule. The previously established premium by authorized insurers for renewals of commercial deregulated insurance policies shall be based on the rate structure, rating plan and manual rules set forth in any filing submitted to the commissioner before or during the Emergency Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:1534 (October 2021).

§17921. Written Request for Cancellation by Insured

A. Except as provided for in §17949 herein, a cancellation shall not occur prior to the expiration of the Emergency Rule unless upon the documented written request or written consent of the insured. This written consent may be in electronic format.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:1534 (October 2021).

§17923. New Policies

A. The Emergency Rule shall not apply to any new insurance policy for any of the kinds of insurance enumerated in §17915 if said insurance policy is issued on or after the effective date of the Emergency Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:1534 (October 2021).

§17925. Claims Notification

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:1534 (October 2021).

§17927. Premium Offset

A. All insurers subject to the Emergency Rule receiving a claim from an insured owing a premium may offset the premium owed by the insured against any claim payment made to the insured under the insurance policy. §17927 shall not apply to health insurance issuers as defined in §17913.C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:1534 (October 2021).

§17929. Obligation of Insured to Pay Premium

A. Unless otherwise cancelled in accordance with the provisions of §17921 herein, nothing in the Emergency Rule shall be construed to exempt or excuse an insured from the obligation to pay the premiums otherwise due for actual insurance coverage provided.

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:1534 (October 2021).

§17931. Timely Payment of Health Claims

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

B. For any policy of insurance described in §17915.B which, as a result of nonpayment of premium, would be subject to cancellation or termination but for the suspension ordered in §17917, the health insurance issuer may pend all claims for services rendered to the insured for the remainder of the suspension provided for in §17917 until the health insurance issuer receives the delinquent premium payment or until such time the health insurance issuer is subsequently entitled to cancel or terminate the policy for nonpayment of premium.

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

D. Once a health insurance issuer receives the delinquent premium payment during the grace period, all pending claims associated with the time period to which such payment applies shall be processed and adjudicated. The health insurance issuer shall notify the health care provider that the claim is no longer pending and is being processed and adjudicated for payment. Furthermore, the suspension provided for in §17931.A shall be automatically lifted and all applicable timely payment requirements reinstated upon the date of the payment of premium.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:1535 (October 2021).

§17933. Nonpayment of Health Claims

A. In the event a health insurance issuer pends a claim, as permitted pursuant to §17931, and is subsequently entitled to cancel or terminate a policy for nonpayment of premium, the health insurance issuer shall pay any remaining claims for which payment is required under §17931.B. The health insurance issuer may deny payment on pended claims for services rendered to the insured during the period of nonpayment after the first month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:1535 (October 2021).

§17935. Insured's Obligation to Cooperate in Claim Process

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:1535 (October 2021).

§17937. Physician Credentialing

A. The commissioner hereby suspends physician credentialing pursuant to R.S. 22:1009 such that there are no credentialing requirements with regard to any and all licensed physicians who provide medical services to insureds identified in §17913.A or §17913.B between 12:01 a.m. on the effective date of the Emergency Rule and the expiration of the Emergency Rule as provided for in §17961.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:1535 (October 2021).

§17939. New Rate or Premium

A. For all health insurance issuers specified in §17913.C, any rate increases that were to take effect after the effective date of the Emergency Rule are suspended and shall be deferred until the expiration of the Emergency Rule as provided for in §17961.

B. For all other insurers, as specified in §17913.B, the Emergency Rule shall not affect the right of any insurer to file for and/or implement a new rate or premium for any insurance policy for the types of insurance enumerated in §17915.A if the new rate or premium has been approved by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:1535 (October 2021).

§17941. Imposition of Interest, Penalty, or Other Charge

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:1535 (October 2021).

§17943. Continuation of Health Coverage

A. The commissioner hereby suspends R.S. 22:1046. In furtherance thereof, a health insurance issuer who has issued a group health insurance policy shall provide to all members or certificate holders under said group policy the option for the continuation of coverage, which said option shall begin on the day after the end the expiration of the Emergency Rule as provided for in §17961. This section is only applicable in those situations where the employer to whom the group policy had been issued remains in business and continues to offer said group health insurance to active employees for the duration of the Emergency Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:1535 (October 2021).

§17945. Prescription Drug Coverage

A. Health insurance issuers shall allow insured individuals to obtain refills of their prescriptions even if the prescription was recently filled, consistent with approval from patients' health care providers and/or pharmacists. This

provision does not apply to prescription drugs with a high likelihood of abuse, such as opioids that are restricted to 7-day prescriptions.

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:1535 (October 2021).

§17947. Telemedicine Access

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

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

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:1536 (October 2021).

§17949. Fraud or Material Misrepresentation

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:1536 (October 2021).

§17951. Exemption from Compliance

A. Notwithstanding any other provision contained herein, the commissioner may exempt any insurer from compliance with the Emergency Rule upon a written request by the insurer setting forth in detail each and every reason for the exemption and then only if the commissioner determines that compliance with the Emergency Rule may be reasonably expected to result in said insurer being subject to undue hardship, impairment, or insolvency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:1536 (October 2021).

§17953. Sanctions for Violations

A. The commissioner retains the authority to enforce violations of the Emergency Rule. Accordingly, any insurer enumerated in the Emergency Rule or any other entity doing business in Louisiana and/or regulated by the commissioner who violates any provision of the Emergency Rule shall be subject to regulatory action by the commissioner under any applicable provisions of the Louisiana Insurance Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:1536 (October 2021).

§17955. Sixty Day Period to Initiate Adjustment of Property Claims

A. In accordance with R.S. 22:1892(A)(3), the disaster or emergency and its aftermath qualifies as a catastrophic loss event that requires insurers to initiate loss adjustment of a property damage claim within thirty (30) days after notification of loss by the insured.

B. In furtherance of R.S. 22:1892(A)(3), the severity of the devastation caused by the disaster or emergency and its aftermath qualifies for an additional 30 days for insurers to initiate loss adjustment of a property claim after notification of loss by the insured.

C. Therefore, insurers shall have a total of 60 days to initiate loss adjustment of a property damage claim after notification of loss by the insured.

D. This declaration is based on the representation that the additional time period is necessary due to the large volume of claims resulting directly from the disaster or emergency and its aftermath, and with the admonition that insurers will promptly identify, evaluate, and resolve these claims. Insurers must continue to provide timely service to their insureds by promptly acknowledging receipt of claims and making appropriate assignments for the adjustment of claims.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:1536 (October 2021).

§17957. Authority

A. The commissioner reserves the right to extend or rescind all or any portion of the Emergency Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:1536 (October 2021).

§17959. Severability Clause of Emergency Rule

A. If any section or provision of the Emergency Rule or its application to any person or circumstance is held invalid, such invalidity or determination shall not affect any other section or provision or the application of the Emergency Rule to any person or circumstance that can be given effect without the invalid section or provision or application, and for these purposes the sections and provisions of the Emergency Rule and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:1536 (October 2021).

§17961. Effective Date of Emergency Rule

A. The Emergency Rule shall become effective at 12:01 a.m. on the effective date specified and shall continue in full force and effect until either 11:59 p.m. on the cessation date of the Governor’s declaration of emergency, inclusive of any renewal thereof, or the termination date specified in the Emergency Rule, inclusive of any renewal thereof approved pursuant to the requirement in R.S. 22:11(C), whichever occurs first.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:1537 (October 2021).

§17963. Severability of Regulation 118

A. If any provision of this regulation, or the applicability thereof, is held invalid, such invalidity shall not affect other provisions, items, or applications of the regulation which can be given effect without the invalid provision, item, or application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:1537 (October 2021).

§17965. Effective Date of Regulation 118

A. Regulation 118 shall become effective upon final promulgation in the Louisiana Register.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:1537 (October 2021).

James J. Donelon
Commissioner

2110#020

RULE

**Department of Insurance
Office of the Commissioner**

**Rule 7—Legal Expense Insurers
(LAC 37:XI.1909 and 1919)**

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has amended Rule 7—Legal Expense Insurers by changing the line of insurance applicable to prepaid legal services.

The Louisiana Department of Insurance (“LDI”) has amended Rule 7 to address the proper line of insurance into which prepaid legal services should be placed. When originally introduced as a program, prepaid legal services was placed under the line of “fidelity and surety.” Thereafter, the LDI split “fidelity and surety” into two separate lines, to

wit: “fidelity” and “surety.” The LDI subsequently created a new line of insurance, to wit: “miscellaneous.” Upon reviewing the nature of the prepaid legal services program, the LDI has determined that such program properly falls under the definition set forth for “miscellaneous” in La. R.S. 22:47(14). As such, the purpose of the amendment to Rule 7 is to change the line of insurance applicable to prepaid legal services from “fidelity and surety” to “miscellaneous.” This Rule is hereby adopted on the day of promulgation.

Title 37

INSURANCE

Part XI. Rules

Chapter 19. Rule Number 7—Legal Expense Insurers

§1909. Qualifications as Insurer Required

A. Any person who accepts a pre-payment from or for the benefit of any other person or group of persons as consideration for providing to such person or group of persons the opportunity to receive reimbursement or payment for legal services at such time in the future as such services may be appropriate or necessary must meet the requirements of the Louisiana Insurance Code by becoming qualified as an insurer which is authorized to write miscellaneous coverage. (See "Exemptions" under §1907 of this rule.) Persons offering these services shall qualify as a mutual, stock, reciprocal or Lloyds' plan insurer as defined in Title 22, Louisiana Revised Statutes of 1950, as amended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner LR 8:235 (May 1982), amended LR 47:1537 (October 2021).

§1919. Effective Date

A. The effective date of Rule 7 as amended shall be January 1, 2022.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:1537 (October 2021).

James J. Donelon
Commissioner

2110#022

RULE

**Department of Revenue
Office of Alcohol and Tobacco Control**

**Regulation IX—Prohibition of Certain
Unfair Business Practices (LAC 55:VII.317)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 26:792, the Department of Revenue, Office of Alcohol and Tobacco Control (ATC), has amended LAC 55:VII, Subpart 3, Beer and Liquor, Chapter 3, Section 317, relative to the marketing and sale of alcoholic beverages in Louisiana. This Rule is promulgated in accordance with the authority delegated in R.S. 26:307(E) and R.S. 26:308(E) that allow the commissioner to promulgate rules related to the requirements and qualifications for delivery of alcoholic beverages. This Rule is hereby adopted on the day of promulgation.

**Title 55
PUBLIC SAFETY**

**Part VII. Alcohol and Tobacco Control
Subpart 3. Beer and Liquor**

Chapter 3. Liquor Credit Regulations

**§317. Regulation IX – Prohibition of Certain Unfair
Business Practices**

A. - C.2.b.ii. ...

iii. Product displays may be furnished by an industry member to a retailer, provided that the total value of all product displays furnished by an industry member may not exceed \$155 per brand in use at any one time in any one retail establishment. Product display are racks, bins, barrels, casks, shelving, and the like from which alcoholic beverages are displayed or sold. Product display also includes refrigerated coolers which serve as only a temperature-controlled product display for exclusively spirits or liquor. Product displays shall bear conspicuous, ~~and~~ substantial, and permanently inscribed or securely affixed advertising matter.

C.2.c. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:150.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Alcoholic Beverage Control, LR 4:463 (November 1978), amended LR 5:11 (January 1979), amended by the Department of Public Safety and Corrections, Office of Alcoholic Beverage Control, LR 17:607 (June 1991), LR 20:671 (June 1994), amended by the Department of Revenue and Taxation, Office of Alcoholic Beverage Control, LR 22:116 (February 1996), LR 26:2631 (November 2000), LR 28:1484 (June 2002), LR 31:1344 (June 2005), amended by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 35:89 (January, 2009), LR 38:1286 (May 2012), LR 38:2938 (November 2012), LR 42:66 (January 2016), amended by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 47:1538 (October 2021).

Linda Pham
Attorney Supervisor

2110#061

RULE

**Department of State
Elections Division**

Opportunity to Cure Deficiencies in
Absentee By Mail Ballots (LAC 31:I:Chapter 3)

The Department of State has promulgated Title 31, Part I, by adding Chapter 3, §§301, 303 and 305, to provide a permanent procedure for curing absentee by mail ballot envelope flaps with deficiencies. This Rule is hereby adopted on the day of promulgation.

**Title 31
ELECTIONS**

Part I. Election Process

**Chapter 3. Opportunity to Cure Deficiencies in
Absentee by Mail Ballots**

**§301. Absentee by Mail Ballot Deficiencies that May
Be Cured**

A. Each registrar of voters shall review the absentee by mail ballot envelope flap for the following deficiencies:

1. missing voter signature;
2. missing witness signature; and incomplete affidavit information, including but not limited to missing election date and voter information.

This review shall be conducted immediately upon receipt of the absentee by mail ballot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18(A)(3) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 47:1538 (October 2021).

§303. Absentee Ballot Deficiency Notification

A. Upon receipt of an absentee by mail ballot envelope flap with one or more of the above identified deficiencies, the registrar of voters shall segregate the ballot envelope and promptly notify the voter of the ballot envelope flap deficiency and of the opportunity to cure the deficiency.

B. The registrar of voters shall identify the ballot in the voter's absentee record and notate it as "deficient with opportunity to cure."

C. The registrar shall immediately mail a written notice of the ballot envelope flap deficiency and the opportunity to cure the deficiency. If there is a telephone number or email address available in the voter's registration record, the registrar shall also attempt to contact the voter by telephone or email.

D. All deficiency notifications shall inform the voter of the type of deficiency, the process for curing the deficiency, and the deadline and method to cure the deficiency. The registrar shall make a log of the date and methods of contact for each voter.

E. Effective February 1, 2022, there will be a space on the Secretary of State website area to Check Absentee Ballots indicating that the voter has been notified of an opportunity to cure a deficiency.

F. Voters are required to appear in person at their registrar of voters office during normal business hours until 4:30 p.m. the day before the election to cure the ballot envelope flap deficiency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18(A)(3) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 47:1538 (October 2021).

§305. Curing Absentee by Mail Ballot Deficiencies

A. To cure a missing voter signature, the voter shall appear at the office of the registrar and sign the ballot envelope flap in the presence of an employee of the registrar of voters. The employee of the registrar who observes the signature shall also sign the ballot envelope flap as witness.

B. To cure a missing witness signature, the voter shall appear at the office of the registrar and resign the ballot envelope flap in the presence of an employee of the registrar of voters. The employee of the registrar who observes the signature shall sign the ballot envelope flap as witness.

C. To cure an incomplete affidavit, the voter shall appear at the office of the registrar and complete the affidavit on the ballot envelope flap.

D. If the voter appears at the office of the registrar to cure the deficiency, the notation in the voter's absentee record shall be updated to so reflect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18(A)(3) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 47:1538 (October 2021).

R. Kyle Ardoin
Secretary of State

2110#021

RULE

**Department of Treasury
Board of Trustees of the Teachers’
Retirement System of Louisiana**

**Mandatory Submission of Monthly Salaries and
Contributions Reports, Contributions Corrections,
Prior Years Certifications/Corrections of Member
Data and (RET) Annual Salary Files
(LAC 58:III.101)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 11:826 that the Board of Trustees of the Teachers’ Retirement System of Louisiana (TRSL) has amended LAC 58:III.101, relative to contributions reported to TRSL by participating employers, in order to remove obsolete language, to clarify the reporting method to be used based on employer size and type of information reported, and to provide for submission of records for audit purposes. This Rule is hereby adopted on the day of promulgation.

Title 58

RETIREMENT

Part III. Teachers’ Retirement System of Louisiana

Chapter 1. General Provisions

**§101. Mandatory Submission of Monthly Salaries and
Contributions Reports, Contributions
Corrections, Prior Years Certification/
Corrections of Member Data and
(RET) Annual Salary Files**

A. Monthly Salaries and Contributions Reports. Each month all employers shall certify to the Teachers’ Retirement System of Louisiana (TRSL) Board of Trustees, by means of file transfer protocol or by secure on-line web based reporting, the amounts of each employee's actual salary, full-time salary, and the amounts of contribution deductions from the employee's actual salary to be paid to the annuity savings fund and then credited to the individual accounts of the employee from whose compensation the deductions were made. All file transfer protocol and web-based reporting formats must be in compliance with criteria established by TRSL and transferred in the manner as required by TRSL. All certified monthly salaries and contributions reports must be submitted by the fifteenth day of the month following the month covered by the report.

1. All employers reporting 100 or fewer employees must submit monthly salaries and contributions reports by file transfer protocol, by direct file upload submission via the internet or manually through TRSL’s secure on-line web-based inquiry system.

2. All other employers must submit monthly salaries and contributions reports by file transfer protocol or by

direct file upload submission via the internet through TRSL’s secure on-line web-based inquiry system.

B. On-line Contributions Corrections of Current/Open Year Reported Member Data

1. All employers must submit On-line Contributions Corrections for the current/open fiscal year for any member data updates/corrections to the reported information on the Monthly Salaries and Contributions Reports or previous contribution corrections using TRSL’s secure on-line web-based inquiry system. This includes any unreported data not included in the Monthly Salaries and Contributions Reports.

C. On-line Prior Years Certifications/Corrections of Previous/Closed Years Reported Member Data.

1. Member data previously submitted, or unsubmitted, for any closed fiscal year by employers through the Monthly Salaries and Contributions Reports or by On-line Contributions Corrections determined to be inaccurate, questionable or in need of correction by TRSL must be corrected or certified as correct by the employer.

2. All employers must submit Prior Year Certifications/Corrections (with certain exceptions as provided for in C. 3) using TRSL’s secure on-line web-based inquiry system. Data that is to be certified/corrected via the secure on-line web based inquiry system are as follows:

- a. full-time rate of pay only corrections;
- b. actual earnings and contribution corrections;
- c. service credit;
- d. identified "questionable year" data.

3. Employers who do not have on-line access or employers who have data that meets TRSL’s definition of "Unusual", must certify/correct the data by submitting a written statement to TRSL signed by an authorized representative of the employer. For purposes of this Paragraph, “Unusual” shall mean restored service credit not listed on a member’s account history, interest balances pre-dating June 30, 1971, dual employment prior to fiscal year 1983, refunded service credit not listed on a member’s account history, and instances of substitute, summer school, or other earnings that fall outside of a typical contract.

D. Electronic Reporting of (RET) Annual Salary Files. Employers shall submit to TRSL each year by August 15th the (RET) annual salary file, which shall include all payees paid by the employer, including payroll, accounts payable, and 1099 payments. This file shall be in the format and transferred as required by TRSL.

E. Auditing of Records. Employers shall submit all records requested by TRSL for audit purposes to verify any data previously submitted to TRSL under this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11: 826.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers’ Retirement System of Louisiana, LR 22:1242 (December 1996), repromulgated LR 24:499 (March 1998), amended LR 33:1151 (June 2007), effective July 1, 2007, amended LR 34:1048 (June 2008), effective July 1, 2008, amended LR 47:1539 (October 2021).

Katherine Whitney
Director

2110#05

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

Medical Marijuana Program
(LAC 7:XLIX.Chapters 1-29)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Agriculture and Forestry (“Department”), intends to amend LAC 7:XLIX.Chapters 1 - 29 regarding the growing and production of medical marijuana. The proposed rules are being amended pursuant to R.S. 40:1046 and the enactment of Act 424 of the 2021 Legislative Session which takes effect on January 1, 2022. Chapter 1 of the proposed rules adds and amends definitions used in the medical marijuana rules. Chapter 5 of the proposed rules adds the transfer of interest and prior approval for license issuance and also addresses suitability standards. Chapter 7 addresses fees charged by the department to the licensee. Chapter 9 addresses compliance by the licensee and permittees and inspections and duties of the inspectors of the department. Chapter 11 requires emergency procedures for outages. Chapter 15 addresses restricted areas of the permitted facility and also the use of pesticides on medical marijuana plants. Chapter 17 addresses surveillance and security requirements that the licensee must follow at the production facility and requires that they be operational 24 hours a day. Chapter 23 sets forth the requirements for the department’s laboratory testing, including which tests must be run. Chapter 25 sets forth requirements on the licensee and its employees when transporting medical marijuana or medical marijuana infused products to laboratories, pharmacies or research facilities. Chapter 27 addresses the disposal of waste. Finally, Chapter 29 addresses labeling and registering of products with the department.

Title 7

AGRICULTURE AND ANIMALS

Part XLIX. Medical Marijuana

Chapter 1. General Provisions

§101. Definitions

A. ...

B. The following words and terms shall have the following meanings.

* * *

Immature Plant—a nonflowering Medical Marijuana plant that is no taller than eight inches produced from a cutting, clipping or seedling.

Inspector—LDAF employee designated by the department to carry out an inspection under this Title.

* * *

Lot—the same product manufactured on the same day from the original mix.

Medical Marijuana—substances which are identified as including any parts of the plant *Cannabis*, and all derivatives or subspecies of all strains of cannabis, whether growing or

not, the seeds thereof; the resin extracted from any part of such plant; and any compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin, including tetrahydrocannabinol (THC), Cannabidiol (CBD) and all other naturally occurring cannabinol derivatives, whether produced directly or indirectly by extraction. This term shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination.

* * *

Person—a producer, any individual, partnership, association, organization, corporation or any other legal entity.

* * *

Processing—any method used to prepare marijuana or its by products for commercial use, including but not limited to: drying, cleaning, curing, packaging, and extraction of active ingredients to create marijuana related products and concentrates.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1251 (July 2017), amended LR 48:

Chapter 5. License and Permits

§501. Procedure for Issuing the License

A. ...

B. Louisiana Revised Statute 40:1046 entitles the Louisiana State University Agricultural Center and the Southern University Agricultural Center to the right of first refusal to be licensed as the production facility. This entitlement carries a presumption of suitability and accordingly, the following Sections of this Chapter pertaining to licensing shall not apply to the Louisiana State University Agricultural Center and the Southern University Agricultural Center: §§505, 507, 509, 513.A, 515.A, 517, 519.A.3, 521, 701.A.

C. The presumption of suitability does not apply to any producer or subcontractor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1254 (July 2017), amended LR 48:

§512. Transfer of Interest; Prior Approval

A. No person shall transfer any interest in a license, permit or foreclose on a security interest in a license, permit or enter into or create a voting trust agreement without having first fully disclosed all facts pertaining to such transfer and representation to the department for approval.

1. No person shall transfer any interest in a license, permit to any person acting as an agent, trustee or in any other representative capacity for or on behalf of another

person without having first fully disclosed all facts pertaining to such transfer and representation to the department for approval.

2. No person acting in a representative capacity shall hold or acquire any interest or invest or participate without having first fully disclosed all facts to the department and having obtained written approval from the department.

C. Except as otherwise provided in this Chapter and other than the transfer of securities in a publicly traded corporation, the transfer of the following interests shall receive prior written approval from the department:

1. an ownership or economic interest of 5 percent or more;

2. an ownership or economic interest of 5 percent or more in any person required to meet the qualification and suitability requirements of the Act;

D. The requirements of Subsection C of this Section shall apply should an accumulation of transfers occur wherein 5 percent or more ownership or economic interest or such other interest that otherwise leads to a change of control in a licensee, permittee, or producer is transferred.

E.1. No transfer of interest for which prior written approval is required pursuant to this Chapter may be completed unless the transfer and proposed transferee have been approved by the department.

2. Any transfer that occurs without the prior approval of the department is void and without effect.

3. Failure to obtain prior approval as required by this Section may be grounds for administrative action against a licensee, permittee, or producer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 48:

§513. Eligibility Suitability Standards

A. - B.4. ...

C. The department shall not grant a license or permit, or issue any other approval pursuant to the provisions of the Act or these rules to any person if an applicant has been convicted in any jurisdiction for any of the following offenses within the 10 years prior to the date of the application, and at least 10 years has not elapsed between the date of application and the successful completion of any service of a sentence.

1. - 1.c....

D. The department shall not grant a license or permit, or issue any other approval pursuant to the provisions of the Act or these rules to any person if there is a current prosecution, deferred adjudication, or period of probation or parole for any or pending charge against the person in any jurisdiction for any offense listed in Paragraph C of this Subsection.

E. The department shall not grant a license or permit, or issue any other approval pursuant to the provisions of the Act or these rules to any person who is disqualified based on of the following criteria:

1. a crime of violence as defined in R.S.14:2(B);

2. any offense involving schedule I narcotics, except marijuana (cannabis, THC); or

3. the failure to provide information and documentation to reveal any material fact to a suitability determination, or the supplying of information which is

untrue or misleading as to a material fact pertaining to the suitability criteria.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1255 (July 2017), amended LR 48:

§525. Display of Identification Badge

A. ...

B. The permittee's identification badge may be placed in clothing only when working near plants and during processing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1256 (July 2017), amended LR 48:

Chapter 7. Fees

§701. Fees

A. The licensee shall submit the following no-refundable fees with each license and permit, in the form of a certified check, Journal Voucher (J4), or money order payable to Louisiana Department of Agriculture and Forestry:

1. The license fee of \$100,000 shall be payable to the department upon issuance of the license and annually thereafter.

2. The fee for a permit shall be \$100 annually.

B. All fees collected by the department pursuant to this Section shall be collected from the licensee and shall be used to fund expenses relating to the regulation and control of the medical marijuana program.

C. Reserved.

D. Reserved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1256 (July 2017), amended LR 48:

Chapter 9. Compliance and Inspections

§907. Inspections and Observations

A. - A.3. ...

B. A licensee shall, upon request, immediately make available for inspection by the department all papers, documents, electronically stored media, books, records and electronically stored card access records used in the licensed operations.

C. - E.5. ...

F. An inspector shall:

1. prepare a report of:

a. the observations and findings of the inspection; and

b. any suggestions or demands for corrective action;

2. provide a copy of the report to the inspected entity and obtain a receipt for the delivery; and

3. if possible, discuss the inspection and inspection report with the licensee.

G. If an inspection report contains a suggestion or demand for corrective action, the inspected entity shall:

1. respond in writing to every suggestion or demand for corrective action; and

2. set forth the plan for corrective action to be taken and the timetable for correction shall be 10 business days unless a written request for an extension is approved.

H. Upon request by the inspector, the video recording during the period of a violation of an observation of video recording shall be duplicated and provided to the department.

I. If an inspector finds evidence of operational failures or conditions that create a likelihood of diversion, contamination, or the risk to public health, an inspector may direct that the licensed premises may not distribute or participate in the distribution of any medical cannabis until the violation has been corrected and the premises pass re-inspection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1257 (July 2017), amended LR 48:

Chapter 11. Internal Controls

§1101. Internal Control for Production Facility

- A. - B.3.q. ...
- r. procedures and records relating to all transport activities;
 - s. other information requested by the department; and
 - t. emergency procedures for outages.

B.4 - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1258 (July 2017), amended LR 48:

Chapter 15. Production Facility

§1505. Restricted Areas

A. Only permittees, law enforcement while in the course and scope of their duties, LDAF authorized inspector(s) and the department authorized representative(s) may enter restricted areas except as otherwise provided herein. The licensee shall implement procedures to ensure compliance with this Section.

1. Department Agent may enter restricted areas for the sole purpose of identifying and collecting marijuana samples for the purposes of conducting laboratory testing;

2. Emergency personnel may enter restricted area when necessary to perform their duties.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1262 (July 2017), amended LR 48:

§1507. Pesticide Usage on Medical Marijuana Plants

A. - D. ...

E. A record of all pesticide applications shall be maintained at the production facility for at least five years, shall be maintained in the LMMTS and shall be made available to the department. The application record shall include the following information:

1. - 1.I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1262 (July 2017), amended LR 48:

Chapter 17. Surveillance and Security

§1701. Required Surveillance Equipment

A. The licensee shall install a surveillance system on the entire premises of the production facility which shall be operational 24 hours, seven days a week. The surveillance system shall meet or exceed specifications established by the department and provide access to the department at all times.

B. - B.5. ...

C. All cameras at the entrances and exits to the production facility shall be equipped with lenses of sufficient magnification to allow the operator to clearly distinguish product identifiers, ID tags and facial and body images.

D. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1262 (July 2017), amended LR 48:

§1711. Security Alarm System

A. - B.6. ...

C. The electronic security system shall be available 24 hours per day, 7 days per week, to the Department via a secure web-based portal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1263 (July 2017), amended LR 48:

Chapter 23. Laboratory Approval and Testing

§2301. Laboratory Approval

A. The department may handle, test, and analyze medical marijuana or product in its laboratory in accordance with this Chapter. No other laboratory shall handle, test or analyze medical marijuana or product unless approved by the department in accordance with this Chapter. A list of approved laboratories will be made available by the department on its website.

B. No laboratory, other than the department's laboratory, shall be approved to handle, test or analyze medical marijuana or product unless the laboratory meets the following qualification within 180 days following the notice of intent to award a contract for analytical services:

1. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1266 (July 2017), amended LR 48:

§2303. Laboratory Testing

A. Each batch of medical marijuana concentrate, final product produced from concentrate, and final product not produced from concentrate (ex. dried and cured flower) shall be made available by the licensee for a department agent of an approved laboratory or otherwise independent sample collector to select a random and representative sample of sufficient volume to conduct required analyses, which shall be tested by the department's laboratory or an approved laboratory.

1. Medical marijuana concentrate shall not be used to produce any form of final product until it has passed all analysis limits for:

a. - e. ...

2. No product shall be released for delivery to a marijuana pharmacy for sale or consumption until it has passed all concentrate analysis limits and analysis limits for:

a. - c. ...

3. Final products not produced from concentrates (ex. dried and cured flower) shall not be released for delivery to a marijuana pharmacy for sale or consumption until it has passed all analysis limits for:

a. active ingredient analysis for characterization of potency;

b. pesticide active ingredients, including but not limited to, the most recent list of targeted pesticides published by the department;

c. heavy metals;

d. mycotoxins;

e. microbiological contaminants; and

f. homogeneity.

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

3. Every sample shall undergo a pesticide chemical residue test. For purposes of the pesticide chemical residue test, a sample shall be deemed to have passed if it does not contain any residues not appearing on the department's approved list and any approved residues present are less than the limits allowed by the department;

4. Every concentrate sample shall undergo a residual solvent test. For purposes of the residual solvent test, a sample shall be deemed to have passed if the following solvents are below the limits listed below:

4.a. - 5.d. ...

6. Every sample shall undergo an active ingredient analysis or potency analysis. For medical marijuana concentrate samples, the potency test is to establish the presence of active ingredients and their concentrations for accurate calculations of amounts needed for the production of products. For final product samples, the potency test is to establish the active ingredient composition for verification of labeling to ensure accurate dosing:

a. - a.iv. ...

b. for final product analysis, a variance of no more than plus or minus fifteen percent is allowed from the labeled amount of active ingredient. Thus a product labeled as containing 10 milligrams THC must contain no less than 8.50 milligrams THC and no more than 11.50 milligrams THC. For final products containing THCA, the Total THC determined shall also be within the variance allowed for the THC as labeled.

7. Every final product sample shall undergo a homogeneity test. For the purposes of the homogeneity test, a sample shall be deemed passed if each aliquot tested is within plus or minus fifteen percent of the total aliquots average finding for potency for each active labeled.

E. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1266 (July 2017), amended LR 48:

Chapter 25. Transportation

§2501. Transportation

A. Prior to transporting an immature plant or seeds, or both, from a research facility, a manifest shall be generated from the LMMTS.

B. The licensee or its authorized permittee shall only be allowed to transport medical marijuana or product to the following locations:

1. from its production facility to dispensaries;

2. from its production facility to a laboratory for testing or research; and

3. when a specific non-routine transport request from the licensee is approved in writing by the department.

C. The licensee or its authorized permittee shall:

1. have a valid Louisiana driver's license and be insured above the legal requirements in Louisiana; and

2. be capable of securing (locking) medical marijuana and product items during transportation.

D. Prior to transporting medical marijuana or product, a licensee shall generate a transport manifest, utilizing LMMTS, that accompanies every transport of medical marijuana or product. Such manifests shall contain the following information:

1. the name, contact information of a licensee authorized representative, licensed premises address, and the authorized permittee transporting the medical marijuana or product;

2. the name, contact information, and premises address of the marijuana pharmacy or laboratory receiving the delivery;

3. medical marijuana or product name and quantities (by weight or unit) of each item contained in each transport, along with the requisite unique identification number for every item;

4. the date of transport and time of departure;

5. arrival date and estimated time of arrival;

6. delivery vehicle make and model and license plate number; and

7. name and signature of the authorized permittee accompanying the transport.

E. Only the licensee, its authorized permittee or a receiving marijuana pharmacy may transport medical marijuana or product from the production facility. Each transport manifest shall correctly reflect specific inventory in transit in case of multiple dispensaries delivery in a single trip.

F. Transport manifests shall be available for viewing through LMMTS, to the marijuana pharmacy, laboratory for testing, and the department before the close of business the day prior to transport.

G. The licensee or its authorized employees shall provide a copy of the transport manifest to law enforcement if requested to do so while in transit.

H. An authorized employee of the marijuana pharmacy or approved laboratory for testing shall verify that the medical marijuana or product are received as listed in the transport manifest by:

1. verifying and documenting the type and quantity of the transported medical marijuana or product against the transport manifest; and

2. returning a copy of the signed transport manifest to the production facility.

I. A receiving marijuana pharmacy or approved laboratory for testing shall separately document any differences between the quantity specified in the transport manifest and the quantities received. Such documentation

shall be made in LMMTS and in any relevant business records.

J. The licensee shall ensure that all medical marijuana, plant material, or product transported on public roadways is:

1. only transported in a locked, safe and secure storage compartment that is part of the motor vehicle transporting the medical marijuana or product, or in a locked storage container that has a separate key or combination pad;

2. transported so it is not visible or recognizable from outside the vehicle; and

3. transported in a vehicle that does not bear any markings to indicate that the vehicle contains medical marijuana or bears the name or logo of the licensee.

K. Authorized permittees who are transporting medical marijuana or product on public roadways shall:

1. travel directly to the marijuana pharmacy or laboratory testing facility; and

2. document refueling and all other stops in transit, including:

- a. the reason for the stop;
- b. the duration of the stop;
- c. the location of the stop; and
- d. all activities of employees exiting the vehicle.

L. Every authorized permittee shall have access to a secure form of communication with the licensee and the ability to contact law enforcement through the 911 emergency systems at all times that the motor vehicle contains medical marijuana or product. If an emergency requires stopping the vehicle, the employee shall report the emergency immediately to law enforcement through the 911 emergency systems and the licensee, which shall immediately notify the department. The employee shall also complete an incident report form provided by the department.

M. The licensee shall ensure that all delivery times and routes are randomized.

N. Under no circumstance shall any person other than a designated permittee have actual physical control of the motor vehicle that is transporting the medical marijuana or product.

O. The licensee shall staff all transport motor vehicles with a minimum of two employees. At least one employee must remain with the motor vehicle at all times that the motor vehicle contains medical marijuana or product.

P. A permittee shall carry his permittee identification card at all times when transporting or delivering medical marijuana or product and, upon request, produce the identification card to the department or to a law enforcement officer acting in the course of official duties.

Q. The licensee shall ensure that a vehicle containing medical marijuana or product in transit is not left unattended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1267 (July 2017), amended LR 48:

Chapter 27. Sanitation and Disposal

§2705. Disposal of Waste

A. - C. ...

D. The licensee shall provide the department, through the LMMTS, a minimum of seven days notice or written notice approved by the department prior to rendering the product unusable and disposing of the product.

E. - G.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1269 (July 2017), amended LR 48:

Chapter 29. Labeling

§2901. Labeling Requirements

A. Each product produced for sale shall be registered with the Department through the LMMTS for the Department's approval. Each product, as approved by the department, shall be labeled by the licensee prior to sale to a marijuana pharmacy. Each label shall be securely affixed to the package and shall include:

A.1. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1269 (July 2017), amended LR 48:

§2903. Packaging Requirements

A. - C.4. ...

D. All packaging shall be approved by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1270 (July 2017), amended LR 48:

Family Impact Statement

The proposed Rule should not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable impact on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The proposed Rule should have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable impact on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rule via U.S. Mail or hand delivery. Written submissions must be directed to Tabitha Gray, Director of the Medical Marijuana Program, Department of Agriculture and Forestry, 5825 Florida Blvd., Suite 2000, Baton Rouge, LA 70806 and must be received no later than 4:00 p.m. on November 10, 2021. All written comments must be signed and dated.

Mike Strain, DVM
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Medical Marijuana Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules will have no associated costs or savings to the Louisiana Department of Agriculture and Forestry (LDAF) other than the cost of promulgations in FY 22, which is normally included in the Department’s operating budget. The proposed rules will have no associated costs or savings to local governmental units.

With respect to medical marijuana, the proposed rules clarify definitions, require the approval of any transfer of interest in a company, allow persons who have a prior conviction to work in the industry, modify licensing and permit fees and provide for the testing of raw cannabis. At this time, the impact on departmental expenditures are indeterminable. With the passage of Act 424 of the 2021 Legislative Session, it is expected that the testing volume will increase but how much it will increase is unknown. The cost will be determined by the amount of raw or crude marijuana produced and the demand. Currently the Department has laboratory employees that conduct testing and it is unknown if any additional employees or lab equipment will be needed.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules are anticipated to result in an indeterminable decrease in the department’s revenue in future fiscal years. LDAF is removing the collection of the 7% of gross sales that would have included the cost of the testing of raw marijuana and the expenses of the testing for raw marijuana from these rules. The permit and license fee remain unchanged. The collection of 7% of gross sales was reallocated to the Department of Revenue by Act 331 of the 2019 Legislative Session.

The proposed rules are not anticipated to impact revenue collections of local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO SMALL BUSINESSES, DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

For licensees, the proposed rule changes the costs paid to LDAF by removing the 7% gross sales while retaining the annual license and permit fees. The 7% of gross sales collection was reallocated to the Department of Revenue.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules are not anticipated to impact competition and employment.

Dane Morgan
Assistant Commissioner
2110#025

Alan M. Boxberger
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel
(LAC 28:CXLVII.323 and 905)

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 to revise *Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel*. The proposed revisions update terminology to refer to “school guidance counselors” as “school counselors,” in accordance with Act 275 of the 2021 Regular Legislative Session.

Title 28

EDUCATION

**Part CXLVII. Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel
Chapter 3. Personnel Evaluation**

**§323. Job Descriptions
[Formerly §339]**

A. The local personnel evaluation plan shall contain a copy of the job descriptions currently in use in the LEA. The LEA shall establish a competency-based job description for every category of teacher and administrator pursuant to its evaluation plan. The chart that follows identifies a minimum listing of the categories and titles of personnel for which job descriptions must be developed.

Personnel Category	Position or Title
Administration	1. Superintendent
	2. Assistant Superintendent
	3. Director
	4. Supervisor
	5. Coordinator
	6. Principal
	7. Assistant Principal
	8. Any employee whose position does not require certification but does require a minimal education attainment of a bachelor's degree from an accredited institution of higher learning
	9. Any employee whose position requires certification, but whose title is not given in this list
	10. Any employee who holds a major management position, but who is not required to have a college degree or certification

Personnel Category	Position or Title
Instructional Personnel	<ol style="list-style-type: none"> 1. Teachers of Regular and Sp. Ed. students 2. Special Projects Teachers 3. Instructional Coaches and/or Master Teachers
Support Services	<ol style="list-style-type: none"> 1. Support Counselors 2. Librarians 3. Therapists
	<ol style="list-style-type: none"> 1. Any employee whose position does not require certification but does require a minimal educational attainment of a bachelor's degree from an accredited institution of higher learning 2. Any employee whose position requires certification, but whose title is not given in this list <p>Any employee who holds a major management position, but who is not required to have a college degree or certification</p>

B. - C.8. ...

NOTE: Job descriptions must be reviewed annually. Current signatures must be on file at the central office in the single official file to document the annual review and/or receipt of job descriptions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2252 (October 2010), amended LR 38:1219 (May 2012), LR 38:2361 (September 2012), amended LR 48:

Chapter 9. General Provisions

§905. Definitions

A. In order that consistency in terminology be maintained on a statewide basis, the department has established a list of terms and definitions. Careful consideration of each should be given during the training and implementation of personnel evaluation programs. The definitions below must be adopted by all LEAs. If additional terms are necessary in establishing a clear and concise understanding of evaluation procedures, they must be included in the LEA local personnel evaluation plan.

Accountability—shared responsibility for actions relating to the education of children.

* * *

Teacher—any person who provides direct instruction or direct instructional support to students, to whom he/she has been formally assigned. Classroom *teachers*, special education *teachers*, librarians, and school counselors shall be considered *teachers* according to this definition.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1222 (May 2012), amended LR 38:2362 (September 2012), LR 39:1275 (May 2013), amended LR 48:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word “poverty” means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in R.S. 49:965.6, the Regulatory Flexibility Act, has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental, and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;

2. the cost to the providers to provide the same level of service; or

3. the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, November 10, 2021, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and

Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 130—Regulations for the
Evaluation and Assessment of School Personnel**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed revisions will not result in any costs or savings to state or local governmental units.
The proposed revisions update terminology to refer to “school guidance counselors” as “school counselors,” in accordance with Act 275 of the 2021 Regular Legislative Session.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed revisions will not have an effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO SMALL BUSINESSES, DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The proposed revisions will not result in costs and/or benefits to directly affected persons, small businesses, or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed revisions will not have an effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
2110#032

Alan M. Boxberger
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 133—Scholarship Programs
(LAC 28:CLIII.101, 303, and 1305)

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 to revise *Bulletin 133—Scholarship Programs*. The proposed revisions revise the eligibility criteria schools must meet in order to participate in the Student Scholarships for Educational Excellence Program, in accordance with Act 196 of the 2021 Regular Legislative Session.

**Title 28
EDUCATION**

**Part CLIII. Bulletin 133—Scholarship Programs
Chapter 1. General Provisions
§101. Definitions**

Department—the state Department of Education.

* * *

Provisionally Accredited Approved School—a school that is working toward meeting accreditation requirements and has met all other criteria for approval by the state Board of Elementary and Secondary Education.

1. eligible accrediting entities shall be:
 - a. Southern Association of Colleges and Schools accreditation organizations;
 - b. Cognia accreditation organizations;
 - c. National Association of Independent Schools accreditation organizations;
 - d. Louisiana Montessori Association; and
 - e. Diocese or Archdiocese in which the provisionally accredited approved school is located;
2. a provisionally accredited approved schools shall be removed from the program if it does not receive accreditation within four years of initial program approval.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and R.S. 17:4025.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR: 38:3129 (December 2012), amended LR 40:2521 (December 2014), amended LR 48:

**Chapter 3. Registration
§303. Student Enrollment Process**

A. - A.6. ...

7. conduct site visits each school year at schools that receive a scholarship cohort index below 50 in the most recent accountability cycle.

B. - D.1.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6 and R.S. 17:4025.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3130 (December 2012), amended LR 48:

**Chapter 13. Criteria for School Participation in the
Student Scholarships for Educational
Excellence Program**

**§1305. Accountability System for Participating
Nonpublic Schools**

A. - D. ...

* * *

E. Nonpublic Schools that Receive Scholarship Cohort Indexes

1. There shall be three fundamental rules of the accountability system for participating nonpublic schools that receive scholarship cohort indexes. Starting with the 2012-2013 school year:

a. - b. ...

c. beginning with the 2021-2022 school year, a participating school that for three consecutive years receives a scholarship cohort index below 50 shall be ineligible to participate in the program.

2. The following exceptions shall exist.

a. The state superintendent shall waive each of the provisions in Paragraph 1 of this Subsection for a given school if likely new enrollees otherwise would predominantly be enrolled in schools performing at levels lower than or equivalent to the participating school.

b. The state superintendent may waive any of the above provisions for a given school if the school has improved by more than 15 points on the scholarship cohort

index over the last four school years, with the 2012-2013 school year being the first such year.

c. The state superintendent may waive any of the above provisions for a given school if the school received a score higher than an equivalent school performance score correlating to a letter grade of an “F” according to the school performance score formula outlined in *Bulletin 111—the Louisiana School, District, and State Accountability System*.

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and R.S. 17:4025.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:83 (January 2013), amended LR 42:553 (April 2016), amended LR 48:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word “poverty” means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in R.S. 49:965.6, the Regulatory Flexibility Act, has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small

businesses. *The* agency, consistent with health, safety, environmental, and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable *impact* on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;

2. the cost to the providers to provide the same level of service; or

3. the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, November 10, 2021, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Bulletin 133—Scholarship Programs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Department of Education (LDE) may experience additional costs or workload associated with the required site visits to nonpublic schools participating in the Student Scholarships for Educational Excellence Program that receive a Scholarship Cohort Index (SCI) lower than 50. Potential costs would depend on the number of site visits required, the number of Department staff assigned and the time deemed necessary to conduct the visits, as well as travel costs which will vary by the location of the school. Such costs are indeterminable as no such site visits were conducted in the most recent school year. For illustrative purposes, in 2019, 38 of the 128 participating nonpublic schools in the program received SCI scores, of which 15 schools scored below 50 and would require site visits under the proposed revisions.

In addition, state costs may decrease for each student attending a nonpublic school on scholarship that is removed from eligibility due to the proposed revisions. The proposed revisions would require provisionally accredited approved schools to be removed from the program if they do not receive accreditation within four years of initial program approval, and for schools receiving a SCI below 50 for three consecutive years to be ineligible to participate in the program, beginning in the 2021-22 school year. The average annual scholarship is approximately \$6,200 and varies by school and grade level. Any nonpublic school that is removed from eligibility will

Title 28

EDUCATION

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

Chapter 17. Minimum Staffing Requirements and Standards

§1723. CPR and First Aid Certifications

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

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

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

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:636 (April 2015), effective July 1, 2015, amended LR 44:251 (February 2018), effective March 1, 2018, LR 44:1866 (October 2018), LR 48:

Chapter 18. Child Care Criminal Background Checks (CCCBC)

§1815. Fees for CCCBC-Based Determinations of Eligibility for Child Care Purposes

A. ...

B. The department shall charge and collect a \$15 processing fee when it receives a request for a CCCBC-based determination of eligibility for child care purposes.

1. The processing fee may be waived and paid from COVID-19 recovery funds, where available.

C. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 98.43, R.S. 15:587.1, and R.S. 407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:255 (February 2018), effective March 1, 2018, LR 48:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

result in a corresponding decrease in state expenditures, unless those students transfer to an alternate eligible institution. The number of students that may be impacted in this way is unknown and the net impact on state expenditures is indeterminable.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed revisions will not have an effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO SMALL BUSINESSES, DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Any nonpublic school that is removed from eligibility will result in a corresponding decrease in state funds for each student attending the school on scholarship. The average annual scholarship is approximately \$6,200 and varies by school and grade level. The proposed revisions would require provisionally accredited approved schools to be removed from the program if they do not receive accreditation within four years of initial program approval, and for schools receiving a SCI below 50 for three consecutive years to be ineligible to participate in the program, beginning in the 2021-22 school year.

Nonpublic schools may experience increased costs due to accreditation as a result of the proposed revision, however this will vary by accreditation organization and whether the school is currently accredited. For example, Cognia requires schools to pay an annual membership fee of \$1,200 in addition to a one-time engagement review fee which varies according to the length of the review and the size of the school, as well as covering all travel expenses for the review team.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed revisions will not have an effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
2110#033

Alan M. Boxberger
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 137—Louisiana Early Learning Center Licensing Regulations (LAC 28:CLXI.1723 and 1815)

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 to revise *Bulletin 137—Louisiana Early Learning Center Licensing Regulation*. The proposed revisions allow for processing fees associated with Child Care Criminal Background Check (CCCBC) determinations of eligibility to be waived to the applicant and paid by the LDE utilizing COVID-19 funds while available. Additional revisions to Bulletin 137 align Board of Elementary and Secondary Education (BESE) policy with U.S. Department of Health and Human Services, Office of Child Care (OCC) mandates that require all staff members on the premises of an early learning center and who are accessible to children to have current CPR and first aid certification.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in R.S. 49:965.6, the Regulatory Flexibility Act, has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental, and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;

2. the cost to the providers to provide the same level of service; or

3. the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, November 10, 2021, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street,

Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis

Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 137—Louisiana Early Learning Center Licensing Regulations**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Department of Education (LDE) expenditures of federal Child Care Development Funds (CCDF) will increase as a result of the proposed revisions to waive the \$15 processing fee for background checks on behalf of early learning centers.

The proposed revisions would waive the \$15 processing fee paid by early learning centers to the LDE for Child Care Criminal Background Checks (CCCBCs), pending availability of COVID-19 recovery funds. This will result in an indeterminable increase in federal CCDF expenditures, to be utilized by the Department for administrative costs in lieu of Self-Generated Revenues received from providers. Assuming the average processing fee revenue received by the Department is \$643,714 per year (based on pre-pandemic trends), the total amount of federal funds needed to cover processing costs are projected to total over \$1.9 M through September 30, 2024.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The LDE will experience a decrease in Self-Generated Revenues as a result of the proposed revisions to waive the \$15 processing fee paid by early learning centers for Child Care Criminal Background Checks (CCCBCs), pending availability of COVID-19 recovery funds. The LDE will utilize COVID-19 recovery funds for administrative costs in lieu of Self-Generated Revenues received from providers. This COVID-19 funding is available through September 30, 2024. At that time, and assuming no alternative means of financing is available, the Department will experience an increase in Self-Generated Revenues as providers resume payments of the \$15 processing fee.

Assuming the average processing fee revenue received by the Department is \$643,714 per year (based on pre-pandemic trends), the total amount of federal funds needed to cover processing costs are projected to total over \$1.9 M through September 30, 2024.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO SMALL BUSINESSES, DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed revisions will benefit early learning centers by waiving the Departmental \$15 processing fee while COVID-19 recovery funds are available.

The proposed revisions require all staff members on the premises of an early learning center and who are accessible to children to have current CPR and first aid certification, up from the current requirement of 50% of staff. To the extent early learning centers currently employ staff who do not hold CPR and first aid certification, the centers will experience increased costs, potentially significant on a statewide basis; however, such costs are indeterminable. Costs will vary by center based on the share of staff currently holding certification, staffing changes, and for recertification of staff. For illustrative

purposes, an Adult and Pediatric CPR class offered by the Red Cross costs \$126 and is valid for two years.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed revisions will not have an effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
2110#039

Alan Boxberger
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 139—Louisiana Child Care and Development Fund Programs (LAC 28:CLXV.103, 310, 509, 515 and 519)

In accordance with R.S. 17:6 and R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education proposes to amend *Bulletin 139—Louisiana Child Care and Development Fund Programs*. The proposed revisions allow for the CCAP reimbursement to be based on enrollment and allows for fees and family co-payments associated with Child Care Criminal Background Checks (CCCBC) based determinations of eligibility for child care purposes to be waived and paid from COVID-19 funds while available.

**Title 28
EDUCATION**

Part CLXV. Bulletin 139—Louisiana Child Care and Development Fund Programs

Chapter 1. Child Care Assistance Program

§103. Definitions

Automated Child Care Time and Attendance—an electronic system that provides accurate and timely capturing, tracking, and reporting of time and attendance data. This system may utilize an adult’s finger image or IVR interactive voice response (IVR) as a mechanism for capturing this data.

* * *

Excessive Absences—failure of a child to attend at least one day in the prior certified month.

* * *

Ineligibility Period for Providers—period of time following the termination or closure of a CCAP provider’s certification during which the provider is ineligible for certification.

* * *

AUTHORITY NOTE: Promulgated in accordance with 45 CFR part 98 and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2109 (October 2015), amended LR 42:42 (January 2016), LR 42:1870 (November 2016), LR 43:1279 (July 2017), LR 44:257 (February 2018), effective March 1, 2018, LR 44:800 (April 2018), LR 47:1279 (September 2021), LR 48:

Chapter 3. CCAP Provider Certification

§310. Child Care Criminal Background Checks (CCCBCs) for Family Child Care Providers and In-Home Child Care Providers

A. - F.1. ...

2. The department shall charge and collect a \$15 processing fee when it receives a request for a CCCBC-based determination of eligibility for child care purposes.

a. The processing fee may be waived and paid from COVID-19 recovery funds, where available.

F.3. - G.5.b. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98.43, R.S. 15:587.1, and R.S. 17:407.71.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:258 (February 2018), effective March 1, 2018, LR 48:

**Chapter 5. CCAP Household Eligibility
§509. Certification Requirements for Non-Categorically Eligible Households**

A. - A.5.e.iii. ...

6. A child must have attended at least one day of care with a certified provider during each month in order for the household to remain certified for that child.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.28. and 45 CFR Parts 98 and 99.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:43 (January 2016), amended LR 42:2175 (December 2016), LR 44:261 (February 2018), effective March 1, 2018, LR 45:900 (July 2019), LR 46:1373 (October 2020), LR 47:573 (May 2021), LR 48:

§515. Payments Made on Behalf of Households

A. - B.1. ...

2. The number of days or hours authorized for payment is based on full-time or part-time authorizations.

C. - C.1. ...

2. A non-categorically eligible household shall pay a portion of its monthly child care costs in accordance with the sliding fee scale, and this portion will be referred to as a “co-payment.”

a. Co-payments may be waived and paid from COVID-19 recovery funds, where available.

C.3. - E. ...

F. Payment will not be made to the provider for an unauthorized child.

G. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:6 and 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2116 (October 2015), amended LR 42:44 (January 2016), LR 42:1870 (November 2016), LR 44:801 (April 2018), LR 45:1745 (December 2019), LR 47:573 (May 2021), LR 48:

§519. Termination or Refusal of Renewal of Household Certification and Ineligibility Periods for Households

A. - A.4. ...

5. excessive absences;

A.6. - C. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:45 (January 2016), amended LR 44:801 (April 2018), LR 48:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on rules proposed for adoption,

repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word “poverty” means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in R.S. 49:965.6, the Regulatory Flexibility Act, has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental, and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;

2. the cost to the providers to provide the same level of service; or

3. the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, November 10, 2021, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Bulletin 139—Louisiana Child Care and Development Fund Programs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Department of Education (LDE) expenditures of federal Child Care Development Funds (CCDF) will increase as a result of the proposed changes to the Child Care Assistance Program (CCAP).

First, the proposed revisions would change the determination of CCAP payments from attendance-based (calculated as the lesser of the time the child is actually in care, the number of hours the head of household or caregiver is working, attending job training or education programming, or the time child care is actually needed and available) to enrollment-based (either full-time or part-time authorizations). This is expected to result in a potentially significant increase in CCDF funds paid to providers. Since the Board of Elementary and Secondary Education (BESE) first implemented this change through a waiver in response to the COVID-19 pandemic, costs for payments to providers have increased by approximately \$500,000 per month, although actual costs going forward are indeterminable.

Second, the proposed revisions would waive the \$15 processing fee paid by family child care providers and in-home child care providers to the LDE for Child Care Criminal Background Checks (CCBCs), pending availability of COVID-19 recovery funds. This will result in an indeterminable increase in federal CCDF expenditures, to be utilized by the Department for administrative costs in lieu of Self-Generated Revenues received from providers. Assuming the average processing fee revenue received by the Department is \$643,714 per year (based on pre-pandemic trends), the total amount of federal funds needed to cover processing costs are projected to total over \$1.9 M through September 30, 2024.

Finally, the proposed revisions would waive the co-payments for non-categorically eligible households, pending availability of COVID-19 recovery funds. A co-payment is the difference between the amount the Department pays for CCAP child care services and the total amount charged by the provider. The co-payment is the amount owed to the child provider by households, determined using a sliding fee scale based on a percentage of state median income and federal poverty levels. This is expected to result in a potentially significant increase in CCDF funds paid to providers, although actual costs are indeterminable.

Chapter 5. Personnel
§502. Staff Misconduct

A. - C. ...

1. interaction between a student and a school counselor as defined in R.S. 17:3002, or between a student and a social worker, a psychologist or other duly certified/licensed mental health or counseling professional.

C.2. - E.6.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:15; R.S. 17:81.9; R.S. 17:587.1; R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1265 (June 2005), amended LR 33:431 (March 2007), LR 34:607 (April 2008), repromulgated LR 35:444 (March 2009), amended LR 35:1099 (June 2009), LR 37:1138 (April 2011), LR 38:41 (January 2012), amended LR 48:

Chapter 9. Scheduling
§901. Scheduling

A. - B.4. ...

5. By the end of the tenth grade, each student's individual graduation plan or the student's IEP, if applicable, shall outline the school graduation requirements relevant to the student's chosen postsecondary goals based on the student's academic record, talents, and interests.

a. Using information provided by the LDE and the Office of Student Financial Assistance, LEAs shall provide the student and the student's parent or legal custodian information regarding state and federal need-based and merit-based financial aid programs to support postsecondary education and training. The LEA shall ensure that each student receives adequate support in completing and submitting an application for financial aid.

b. Using information developed by the Louisiana Workforce Commission, LEAs shall provide students with information about the top 20 high-demand jobs, in the state and in the student's region, with the highest typical annual salary. The student shall be shown how to access information on Louisiana Workforce Commission's website for the listed jobs and other high-demand, high-wage jobs and shown how to find educational programs offered in Louisiana that qualify the student for such jobs.

6. Each student, with the assistance of his parent or other legal custodian and school counselor shall choose the high school curriculum framework and related graduation requirements that best meet his postsecondary goals. Prior to revising a student's individual graduation plan, the school counselor shall meet with the student's parent or legal custodian, either in person or virtually, to explain the possible impacts the revisions to the plan might have on the student's graduation requirements and postsecondary education goals. Any revisions to a student's plan shall be approved in writing by the student's parent or legal custodian.

7. The individual graduation plan or the IEP, if applicable, shall be reviewed annually and updated as necessary to identify the courses to be taken each year until

CCDF is an annual federal block grant awarded to support working families with low incomes by providing access to early care and after school programs. The state's annual CCDF award amount is approximately \$150 M. Louisiana has received over \$1 B in CCDF support above-and-beyond its annual allocation through federal COVID-19 relief measures. This COVID-19 funding is available through September 30, 2024. At that time, and assuming no alternative means of financing is available, LDE federal expenditures will decrease as certain providers resume payments of the \$15 processing fee for the CCCBCs and households resume co-payments.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The LDE will experience a decrease in Self-Generated Revenues as a result of the proposed revisions to waive the \$15 processing fee paid by family child care providers and in-home child care providers for Child Care Criminal Background Checks (CCCBCs), pending availability of COVID-19 recovery funds. The LDE will utilize federal COVID-19 recovery funds for administrative costs in lieu of Self-Generated Revenues received from providers. This COVID-19 funding is available through September 30, 2024. At that time, and assuming no alternative means of financing is available, the Department will experience an increase in Self-Generated Revenues as providers resume payments of the \$15 processing fee.

Assuming the average processing fee revenue received by the Department is \$643,714 per year (based on pre-pandemic trends), the total amount of federal funds needed to cover processing costs are projected to total over \$1.9 M through September 30, 2024.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO SMALL BUSINESSES, DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed revisions will benefit licensed child care providers by waiving the Departmental \$15 processing fee while COVID-19 recovery funds are available. Also, the proposed revisions will assist families by waiving the CCAP copayment they would normally pay from COVID-19 recovery money as available.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed policy revisions will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
2110#040

Alan Boxberger
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators

(LAC 28: CXV.502, 901 911, 1103, 1111, 2305, 2317, 2318, 2320, 2363, 2397, and 3703)

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 to revise *Bulletin 741—Louisiana Handbook for School Administrators*. The proposed revisions are in response to Acts of the 2021 Louisiana Legislature.

all required courses are completed. Each student, his parent or legal custodian, and his school counselor shall annually sign the student's individual graduation plan

C. - F.3. ...

G. Beginning with the 2021-2022 school year, each school with students in grades 8, 9, 10, 11, and/or 12 shall annually hold an informational meeting for parents and legal guardians on graduation requirements and school curriculum choices. The notice of the meeting is to be made through all means available, including the school automatic call system.

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

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

§911. Planning Time

A. LEAs shall provide a minimum of 45 minutes daily and uninterrupted planning time, or its weekly equivalent, for every teacher actively engaged in the instruction and supervision of students in the public schools. Implementation of planning time for teachers as required in this Section shall not result in a lengthened school day or a reduction in student daily instructional time.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:434.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1272 (June 2005), amended LR 48:

Chapter 11. Student Services

§1103. Compulsory Attendance

A. Through the 2020-2021 school year, students who have attained the age of seven years shall attend a public or nonpublic day school or participate in an approved home study program until they reach the age of 18 years. Any child below the age of seven who legally enrolls in school shall also be subject to compulsory attendance. Refer to Chapter 33 for information on home study programs.

1. Beginning with the 2022-2023, students who have attained the age of five years by September thirtieth of the calendar year in which the school year begins shall attend a public or nonpublic day school or participate in an approved home study program until they reach the age of 18 years. Any child below the age of seven who legally enrolls in school shall also be subject to compulsory attendance. Refer to Chapter 33 for information on home study programs.

B. - N. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:112, R.S. 17:221.3-4, R.S. 17:226.1, and R.S. 17:233.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1273 (June 2005), amended LR 32:546 (April 2006), LR 32:1030 (June 2006), LR 33:2351 (November 2007), LR 35:641 (April 2009), LR 35:1097 (June 2009), LR 35:1475 (August 2009), LR 36:482 (March 2010), LR 36:1224 (June 2010), LR 37:1126 (April 2011), LR 37:2132 (July 2011), LR 38:1000 (April 2012), LR 38:1225 (May 2012), LR 38:1399 (June, 2012), LR 39:2205 (August 2013), LR 41:372 (February 2015), LR 41:2594 (December 2015), LR 42:1877 (November 2016), amended LR 48:

§1111. Age Requirements

A. - C.3. ...

4. For the 2021-2022 school year, every parent, tutor, or other person having control or charge of a child who is eligible to attend full-day kindergarten, as a prerequisite to enrollment in any first grade of a public school, shall:

a. send such child to attend public or nonpublic full-day kindergarten for a full school year, or

b. ensure that such child has been administered and has satisfactorily passed an academic readiness screening prior to the time established for the child to enter first grade.

c. Each city, parish, or other local public school board shall establish the academic readiness level for entry into the first grade.

5. Beginning with 2022-2023 school year, every parent, tutor, or other person having control or charge of a child who is eligible to attend full-day kindergarten, as a prerequisite to enrollment in the first grade of a public school, shall:

a. send such child to attend a public or nonpublic full-day kindergarten for a full school year, and

b. ensure that such child has been administered and has satisfactorily passed an academic readiness screening administered by the LEA prior to the time of enrollment in the first grade.

c. Each city, parish, or other local public school board shall establish the academic readiness level for entry into the first grade.

D. - D.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:151.3 and R.S. 17:222.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1275 (June 2005), amended LR 39:2206 (August 2013), amended LR 48:

Chapter 23. Curriculum and Instruction

Subchapter A. Standards and Curricula

§2305. Ancillary Areas of Instruction

A. - F.3. ...

4. Such programs will integrate an evidence-based, age-appropriate instructional component on opioid substance abuse prevention.

a. Any instruction relative to alcohol, tobacco, drug, and substance abuse prevention and education provided pursuant to this Subsection will include the information that mixing opioids and alcohol can cause accidental death and information on the health risks associated with vapor products as defined in R.S. 26:901.

G. - M. ...

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

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

§2317. High Schools

A. - G. ...

H. Prior to the beginning of the school year, students may switch diploma pathways provided they have the consent of their parent or guardian and have been advised by a school counselor. The student's parent or legal custodian will approve in writing any changes to the student's individual graduation plan.

I. - K.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:154, 17:264, 17:1944, 17:1945, and 17:4073.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 36:1485 (July 2010), LR 37:1137 (April 2011), LR 38:754 (March 2012), LR 39:1038 (April 2013), LR 39:2216 (August 2013), LR 40:1328 (July 2014), repromulgated LR 40:1528 (August 2014), amended LR 40:2530 (December 2014), LR 45:37 (January 2019), LR 45:227 (February 2019), LR 46:1671 (December 2020), amended LR 48:

§2318. The TOPS University Diploma

A. - C.3.d.iii.(f). ...

(g). African American history.

C.3.e. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:24.4, 17:183.2, and 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 36:1486 (July 2010), LR 37:547 (February 2011), LR 37:1128 (April 2011), LR 37:2129 (July 2011), LR 37:2132 (July 2011), LR 37:3193 (November 2011), LR 38:754, 761 (March 2012), LR 38:1001 (April 2012), LR 38:1584 (July 2012), LR 40:994 (May 2014), LR 40:1328 (July 2014), LR 40:1679 (September 2014), LR 40:2525 (December 2014), LR 41:915 (May 2015), LR 41:1482 (August 2015), LR 41:2126 (October 2015), LR 42:232 (February 2016), LR 42:1062 (July 2016), LR 42:1878 (November 2016), LR 42:2176 (December 2016), LR 43:1287 (July 2017), LR 43:2132 (November 2017), LR 43:2483 (December 2017), LR 44:263 (February 2018), LR 44:1868 (October 2018), repromulgated LR 44:1998 (November 2018), amended LR 45:1454 (October 2019), LR 46:556 (April 2020), amended LR 48:

§2320. Career Diploma Pathway for Students Assessed on the Louisiana Alternate Assessment

A. - E.2. ...

3. The individual graduation plan shall be annually reviewed by the IEP team and any necessary adjustments shall be made. Each student, his parent or legal custodian, and his school counselor will annually sign the student's individual graduation plan. The student's parent or legal custodian will approve in writing any changes to the student's individual graduation plan.

E.4. - E.4.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:24.4, 17:183.2, 17:183.3, 17:274, 17:274.1, and 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:1483 (August 2015), amended LR 45:1455 (October 2019), amended LR 48:

Subchapter B. Academic Programs of Study

§2363. Social Studies

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

Course Title(s)	Units
American Government	1

African American History	1

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:24.4, 17:183.3, 17:274, 17:274.1, and 17:274-274.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1298 (June 2005), amended LR 31:3072 (December 2005), LR 33:431 (March 2007), LR 33:2606 (December 2007), LR 36:1495 (July 2010), LR 37:1131 (April 2011), LR 40:1000 (May 2014), LR 40:2529 (December 2014), LR 41:2595 (December 2015), LR 44:1869 (October 2018), amended LR 48:

Subchapter C. Career and Technical Education

§2397. Career Options

A. - A.1. ...

2. School counselors or others designated by the school principal, or both, shall be responsible for the completion of the individual graduation plan. The school counselors and others shall counsel each student with regard to high school graduation requirements and shall assist the student in developing his plan. Each student, his parent or legal guardian, and his school counselor shall annually sign the student's individual graduation plan.

a. When developing and reviewing his individual graduation plan, the student shall be provided information developed by the Louisiana Workforce Commission regarding the top twenty high-demand jobs, in the state and in the student's region, with the highest typical annual salary.

b. The student shall be shown how to access information on Louisiana Workforce Commission's website for the listed jobs and other high-demand, high-wage jobs and shown how to find educational programs offered in Louisiana that qualify the student for such jobs.

c. The counselor or designee shall provide the student a printed copy of the listing of the appropriate region's top twenty high-demand, high-wage jobs.

3. For a student with exceptionalities, except a student identified as gifted or talented and who has no other exceptionality, the student's IEP team, if applicable, will assist the student in developing the individual graduation plan.

4. Prior to revising a student's individual graduation plan, the school counselor shall meet with the student's parent or legal guardian, either in person or virtually, to explain the possible impacts the revisions to the plan might have on the student's graduation requirements and postsecondary education goals. The student's parent or legal guardian to approve in writing any changes to the student's individual graduation plan.

5. During the ninth and tenth grades, each student shall pursue the rigorous core curriculum required by his school for his chosen major. The core curriculum shall include required coursework as established by BESE and appropriate elective courses.

B. - B.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:183.1 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1303 (June 2005), amended LR 36:1996 (September 2010), LR 40:2524 (December 2014), amended LR 48:

Chapter 37. Glossary

§3703. Definitions

Academically-Able Student—a student who is functioning at grade level as determined by the local school system. For special education students identified in accordance with *Bulletin 1508—Pupil Appraisal Handbook*, the IEP committee shall determine the student's eligibility to receive foreign language instruction, provided the student is performing at grade level.

* * *

Individualized Education Program (IEP)—a written statement of specially designed instruction developed, reviewed and revised by a group of qualified education personnel and the parent/guardian for each student with an exceptionality in public schools.

Individual Graduation Plan—the plan developed by each student by the end of the eighth grade with the input of his/her family. The plan shall include a sequence of courses which is consistent with the student's stated academic and career goals. Each student individual graduation plan shall be reviewed annually thereafter by the student, parents and/or legal custodian, and school advisor, and revised as needed.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1316 (June 2005), amended LR 39:2231 (August 2013), LR 46:1673 (December 2020), amended LR 48:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the

purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in R.S. 49:965.6, the Regulatory Flexibility Act, has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental, and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the cost to the providers to provide the same level of service; or
3. the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, November 10, 2021, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Bulletin 741—Louisiana Handbook for School Administrators**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed revisions will result in increased state expenditures for the Department of Education (LDE) and local school districts; however, such costs are indeterminable. The

proposed revisions update language in Bulletin 741 to reflect legislation passed in the 2020 and 2021 Regular Legislative Sessions.

The following proposed revisions will not result in costs to state or local governmental units.

(1) Per Act 230 of 2021, the proposed revisions would require instruction in elementary and secondary schools on the health risks of vapor products. There is no anticipated impact on state or local expenditures; instruction will be integrated into the existing curriculum and districts may use their own instructional materials or access material currently available at no cost.

(2) Per Act 275 of 2021, the proposed revisions would refer to “school guidance counselors” as “school counselors”. The proposed rules have no impact on state or local expenditures.

(3) Per Act 334 of 2021, the proposed revisions would add a course in African American History to the eligible courses in the social studies unit for the TOPS core curriculum, beginning with 2021-22 high school graduates. The proposed revisions will not result in costs to state or local governmental units. As of the 2020-21 school year, there were 21 public high schools offering African American History courses for 462 students. To the extent more schools offer courses in African American History, it is anticipated that they will shift staff and resources from other social studies courses, therefore the proposed rule will not result in overall cost increases.

The following proposed revisions will result in increased costs to state and local governmental units; however, such costs are indeterminable.

(1) Per Act 238 of 2020, the proposed revisions would require the Department of Education (LDE) to include a demonstration on how to access information on high-demand, high-wage jobs from the Louisiana Workforce Commission’s (LWC) website through professional development to school guidance personnel regarding the development of individual graduation plans, as well as require the LWC, the LDE, and each public middle and high school to prominently display information on their websites. This is anticipated to result in an increase in workload and costs for printed materials for state and local school districts, however such costs are likely to be minimal.

(2) Per Act 386 of 2021, the proposed revisions would require a child who turns five years of age on or before September 30th to attend full-day kindergarten and to pass a readiness assessment prior to entering first grade, beginning with the 2022-23 school year. Requires each city, parish, or other local school board to establish the academic readiness level for entry into first grade. Parents may defer enrollment for one year if the child is four years of age on the first day of the school year or if the child is enrolled in a prekindergarten program. Parents that opt to defer enrollment shall not be considered in noncompliance with the compulsory school attendance law. As a result of the proposed rule, there will be an indeterminable increase in state expenditures through the Minimum Foundation Program (MFP) and local school district expenditures. The amount of the increase in state MFP funding will vary by district based on the increase in student enrollment. Local school districts will experience increased costs based on the actual increase of Kindergarten enrollment for the 2022-23 school year; however, costs will vary by district. Potential costs will include hiring additional teachers and purchasing additional supplies and instructional materials.

If enrollment exceeds current school capacity, districts could incur costs to expand facilities or to purchase and install temporary classrooms. For informational purposes, public school Kindergarten enrollment declined by 3,043, from 54,053 in February 2020 to 51,010 in February 2021, a decrease of 5.6%, due in part to the COVID-19 pandemic. If students who have left school due to the pandemic do not return, the increase in enrollment may only serve to offset the pandemic-related drop in enrollment.

(3) Per Act 392 of 2021, the proposed revisions would require school districts to provide forty-five minutes of uninterrupted planning time per day, or its weekly equivalent, and remove the current requirement that teachers receive duty-free lunch time. These requirements would no longer be subject to the availability of state funds; therefore, local school districts will likely experience an expenditure increase, potentially significant in the aggregate statewide, to provide the required minimum planning time for teachers to the extent the district is not providing the requisite planning time to teachers. The potential increase in expenditures would be a result of hiring additional personnel to provide appropriate staff and instruction coverage.

(4) Per Act 458 of 2021, the proposed revisions would require the following: a student’s Individualized Education Program (IEP) team to obtain written approval of a student’s parent or legal guardian before determining an alternative path to graduation; the written approval for a student to change from one career major to another; the school counselor to meet with each student’s parent or legal guardian prior to revising a student’s individual graduation plan; each school with an approved career major program to hold an annual informational meeting to inform the parents and legal guardians of all 8th graders regarding graduation requirements and curriculum choices; and the LDE to develop materials regarding high school curriculum frameworks, graduation requirements and relevant postsecondary education career opportunities and to provide these materials to each school for use in the annual meetings. There will be an indeterminable increase in costs and workloads for local school districts to hold informational meetings with parents, and for counselors to meet with parents regarding the revision of a student’s individual graduation plan for a career major. The LDE will not incur increased costs as the agency has adequate capacity to fulfill the requirement that it develop certain materials for use in the annual informational meetings.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed revisions will not have an effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO SMALL BUSINESSES, DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed revisions will not result in costs and/or benefits to directly affected persons, small businesses, or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed revisions will not have an effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
2110#034

Alan M. Boxberger
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators—African American History (LAC 28:LXXIX.2109 and 2331)

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 to revise *Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators*. The proposed revisions add African American History to the list of courses that satisfy social studies credit graduation requirements, in accordance with Act 334 of the 2021 Regular Legislative Session.

**Title 28
EDUCATION**

Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators

**Chapter 21. Curriculum and Instruction
Subchapter C. Secondary Schools**

§2109. High School Graduation Requirements

- A. - D.4.c.x. ...
- xi. African American history.
- D.5 - F.3.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 44:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2351 (November 2003), amended LR 30:2776 (December 2004), LR 31:3081 (December 2005), LR 34:2099 (October 2008), LR 36:2849 (December 2010), LR 37:2142, 2144 (July 2011), repromulgated LR 37:2390 (August 2011), amended LR 37:2597 (September 2011), LR 38:769 (March 2012), LR 38:1008 (April 2012), LR 39:1444 (June 2013), LR 40:1682 (September 2014), LR 40:2535 (December 2014), LR 41:915 (May 2015), LR 41:1485 (August 2015), LR 41:2127 (October 2015), LR 42:1064 (July 2016), LR 43:1289 (July 2017), LR 45:38 (January 2019), LR 45:1456 (October 2019), LR 46:1084 (August 2020), amended LR 48:

Chapter 23. High School Program of Studies

§2331. Social Studies

- A. Social studies course offerings shall be as follows.

Course Title	Unit(s)
African American History	1
African American Studies	1
American Government	1
U.S. History	1
Civics	1 (or 1/2)
Economics	1
Free Enterprise System	1/2
Law Studies	1
Psychology	1
Sociology	1
Western Civilization	1
World Geography	1
World History	1
AP European History	1
AP U.S. History	1
IB History of the Americas I	1
AP U.S. Government and Politics: Comparative	1
AP U.S. Government and Politics: United States	1
AP Macroeconomics	1
AP Microeconomics	1

Course Title	Unit(s)
AP Human Geography	1
IB Geography	1
AP World History	1
IB History of the Americas II	1
IB Economics	1

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 44:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2356 (November 2003), amended LR 31:3088 (December 2005), LR 34:2102 (October 2008), LR 37:2144 (July 2011), LR 37:2598 (September 2011), LR 38:771 (March 2012), LR 39:1450 (June 2013), LR 40:1686 (September 2014), LR 40:2539 (December 2014), LR 48:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word “poverty” means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in R.S. 49:965.6, the Regulatory Flexibility Act, has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small

businesses. The agency, consistent with health, safety, environmental, and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the cost to the providers to provide the same level of service; or
3. the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, November 10, 2021, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 741 (Nonpublic)** **Louisiana Handbook for Nonpublic School Administrators—African American History**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed revisions will not result in any costs or savings to state or local governmental units.

Act 334 of the 2021 Regular Session added a course African American History to the eligible courses in the social studies unit for the TOPS core curriculum, beginning with 2021-22 high school graduates.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed revisions will not have an effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO SMALL BUSINESSES, DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed revisions will not result in costs and/or benefits to directly affected persons, small businesses, or non-governmental groups.

As of the 2020-21 school year, there were 21 public high schools offering African American History courses for 462 students; however, it is unknown how many nonpublic schools offer such courses. To the extent more nonpublic schools offer courses in African American History, it is anticipated that they will shift staff and resources from other social studies courses,

therefore the proposed rule will not result in overall cost increases.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed revisions will not have an effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
2110#037

Alan Boxberger
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1566—Pupil Progression Policies and Procedures
(LAC 28:XXXIX.501)

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 has approved for advertisement amendments to *Bulletin 1566—Pupil Progression Policies and Procedures*. The proposed revisions prohibit the use of statewide student assessments conducted during the 2020-2021 school year for the purposes making student placement decisions, in accordance with Act 53 of the 2020 Second Extraordinary Session.

Title 28

EDUCATION

Part XXXIX. Bulletin 1566—Pupil Progression Policies and Procedures

Chapter 5. Placement Policies—General Requirements

§501. General Requirements

A. - C. ...

D. No school board member, school superintendent, assistant superintendent, principal, school 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.

E. For the 2020-2021 school year, student performance on the LEAP 2025 assessments shall not be considered in making placement decisions for fourth and eighth grade students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, and R.S. 17:414.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 1999), amended LR 3:2062 (October 2007), LR 36:2003 (September 2010), LR 44:479 (March 2018), amended LR 48:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word “poverty” means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in R.S. 49:965.6, the Regulatory Flexibility Act, has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental, and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;

2. the cost to the providers to provide the same level of service; or

3. the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, November 10, 2021, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA

70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 1566—Pupil Progression Policies and Procedures**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed revisions will not result in any costs or savings to state or local governmental units.

The proposed revisions update language in Bulletin 1566 to reflect the passage of Act 53 of the 2020 Second Extraordinary Session, which prohibited the use of statewide student assessments conducted during the 2020-2021 school year for the purpose of making student placement decisions. Because districts have already made such determinations for the 2021-22 school year, there will be no impact going forward.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed revisions will not have an effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO SMALL BUSINESSES, DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed revisions will not result in costs and/or benefits to directly affected persons, small businesses, or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed revisions will not have an effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
2110#035

Alan Boxberger
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act
(LAC 28:XLIII.101, 401, 450, 460, 461, 462, 463, 464, 466, 905, 1101, and 1904)

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 to revise *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act*. The proposed revisions align state policy with Acts of the 2021 Louisiana Legislature.

Title 28
EDUCATION
Part XLIII. Bulletin 1706—Regulations for
Implementation of the Children
with Exceptionalities Act
Subpart 1. Students with Disabilities

Chapter 1. State Eligibility

Subchapter A. FAPE Requirements

§101. Authority and Scope

A. - A.1.a. ...

b. directly responsible for the provision of a free appropriate public education to students within the jurisdiction of the Special School District, the Recovery School District, or in a Louisiana Special School (the Louisiana School for the Visually Impaired or the Louisiana School for the Deaf).

B. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2036 (October 2008), amended LR 46:180 (February 2020), amended LR 48:

Chapter 4. Special School District (SSD) and BESE Special Schools (BSS)

Subchapter A. Special School District

§401. Special School District (SSD)

A. The Special School District (SSD) Board of Directors is the governing authority of the SSD.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2065 (October 2008), amended LR 48:

Subchapter B. BESE Special Schools

§450. Louisiana Special Schools

A. In accordance with R.S. 17:1945, SSD Board of Directors will supervise and oversee the administration of the BESE special schools. The Louisiana special schools are Louisiana School for the Deaf (LSD) and Louisiana School for the Visually Impaired (LSVI), and are state-operated schools providing educational programs and services for residential and/or day students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2066 (October 2008), amended LR 46:180 (February 2020), amended LR 48:

§460. Purpose and Jurisdiction

A. Louisiana special schools are designated to provide FAPE for students who have been evaluated and classified as having low-incidence impairments, including but not limited to deafness and/or hearing loss, visual impairments, or orthopedic impairments, that meet the criteria for admission for each such special school.

B.1. Each LSS, in recognition of its uniqueness and expertise in serving students with low incidence impairments, is designated as a specialized state-wide resource center and may assist LEAs in the provision of services as requested by LEAs.

2. Services may include, but are not limited to: student assessment; in-service training; curricular materials sharing; consultation; and program design, development, and evaluation.

C. Notwithstanding any other provision of these regulations, when a student with a disability is admitted to a LSS and receives the majority of educational services from the BSS, the student shall be under the jurisdiction of the LSS, even if the student receives some services from an LEA.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2066 (October 2008), amended LR 43:2494 (December 2017), amended LR 48:

§461. Provision of Services

A. Special education services provided by LSS to students with disabilities shall be provided in compliance with these regulations. Provision of services to other (gifted, talented or regular education) students is not governed by these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2067 (October 2008), amended LR 48:

§462. LEA Request for Enrollment in a LSS

A. When an LEA requests that a student be enrolled in a LSS, the requesting LEA is to provide the LSS with documentation of the need for educating the student in the LSS, and

B. prior to and during the admission consideration, the requesting LEA will be responsible for providing:

1. documentation reflecting the student's educational/behavioral functioning in the LEA setting including the student's mode of communication to assist in determining a LSS's ability to provide an appropriate program. This includes, but is not limited to student's records, the most recent evaluation, most recent IEP, all records and reports regarding grades and high stakes testing, behavior incidents, audiometric data, vision data, educational progress, immunizations, special health concerns and relevant information from private providers; and

2. an LEA representative at the IEP conference, as appropriate;

C. if a student is not admitted to a LSS, the requesting LEA is responsible for providing services or causing services to be provided to the student.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq. including R.S. 17:1960

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2067 (October 2008), amended LR 48:

§463. Parent Request for Enrollment to LSD or LSVI

A. If an LEA does not request enrollment to a LSS, a parent may request admittance to LSD or LSVI. This request is referred to as parent option.

B. Prior to September 1 of each school year, LSD and LSVI shall determine starting enrollment/resource figures for:

1. the number of students enrolled to date through the referral process and previous parent option students who continue to meet enrollment standards;

2. the resources available to provide supplementary services beyond classroom instruction for those students (e.g., bus space availability; professional service contract

limits for OT and PT, psychiatric and psychological services; residential staff/student ratio).

C. If the student is not admitted to LSD or LSVI, jurisdiction does not change.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq. including R.S. 17:1946 and R.S. 17:1960.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2067 (October 2008), amended LR 48:

§464. Admission and Release

A. Eligible students with disabilities, including those who can be served through regular education facilities, shall be admitted to and released from Louisiana Special Schools, according to procedures approved by BESE, which include the components listed below.

B.1. Each LSS shall develop and maintain operational procedures concerning the admission of students which incorporate the following:

a. each LSS shall make an annual determination of the number of additional students by grade, bus space availability, professional service contract limits for OT and PT, psychiatric and psychological services, and residential staff/student who may be admitted;

b. students shall be between 3 and 21 years of age, inclusive;

c. as permitted by statute, appropriate services, which need not comply with these regulations, may be provided at extended ages;

d. students must be residents of Louisiana;

e. students must possess a current evaluation with a disability classification that is germane to the services of the school; and

f. students who are not otherwise eligible for admission to a LSS may be admitted for educational purposes, including providing interaction with non-disabled peers and educating students who, based on a medical diagnosis, will likely be eligible for admission in the future.

2. Each LSS shall develop and maintain operational procedures concerning the release of students which incorporate the following circumstances:

a. when a student has received a regular high school diploma;

b. when a student has reached his/her twenty-second birthday by the completion of the current school session or an age extension is granted by law; unless:

i. the admissions and release committee of the LSS determines that the needs of the student are appropriate to continued educational services, in accordance with eligibility requirements stated above for educational services; and

ii. the board special school director authorizes an additional period of service to the student which includes cooperative inter-agency or postgraduate services;

iii. services provided to students over the age of 22 need not be in accordance with these regulations;

c. when the student's IEP Team determines that the LSS is not appropriate for the student or when the LSS determines that the LSS residential setting is not appropriate for the student;

d. when parental approval for placement is withdrawn;

e. when a student is removed in accordance with applicable law.

3. A BSS may deny admission or continued enrollment to a student and release a student from a LSS if the LSS determines that the LSS program is inappropriate for the student's individual needs.

4. The LSS shall notify the appropriate LEA when a student who is still eligible for a free appropriate public education is released from LSS.

5. Students not admitted or denied continued admission under Paragraph 3 may apply for admission to the school in the future.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2067 (October 2008), amended LR 35:1232 (July 2009), amended LR 48:

§465. Reserved.

§466. Transportation

A. Home visit transportation for residential students will be provided within the school calendar, which is updated and approved in accordance with BESE procedures. Additional home visit transportation costs will be borne by the parent unless otherwise provided in the IEP or school policy.

B. Each LSS may establish a policy to provide for transportation or to reimburse parents for transportation, at the option of the LSS, when the LSS requires that the student be sent home.

C. Daily transportation for commuter/day students will be the responsibility of the requesting LEA, unless the student was admitted via Parent Option. Nothing in these regulations would prohibit LEAs from providing transportation for a Parent Option student.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq. including R.S. 17:1946 and R.S. 17:1960.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2068 (October 2008), amended LR 48:

Chapter 9. General

Subchapter B. Definitions used in these Regulations

§905. Definitions

Adapted Physical Education—specially designed physical education for eligible students with disabilities.

* * *

Related Services ...

1. - 3.a.vi. ...

b. *Counseling Services*—services provided by qualified social workers, psychologists, school counselors, or other qualified personnel.

c. ...

Ward of the State ...

1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2089 (October 2008), amended LR 36:1505 (July 2010), LR 38:2368 (September 2012), LR 42:235 (February 2016), LR 43:2494 (December 2017), amended LR 48:

Subpart 2. Regulations for Gifted/Talented Students

Chapter 11. State Eligibility

§1101. Free Appropriate Public Education

A. ...

B. The state board will be directly responsible for the provision of a free appropriate public education (FAPE) to

gifted and talented students, ages 3 through 21 years, who are within the jurisdiction of either the Special School District or in a Louisiana special school (Louisiana School for the Visually Impaired or Louisiana School for the Deaf) unless the student exits with a high school diploma.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1576 (August 2000), amended LR 36:2011 (September 2010), LR 46:181 (February 2020), amended LR 48:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in R.S. 49:965.6, the Regulatory Flexibility Act, has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental, and economic welfare factors has considered

and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the cost to the providers to provide the same level of service; or
3. the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, November 10, 2021, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Bulletin 1706 Regulations for Implementation of the Children with Exceptionalities Act

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed revisions may have an indeterminable impact for the Special School District (SSD) associated with performing administrative functions in lieu of the Department of Education (LDE). Per Act 468 of the 2021 Regular Legislative Session, the proposed revisions would establish the Special School District (SSD) as an independent agency governed by a newly created board of directors.

LDE will not require additional funding to replace the IAT revenues lost as a result of the proposed revision. SSD has confirmed that it will use only existing appropriations and positions in absorbing administrative functions from LDE. To the extent that no additional appropriations are needed, the proposed revisions will not have a fiscal impact.

SSD costs will depend on the extent to which the agency is able to fund anticipated workload increases within its existing operating budget (SSD and LSDVI). Costs will increase to the extent the SSD requires additional staff and resources beyond the estimated \$84,200 it previously transferred to LDE for certain administrative services. SSD has confirmed it will utilize existing positions and appropriated funding to implement proposed policy revision.

The proposed revisions also update terminology to refer to "school guidance counselors" as "school counselors," in accordance with Act 275 of the 2021 Regular Legislative Session.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed policy revisions will result in the LDE experiencing a decrease in IAT revenues from the SSD by an indeterminable amount. In FY 20, for example, the LDE received \$84,200 to conduct administrative functions on behalf of the SSD; however, amounts varied by fiscal year based on services provided. LDE reports it will not require additional funding to replace these lost revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO SMALL BUSINESSES, DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed revisions will not result in costs and/or benefits to directly affected persons, small businesses, or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed revisions will not have an effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
2110#036

Alan M. Boxberger
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

High School Social Studies Assessment
(LAC 28:XI.5701, 6803; LXXIX.2111; CXV.2318, 2319)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10), the Board of Elementary and Secondary Education proposes to amend LAC 28:XI, *Accountability/Testing*, Subpart 3, *Bulletin 118—Statewide Assessment Standards and Practices*; LAC 28:CXV in Bulletin 741—*Louisiana Handbook for School Administrators*; and LAC 28:LXXIX in Bulletin 741 (Nonpublic)—*Louisiana Handbook for Nonpublic School Administrators*. The aforementioned revisions provide for a shift of the requirement from U.S. History to Civics beginning with incoming freshmen in the 2023-2024 school year and beyond.

**Title 28
EDUCATION**

Part XI. Accountability/Testing

Subpart 3. Bulletin 118—Statewide Assessment Standards and Practices

Chapter 57. Assessment Program Overview
§5701. Overview of Assessment Programs in Louisiana
[Formerly LAC 28:CXL.701]

A. Norm-Referenced and Criterion-Referenced Testing Programs Since 1986

Name of Assessment Program	Assessment Population	Administered

Criterion-Referenced Tests (CRTs)		
National Assessment of Educational Progress (NAEP)	grades 4, 8, and 12	spring 1990-

LEAP 2025	Biology	fall 2018-
LEAP 2025	Civics	fall 2023-
Integrated NRT/CRT		

Name of Assessment Program	Assessment Population	Administered
Academic Skills Assessment (ASA) and ASA LAA 2 form	Students pursuing a State-Approved Skills Certificate (SASC) or GED	spring 2012 (one administration only, spring 2012)

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1534 (July 2005), amended LR 32:235 (February 2006), LR 34:66 (January 2008), LR 34:1352 (July 2008), LR 35:218 (February 2009), LR 36:967 (May 2010), LR 37:858 (March 2011), LR 38:34 (January 2012), LR 39:74 (January 2013), LR 39:1019 (April 2013), LR 40:1319 (July 2014), LR 40:2512 (December 2014), LR 44:465 (March 2018), LR 44:2127 (December 2018), LR 46:15 (January 2020), LR 47:566 (May 2021), repromulgated LR 47:721 (June 2021), amended LR 48:

Chapter 68. LEAP 2025 Assessments for High School
Subchapter A. General Provisions
§6803. Introduction

[Formerly LAC 28:CXL1803]

A. - B.5. ...

6. U.S. History.

a. Beginning with incoming freshmen in 2023-2024 and beyond, the LEAP 2025 Civics assessment will replace the LEAP 2025 U.S. History assessment as the Social Studies assessment required for graduation. The LEAP 2025 U.S. History assessment will be available through 2025-2026 for those students requiring a retest to fulfill graduation requirements.

b. The biology 4-level end-of-course test will continue to be utilized through spring 2018; beginning in the 2018-2019 school year, student knowledge and skills of state academic standards in biology will be measured by the LEAP 2025 Biology assessment for students who are taking the course and are not graduating in 2018-2019; like US History in 2017-2018, students who are retesting and are not repeating the course, and students graduating in 2018-2019 will be allowed to complete the four-level Biology EOC for one more year. The end-of-course exam will continue to be available for students who entered a high school cohort in 2016-2017 or prior.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:214 (February 2009), LR 36:477 (March 2010), amended LR 38:35 (January 2012), LR 40:2514 (December 2014), LR 44:469 (March 2018), LR 44:2129 (December 2018), LR 47:567 (May 2021), LR 48:

Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators
Chapter 21. Curriculum and Instruction
Subchapter C. Secondary Schools
§2111. State Diploma

A. - B.1.a. ...

b. For incoming freshmen in 2010-2011 through 2016-2017, students must pass three End-of-Course Tests in the following categories:

- i. English II or English III;
- ii. algebra I or geometry;
- iii. biology or American History

c. For incoming freshmen in 2017-2018 and beyond, students must pass three LEAP 2025 assessments in the following categories:

- i. English I or English II;
- ii. algebra I or geometry;
- iii. biology or U.S. History.

d. Beginning with incoming freshmen in 2023-2024 and beyond, the LEAP 2025 Civics assessment will replace the LEAP 2025 U.S. History assessment as the Social Studies assessment required for graduation. The LEAP 2025 U.S. History assessment will be available through 2025-2026 for those students requiring a retest to fulfill graduation requirements.

B.2. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 44:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2351 (November 2003), amended LR 31:636 (March 2005), LR 31:3082 (December 2005), LR 36:1498 (July 2010), LR 39:1446 (June 2013), LR 48:

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction

Subchapter A. Standards and Curricula

§2318. The TOPS University Diploma

A. - B.1.c. ...

2. For incoming freshmen in 2010-2011 and beyond, students must meet the assessment requirements below to earn a standard diploma.

a. Incoming freshmen in 2010-2011 through 2016-2017 must pass three end-of-course tests in the following categories:

- i. English II or English III;
- ii. algebra I or geometry;
- iii. biology or American history.

b. Incoming freshmen in 2017-2018 and beyond must pass three LEAP 2025 assessments in the following categories:

- i. English I or English II;
- ii. algebra I or geometry;
- iii. biology or U.S. History.

c. Beginning with incoming freshmen in 2023-2024 and beyond, the LEAP 2025 Civics assessment will replace the LEAP 2025 U.S. History assessment as the Social Studies assessment required for graduation. The LEAP 2025 U.S. History assessment will be available through 2025-2026 for those students requiring a retest to fulfill graduation requirements.

d. Students with disabilities identified under IDEA who meet the LAA 2 participation criteria and entered high school during or prior to the 2013-2014 school year may meet the assessment requirements by passing the English language arts and mathematics components of the LAA 2 and either the science or social studies component of LAA 2.

B.3. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:24.4, 17:183.2, and 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601

(December 2007), LR 34:1607 (August 2008), LR 36:1486 (July 2010), LR 37:547 (February 2011), LR 37:1128 (April 2011), LR 37:2129 (July 2011), LR 37:2132 (July 2011), LR 37:3193 (November 2011), LR 38:754, 761 (March 2012), LR 38:1001 (April 2012), LR 38:1584 (July 2012), LR 40:994 (May 2014), LR 40:1328 (July 2014), LR 40:1679 (September 2014), LR 40:2525 (December 2014), LR 41:915 (May 2015), LR 41:1482 (August 2015), LR 41:2126 (October 2015), LR 42:232 (February 2016), LR 42:1062 (July 2016), LR 42:1878 (November 2016), LR 42:2176 (December 2016), LR 43:1287 (July 2017), LR 43:2132 (November 2017), LR 43:2483 (December 2017), LR 44:263 (February 2018), LR 44:1868 (October 2018), repromulgated LR 44:1998 (November 2018), amended LR 45:1454 (October 2019), LR 46:556 (April 2020), LR 48:

§2319. The Career Diploma

A. - B.1.c. ...

2. For incoming freshmen in 2010-2011 and beyond, students must meet the assessment requirements below to earn a standard diploma.

a. Incoming freshmen in 2010-2011 through 2016-2017 must pass three end-of-course tests in the following categories:

- i. English II or English III;
- ii. algebra I or geometry;
- iii. biology or American History.

b. Incoming freshmen in 2017-2018 and beyond must pass three LEAP 2025 assessments in the following categories:

- i. English I or English II;
- ii. algebra I or geometry;
- iii. biology or U.S. History.

c. Beginning with incoming freshmen in 2023-2024 and beyond, the LEAP 2025 Civics assessment will replace the LEAP 2025 U.S. History assessment as the Social Studies assessment required for graduation. The LEAP 2025 U.S. History assessment will be available through 2025-2026 for those students requiring a retest to fulfill graduation requirements.

d. Students with disabilities identified under IDEA that entered high school during or prior to the 2013-2014 school year and meet the LAA 2 participation criteria may meet the assessment requirements by passing the English language arts and mathematics components of the LAA 2 and either the science or social studies component of LAA 2.

B.3. - C.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:24.4, 17:183.2, 17:183.3, 17:274, 17:274.1, and 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 35:1230 (July 2009), LR 35:1876 (September 2009), LR 35:2321 (November 2009), LR 35:2750 (December 2009), LR 36:1490 (July 2010), LR 37:548 (February 2011), LR 37:1130 (April 2011), LR 37:2130 (July 2011), LR 37:3197 (November 2011), LR 38:761 (March 2012), LR 38:1005 (April 2012), LR 40:2522 (December 2014), LR 41:1482 (August 2015), LR 41:2594 (December 2015), LR 42:232 (February 2016), LR 43:1287 (July 2017), LR 43:2132 (November 2017), LR 43:2484 (December 2017), LR 44:1868 (October 2018), LR 45:1747 (December 2019), LR 46:557 (April 2020), LR 46:1086 (August 2020), LR 48:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in R.S. 49:965.6, the Regulatory Flexibility Act, has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental, and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the cost to the providers to provide the same level of service; or
3. the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, November 10, 2021, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: High School Social Studies Assessment

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed revisions will not impact costs or savings to state or local governments. These revisions would replace the LEAP 2025 U.S. History assessment with a Civics assessment. The cost of test development is not expected to increase and will be incorporated into the ongoing cost of state assessments.
The LDE currently has a nine-year contract with WestEd in the amount of \$13.9 M for the development of the LEAP 2025 Social Studies assessments. This includes the development of test items, test forms, assessment frameworks, assessment guides, sample items documents, and related psychometric services. The LDE anticipates that the cost of the contract will not increase because certain activities such as content development, test forms construction, and field testing already occur on an annual basis, and test items are continuously developed over the life of the assessment.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no estimated impacts on revenue collections as a result of the proposed revisions.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO SMALL BUSINESSES, DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The proposed revisions will not result in costs and/or benefits to directly affected persons, small businesses, or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed revisions will not have an impact on competition and employment.

Beth Scioneaux
Deputy Superintendent
2110#038

Alan Boxberger
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Board of Dentistry

General Provisions; Dentists; Fees and Costs
(LAC 46:XXXIII.120, 306, and 419)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.120, .306, and .419.

The Board of Dentistry is amending LAC 46:XXXIII.120 to conform with Louisiana legislature statutes, La. R.S. 37:3651 and 37:1751, which will allow the board to issue a license or to someone who is a dependent of someone in the military or of a healthcare worker a permit pending normal licensure if an application for full, normal licensure has been completed and the board is unable to issue a full license within 30 calendar year days of receiving the application and would be valid for 30 days but could not be extended beyond the next meeting of the Board.

The Board of Dentistry is amending LAC 46:XXXIII.306 to now allow dentists who receive their license by credentials to practice outside of Louisiana.

The Board of Dentistry is amending LAC 46:XXXIII.419 conform with Louisiana legislature statute which will allow the Board of Dentistry to issue a retired volunteer license to hygienists. The retired volunteer license will allow a hygienist to provide care only on a gratuitous basis for a fee of \$35.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Profession

Chapter 1. General Provisions

§120. Temporary Licenses and Permits Pending

Normal Licenses

A. - J.3. ...

K. Permits Pending Normal Licenses. For applicants who qualify under the provisions of R.S. 37:3651 or R.S. 37:1751, a permit pending normal licensure may be issued if an application for full, normal licensure has been completed and the board is unable to issue a full license within 30 calendar days of receiving the completed application. The permit pending normal licensure is valid for 30 days and may be extended by the board beyond 30 days, but in no event beyond the next meeting of the board. The permit pending normal licensure expires automatically upon the occurrence of any one of the following:

1. 30 days have passed from the issuance of the permit pending normal license without an extension from the board; in no event may the permit pending normal licensure be extended beyond the next meeting of the board.

2. a determination by the board that the applicant is not qualified for a normal, permanent license.

3. the issuance of a normal, permanent license by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1114 (June 1998), amended LR 26:1612 (August 2000), repromulgated LR 27:1893 (November 2001), amended LR 33:2652 (December 2007), LR 33:2652 (December 2007), LR 38:2771 (November 2012), LR 39:2279 (August 2013), LR 41:1285 (July 2015), LR 47:

Chapter 3. Dentists

§306. Requirements of Applicants for Dental

Licensure by Credentials

A. - B. ...

C. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:739 (July 1992), amended LR 21:571 (June 1995), LR 22:23 (January 1996), LR 23:1528 (November 1997), LR 24:1114 (June 1998), LR 25:513 (March 1999), LR 26:692 (April 2000), LR 26:1612 (August 2000), repromulgated LR 27:1893 (November 2001), amended LR 28:1777 (August 2002), LR 30:2305 (October 2004), LR 31:927 (April 2005), LR 32:243 (February 2006), LR 33:846 (May 2007), LR 33:2652 (December 2007), LR 34:2564 (December 2008), repromulgated LR 35:67 (January 2009), amended LR 37:1405 (May 2011), LR 37:3515 (December 2011), repromulgated LR 38:355 (February 2012), amended LR 39:87 (January 2013), amended by the Department of Health, Board of Dentistry, LR 44:46 (January 2018), LR 47:

Chapter 4. Fees and Costs

Subchapter D. Fees for Dental Hygienists

§419. Licenses, Permits and Examinations (Dental Hygienists)

A.1. - A.13. ...

14. annual fee to support well-being program—\$15;

15. retired volunteer hygiene license—\$35.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (8), R.S. 37:768, and R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18:741 (July 1992), LR 23:1527 (November 1997), LR 24:1115 (June 1998), LR 25:1478 (August 1999), LR 26:691 (April 2000), LR 28:1778 (August 2002), LR 32:243 (February 2006), LR 33:846 (May 2007), LR 34:2564 (December 2008), repromulgated LR 35:68 (January 2009), amended LR 37:590 (February 2011), LR:37:2151 (July 2011), LR 39:2278 (August 2013), LR 47:

Family Impact Statement

There will be no family impact in regard to issues set forth in R.S. 49:972.

Poverty Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;

2. the effect on early childhood development and preschool through postsecondary education development;

3. the effect on employment and workforce development;

4. the effect on taxes and tax credits;

5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed rulemaking should not have any know or foreseeable impact on providers as defined by HCR 170 of

2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect of the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments on these proposed rule changes to Arthur Hickham, Jr., Executive Director, Louisiana State Board of Dentistry, P.O. Box 5256, Baton Rouge, Louisiana, 70821. Written comments must be submitted to and received by the Board within 20 days of the date of the publication of this notice. A request pursuant to R.S. 49:953 (A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board within 20 days of the date of the publication of this notice.

Public Hearing

A request pursuant to R.S. 49:953 (A)(2) for oral presentation, argument, or public hearing must be in writing and received by the board within 20 days of the date of the publication of this notice.

Arthur Hickham, Jr.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: General Provisions; Dentists; Fees and Costs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will result in a one-time SGR expenditure of \$500 in FY 22 for the LA State Board of Dentistry (LSBD) to publish the notice of intent and proposed rule revision in the Louisiana Register. The proposed rule change will not affect implementation costs (savings) to state or local governmental units.

The proposed rule change allows the Board to issue temporary licenses and permits pending normal licenses to certain qualifying individuals, to remove a restriction on dentists receiving licensure by credentials from practicing outside Louisiana and establish a fee for a retired voluntary hygienist license.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not materially affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO SMALL BUSINESSES, DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed change to §120 is meant to conform to the recently passed statutes by the Louisiana legislature and will and will benefit dependents of military personnel and of healthcare workers to make it easier for them to be issued a "permit pending normal license" in Louisiana that would expire within 30 days. This rule is not anticipated to materially change the number of licensees statewide and is estimated to impact four applicants per year.

The proposed change to §306 will benefit dentists who receive their license by credentials to practice outside of Louisiana.

The proposed change to §419 is also to conform to the recently passed statutes passed by the Louisiana legislature and will benefit a dental hygienist who would like to seek a retired voluntary hygiene license to provide care on a gratuitous basis for a fee of \$35.00. The Board estimates that there could be 3 to 5 dental hygienists per year that may would apply for the retired voluntary license.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes should not impact competition or employment.

Arthur Hickham, Jr.
Executive Director
2110#026

Alan M. Boxberger
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

Home and Community-Based Services Waivers
Children's Choice Waiver
Direct Support Worker Wages
(LAC 50:XXI.12101)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.12101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 119 of the 2021 Regular Session of the Louisiana Legislature provided additional funding to the Department of Health for providers of home and community-based services waivers to increase the wages of direct support workers and personal care attendants, pursuant to rulemaking and audit. House Concurrent Resolution 127 (HCR 127) of the 2021 Regular Session of the Louisiana Legislature directed the department to make adjustments in the state Medicaid budget for the purpose of allocating funding more equitably to providers throughout the disabilities services system. In compliance with Act 119 and HCR 127, the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities promulgated an Emergency Rule which amended the provisions governing reimbursement in the Children's Choice Waiver in order to establish a wage floor for direct support workers along with audit procedures, sanctions and penalties (*Louisiana Register, Volume 47, Number 10*). This proposed Rule is being promulgated to continue the provisions of the October 1, 2021 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community-Based Services Waivers

Subpart 9. Children's Choice Chapter 121. Reimbursement Methodology §12101. Unit of Reimbursement

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

5. Direct Support Worker Wages

a. Establishment of Direct Support Worker Wage Floor for Medicaid Home and Community-Based Services for Intellectual and Developmental Disabilities

i. Effective October 1, 2021, providers of Medicaid home and community-based waiver services operated through the Office for Citizens with Developmental Disabilities employing defined direct support workers will receive the equivalent of a \$2.50 per hour rate increase.

ii. Effective October 1, 2021, this increase or its equivalent will be applied to all service units provided by direct support workers with an effective date of service for the identified home and community-based waiver services provided beginning October 1, 2021.

iii. The minimum hourly wage floor paid to direct support workers shall be \$9 per hour.

iv. All providers of services affected by this rate increase shall be subject to a direct support worker wage floor of \$9.00 per hour. This wage floor is effective for all affected direct support workers of any work status (full-time, part-time, etc.)

v. The Department of Health reserves the right to adjust the direct support worker wage floor as needed through appropriate rulemaking promulgation consistent with the Louisiana Administrative Procedure Act.

b. Establishment of Audit Procedures for Direct Support Worker Wage Floor

i. The wage enhancement payments reimbursed to providers shall be subject to audit by the department.

ii. Providers shall provide to the department or its representative all requested documentation to verify compliance with the direct support worker wage floor.

iii. This documentation may include, but not be limited to, payroll records, wage and salary sheets, check stubs, etc.

iv. Providers shall produce the requested documentation upon request and within the time frame provided by the department.

v. Noncompliance or failure to demonstrate that the wage enhancement was paid directly to direct support workers may result in:

(a). sanctions; or

(b). disenrollment in the Medicaid Program.

c. Sanctions

i. The provider will be subject to sanctions or penalties for failure to comply with this Rule or with requests issued by LDH pursuant to this Rule. The severity of such action will depend on:

(a). failure to pay I/DD HCBS direct support workers the floor minimum of \$9 per hour;

(b). the number of employees identified as having been paid less than the \$9 per hour floor;

(c). the persistent failure to pay the floor minimum of \$9 per hour; or

(d). failure to provide LDH with any requested documentation or information related to or for the purpose of verifying compliance with this Rule.

d. New Opportunities Waiver Fund

i. The department shall deposit civil fines and the interest collected from providers into the New Opportunities Waiver Fund.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1987 (September 2002), LR 33:1872 (September 2007), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 34:250 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:324 (February 2010), LR 36:2280 (October 2010), LR 37:2157 (July 2011), LR 39:2504 (September 2013), LR 40:68 (January 2014), LR 41:128 (January 2015), LR 42:896 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 48:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972, since the wage floor will ensure that direct support workers are providing care and support to families.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 as it assures access to direct support worker services for Children's Choice recipients.

Small Business Statement

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have a positive impact on small businesses, as described in R.S. 49:965.2 et seq. as it will increase rates paid to providers for direct support worker services.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct and indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of service as described in HCR 170 since this proposed Rule permits Medicaid reimbursement at a higher rate for the services of direct support workers.

Public Comments

Interested persons may submit written comments to Patrick Gillies, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Mr. Gillies is

responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on November 29, 2021.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on November 9, 2021. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on November 29, 2021 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after November 9, 2021. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Home and Community-Based Services Waivers— Children’s Choice Waiver

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will result in increased state costs of approximately \$855,332 for FY 21-22, \$1,409,127 for FY 22-23 and \$1,479,583 for FY 23-24. It is anticipated that \$864 (\$432 SFG and \$432 FED) will be expended In FY 21-22 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$2,090,416 for FY 21-22, \$3,008,199 for FY 22-23, and \$3,158,609 for FY 23-24. It is anticipated that \$432 will be collected in FY 21-22 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO SMALL BUSINESSES, DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule continues the provisions of the October 1, 2021 Emergency Rule which, in compliance with Act 119 and House Concurrent Resolution 127 of the 2021 Regular Session of the Louisiana Legislature amended the provisions governing reimbursement in the Children's Choice Waiver in order to establish a wage floor for direct support workers along with audit procedures, sanctions, and penalties. This proposed rule will be beneficial to Children's Choice Waiver participants by assuring that providers are adequately staffed with direct support workers. Small businesses and providers will benefit from implementation of this proposed rule as it is anticipated that it will increase payments to providers of Children's Choice

Waiver services by \$2,944,884 for FY 21-22, \$4,417,326 for FY 22-23, and \$4,638,192 for FY 23-24.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Patrick Gillies
Medicaid Executive Director
2110#051

Alan M. Boxberger
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

Home and Community-Based Services Waivers
New Opportunities Waiver
Direct Support Worker Wages
(LAC 50:XXI.14301)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.14301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 119 of the 2021 Regular Session of the Louisiana Legislature provided additional funding to the Department of Health for providers of home and community-based services waivers to increase the wages of direct support workers and personal care attendants, pursuant to rulemaking and audit. House Concurrent Resolution 127 (HCR 127) of the 2021 Regular Session of the Louisiana Legislature directed the department to make adjustments in the state Medicaid budget for the purpose of allocating funding more equitably to providers throughout the disabilities services system. In compliance with Act 119 and HCR 127, the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities promulgated an Emergency Rule which amended the provisions governing reimbursement in the New Opportunities Waiver in order to establish a wage floor for direct support workers along with audit procedures, sanctions, and penalties (*Louisiana Register*, Volume 47, Number 10). This proposed Rule is being promulgated to continue the provisions of the October 1, 2021 Emergency Rule.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE Part XXI. Home and Community-Based Services Waivers

Subpart 11. New Opportunities Waiver

Chapter 143. Reimbursement §14301. Unit of Reimbursement

A. - E. ...

F. Direct Support Worker Wages

1. Establishment of Direct Support Worker Wage Floor for Medicaid Home and Community-Based Services for Intellectual and Developmental Disabilities

a. Effective October 1, 2021, providers of Medicaid home and community-based waiver services operated through the Office for Citizens with Developmental Disabilities employing defined direct support workers will receive the equivalent of a \$2.50 per hour rate increase.

b. Effective October 1, 2021, this increase or its equivalent will be applied to all service units provided by direct support workers with an effective date of service for the identified home and community based waiver services provided beginning October 1, 2021.

c. The minimum hourly wage floor paid to direct support workers shall be \$9 per hour.

d. All providers of services affected by this rate increase shall be subject to a direct support worker wage floor of \$9 per hour. This wage floor is effective for all affected direct support workers of any work status (full-time, part-time, etc.)

e. The Department of Health reserves the right to adjust the direct support worker wage floor as needed through appropriate rulemaking promulgation consistent with the Louisiana Administrative Procedure Act.

2. Establishment of Audit Procedures for Direct Support Worker Wage Floor

a. The wage enhancement payments reimbursed to providers shall be subject to audit by the department.

b. Providers shall provide to the department or its representative all requested documentation to verify compliance with the direct support worker wage floor.

c. This documentation may include, but not be limited to, payroll records, wage and salary sheets, check stubs, etc.

d. Providers shall produce the requested documentation upon request and within the time frame provided by the department.

e. Noncompliance or failure to demonstrate that the wage enhancement was paid directly to direct support workers may result in:

- i. sanctions; and
- ii. disenrollment in the Medicaid Program.

3. Sanctions

a. The provider will be subject to sanctions or penalties for failure to comply with this Rule or with requests issued by LDH pursuant to this Rule. The severity of such action will depend on:

- i. failure to pay I/DD HCBS direct support workers the floor minimum of \$9 per hour;
- ii. the number of employees identified as having been paid less than the \$9 per hour floor; or
- iii. the persistent failure to pay the floor minimum of \$9 per hour.
- iv. failure to provide LDH with any requested documentation or information related to or for the purpose of verifying compliance with this Rule.

4. New Opportunities Waiver Fund

a. The department shall deposit civil fines and the interest collected from providers into the New Opportunities Waiver Fund.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1209 (June 2004), amended by the Department of Health and Hospitals, Office for

Citizens with Developmental Disabilities, LR 34:252 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:1851 (September 2009), LR 36:1247 (June 2010), LR 37:2158 (July 2011), LR 39:1049 (April 2013), LR 40:80 (January 2014), LR 42:898 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 44:58 (January 2018), LR 45:44 (January 2019), LR 46:1682 (December 2020), LR 48:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972, since the wage floor will ensure that direct support workers are providing care and support to families.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 as it assures access to direct support worker services for NOW recipients.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq., as this will increase rates paid to providers for direct support worker services.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct and indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of service as described in HCR 170 since this proposed Rule permits Medicaid reimbursement at a higher rate for the services of direct support workers.

Public Comments

Interested persons may submit written comments to Patrick Gillies, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030. Mr. Gillies is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on November 29, 2021.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the

Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on November 9, 2021. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on November 29, 2021 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after November 9, 2021. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**
**RULE TITLE: Home and Community-Based Services
Waivers—New Opportunities Waiver
Direct Support Worker Wages**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
It is anticipated that implementation of this proposed rule will result in increased state costs of approximately \$14,285,423 for FY 21-22, \$23,545,877 for FY 22-23 and \$23,545,877 for FY 23-24. It is anticipated that \$864 (\$432 SGF and \$432 FED) will be expended in FY 21-22 for the state's administrative expense for promulgation of this proposed rule and the final rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$34,923,125 for FY 21-22, \$50,265,649 for FY 22-23, and \$50,265,649 for FY 23-24. It is anticipated that \$432 will be collected in FY 21-22 for the federal share of the expense for promulgation of this proposed rule and the final rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO SMALL BUSINESSES, DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This proposed rule continues the provisions of the October 1, 2021 Emergency Rule which, in compliance with Act 119 and House Concurrent Resolution 127 of the 2021 Regular Session of the Louisiana Legislature, amended the provisions governing reimbursement in the New Opportunities Waiver (NOW) in order to establish a wage floor for direct support workers along with audit procedures, sanctions and penalties. This proposed rule will be beneficial to NOW participants by assuring that providers are adequately staffed with direct support workers. Small businesses and providers will benefit from implementation of this proposed rule as it is anticipated that it will increase payments to providers of NOW services by approximately \$49,207,684 for FY 21-22, \$73,811,526 for FY 22-23, and \$73,811,526 for FY 23-24.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Patrick Gillies
Medicaid Executive Director
2110#052

Alan M. Boxberger
Deputy Fiscal Officer
Legislative Fiscal Office

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

Home and Community-Based Services Waivers
Residential Options Waiver
Direct Support Worker Wages
(LAC 50:XXI.16903)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.16903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 119 of the 2021 Regular Session of the Louisiana Legislature provided additional funding to the Department of Health for providers of home and community-based services waivers to increase the wages of direct support workers and personal care attendants, pursuant to rulemaking and audit. House Concurrent Resolution 127 (HCR 127) of the 2021 Regular Session of the Louisiana Legislature directed the department to make adjustments in the state Medicaid budget for the purpose of allocating funding more equitably to providers throughout the disabilities services system. In compliance with Act 119 and HCR 127, the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities promulgated an Emergency Rule which amended the provisions governing reimbursement in the Residential Options Waiver in order to establish a wage floor for direct support workers along with audit procedures, sanctions and penalties (*Louisiana Register*, Volume 47, Number 10). This proposed Rule is being promulgated to continue the provisions of the October 1, 2021 Emergency Rule.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community-Based Services
Waivers
Subpart 13. Residential Options Waiver
Chapter 169. Reimbursement
§16903. Direct Support Professional Wages

A. Establishment of Direct Support Worker Wage Floor for Medicaid Home and Community Based Services for Intellectual and Developmental Disabilities

1. Effective October 1, 2021, providers of Medicaid home and community-based waiver services operated

through the Office for Citizens with Developmental Disabilities employing defined direct support workers will receive the equivalent of a \$2.50 per hour rate increase.

2. Effective October 1, 2021, this increase or its equivalent will be applied to all service units provided by direct support workers with an effective date of service for the identified home and community based waiver services provided beginning October 1, 2021.

3. The minimum hourly wage floor paid to direct support workers shall be \$9.00 per hour.

4. All providers of services affected by this rate increase shall be subject to a direct support worker wage floor of \$9.00 per hour. This wage floor is effective for all affected direct support workers of any work status (full-time, part-time, etc.)

5. The Department of Health reserves the right to adjust the direct support worker wage floor as needed through appropriate rulemaking promulgation consistent with the Louisiana Administrative Procedure Act.

B. Establishment of Audit Procedures for Direct Support Worker Wage Floor

1. The wage enhancement payments reimbursed to providers shall be subject to audit by the department.

2. Providers shall provide to the department or its representative all requested documentation to verify compliance with the direct support worker wage floor.

3. This documentation may include, but not be limited to, payroll records, wage and salary sheets, check stubs, etc.

4. Providers shall produce the requested documentation upon request and within the time frame provided by the department.

5. Noncompliance or failure to demonstrate that the wage enhancement was paid directly to direct support workers may result in:

- a. sanctions; or
- b. disenrollment in the Medicaid Program.

C. Sanctions

1. The provider will be subject to sanctions or penalties for failure to comply with this rule or with requests issued by LDH pursuant to this rule. The severity of such action will depend on:

- a. failure to pay I/DD HCBS direct support workers the floor minimum of \$9.00 per hour;
- b. the number of employees identified as having been paid less than the \$9.00 per hour floor;
- c. the persistent failure to pay the floor minimum of \$9.00 per hour; or
- d. failure to provide LDH with any requested documentation or information related to or for the purpose of verifying compliance with this rule.

D. New Opportunities Waiver Fund

1. The department shall deposit civil fines and the interest collected from providers into the New Opportunities Waiver Fund.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2169 (October 2015), LR 42:900 (June 2016), amended by the Department of Health, Bureau of Health Services

Financing and the Office for Citizens with Developmental Disabilities LR 48:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972, since the wage floor will ensure that direct support workers are providing care and support to families.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 as it assures access to direct support worker services for ROW recipients.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule may have a positive impact on small businesses, as described in R.S. 49:965.2 et seq., as it will increase rates paid to providers for direct support worker services.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct and indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of service as described in HCR 170 since this proposed Rule permits Medicaid reimbursement at a higher rate for the services of direct support workers.

Public Comments

Interested persons may submit written comments to Patrick Gillies, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Mr. Gillies is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on November 29, 2021.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on November 9, 2021. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on November 29, 2021 in Room 118 of the Bienville Building, which is located at 628 North Fourth

Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after November 9, 2021. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Home and Community-Based Services
Waivers—Residential Options Waiver
Direct Support Worker Wages**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
It is anticipated that implementation of this proposed rule will result in increased state costs of approximately \$1,027,670 for FY 21-22, \$1,693,192 for FY 22-23 and \$1,777,851 for FY 23-24. It is anticipated that \$864 (\$432 SGF and \$432 FED) will be expended in FY 21-22 for the state's administrative expense for promulgation of this proposed rule and the final rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$2,511,734 for FY 21-22, \$3,614,618 for FY 22-23, and \$3,795,349 for FY 23-24. It is anticipated that \$432 will be collected in FY 21-22 for the federal share of the expense for promulgation of this proposed rule and the final rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO SMALL BUSINESSES, DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This proposed rule continues the provisions of the October 1, 2021 Emergency Rule which, in compliance with Act 119 and House Concurrent Resolution 127 of the 2021 Regular Session of the Louisiana Legislature, amended the provisions governing reimbursement in the Residential Options Waiver (ROW) in order to establish a wage floor for direct support workers along with audit procedures, sanctions and penalties. This proposed rule will be beneficial to ROW participants by assuring that providers are adequately staffed with direct support workers. Small businesses and providers will benefit from implementation of this proposed rule as it is anticipated that it will increase payments to providers of ROW services by approximately \$3,538,539 for FY 21-22, \$5,307,810 for FY 22-23, and \$5,573,200 for FY 23-24.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This rule has no known effect on competition and employment.

Patrick Gillies
Medicaid Executive Director
2110#053

Alan M. Boxberger
Deputy Fiscal Officer
Legislative Fiscal Office

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

Home and Community-Based Services Waivers
Supports Waiver—Direct Support Worker Wages
(LAC 50:XXI.6101)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.6101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

Act 119 of the 2021 Regular Session of the Louisiana Legislature provided additional funding to the Department of Health for providers of home and community-based services waivers to increase the wages of direct support workers and personal care attendants, pursuant to rulemaking and audit. House Concurrent Resolution 127 (HCR 127) of the 2021 Regular Session of the Louisiana Legislature directed the department to make adjustments in the state Medicaid budget for the purpose of allocating funding more equitably to providers throughout the disabilities services system. In compliance with Act 119 and HCR 127, the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities promulgated an Emergency Rule which amended the provisions governing reimbursement in the Supports Waiver in order to establish a wage floor for direct support workers along with audit procedures, sanctions and penalties (*Louisiana Register*, Volume 47, Number 10). This proposed Rule is being promulgated to continue the provisions of the October 1, 2021 Emergency Rule.

Title 50
PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XXI. Home and Community-Based Services
Waivers
Subpart 5. Supports Waiver
Chapter 61. Reimbursement
§6101. Unit of Reimbursement

- A. - G. ...
- H. Direct Support Worker Wages
 1. Establishment of Direct Support Worker Wage Floor for Medicaid Home and Community-Based Services for Intellectual and Developmental Disabilities
 - a. Effective October 1, 2021, providers of Medicaid home and community-based waiver services operated through the Office for Citizens with Developmental Disabilities employing defined direct support workers will receive the equivalent of a \$2.50 per hour rate increase.
 - b. Effective October 1, 2021, this increase or its equivalent will be applied to all service units provided by direct support workers with an effective date of service for the identified home and community-based waiver services provided beginning October 1, 2021.

c. The minimum hourly wage floor paid to direct support workers shall be \$9 per hour.

d. All providers of services affected by this rate increase shall be subject to a direct support worker wage floor of \$9 per hour. This wage floor is effective for all affected direct support workers of any work status (full-time, part-time, etc.)

e. The Department of Health reserves the right to adjust the direct support worker wage floor as needed through appropriate rulemaking promulgation consistent with the Louisiana Administrative Procedure Act.

2. Establishment of Audit Procedures for Direct Support Worker Wage Floor

a. The wage enhancement payments reimbursed to providers shall be subject to audit by the department.

b. Providers shall provide to the department or its representative all requested documentation to verify compliance with the direct support worker wage floor.

c. This documentation may include, but not be limited to, payroll records, wage and salary sheets, check stubs, etc.

d. Providers shall produce the requested documentation upon request and within the time frame provided by the department.

e. Noncompliance or failure to demonstrate that the wage enhancement was paid directly to direct support workers may result in:

- i. sanctions; or
- ii. disenrollment in the Medicaid program.

3. Sanctions

a. The provider will be subject to sanctions or penalties for failure to comply with this Rule or with requests issued by LDH pursuant to this Rule. The severity of such action will depend on:

- i. failure to pay I/DD HCBS direct support workers the floor minimum of \$9 per hour;
- ii. the number of employees identified as having been paid less than the \$9 per hour floor;
- iii. the persistent failure to pay the floor minimum of \$9 per hour; or
- iv. failure to provide LDH with any requested documentation or information related to or for the purpose of verifying compliance with this rule.

4. New Opportunities Waiver Fund

a. The department shall deposit civil fines and the interest collected from providers into the New Opportunities Waiver Fund.

I. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), amended LR 34:662 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:2281 (October 2010), LR 37:2158 (July 2011), LR 39:1050 (April 2013), LR 40:82 (January 2014), LR 40:2587 (December 2014), LR 42:900 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 48:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972, since the wage floor will aid direct service workers who are providing care and support to families.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 as it assures access to direct support worker services for Supports Waiver recipients.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have a positive impact on small businesses, as described in R.S. 49:965.2 et seq., as it will increase rates paid to providers for direct support worker services.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may enhance the provider's ability to provide the same level of service as described in HCR 170 since this proposed Rule permits Medicaid reimbursement at a higher rate for the services of direct support workers.

Public Comments

Interested persons may submit written comments to Patrick Gillies, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Mr. Gillies is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on November 29, 2021.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on November 9, 2021. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on November 29, 2021 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public

hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after November 9, 2021. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Home and Community-Based
Services Waivers—Supports Waiver
Direct Support Worker Wages**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is estimated that the implementation of this proposed rule will result in increased costs of approximately \$109,936 for FY 21-22, \$180,494 for FY 22-23, and \$180,494 for FY 23-24. It is anticipated that \$864 (\$432 SGF and \$432 FED) will be expended in FY 21-22 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by \$268,136 for FY 21-22, \$385,318 for FY 22-23, and \$385,318 for FY 23-24. It is anticipated that \$432 will be expended in FY 21-22 for the federal administrative expenses for promulgation of the proposed rule and final rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
SMALL BUSINESSES, DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

This proposed rule continues the provisions of the October 1, 2021 Emergency Rule which, in compliance with Act 119 and House Concurrent Resolution 127 of the 2021 Regular Session of the Louisiana Legislature, amended the provisions governing reimbursement in the Supports Waiver in order to establish a wage floor for direct support workers along with audit procedures, sanctions and penalties. This proposed rule will be beneficial to Supports Waiver participants by assuring that providers are adequately staffed with direct support workers. Small businesses and providers will benefit from the implementation of this proposed rule as it is anticipated that it will increase payments to providers of Supports Waiver services by approximately \$377,208 for FY 21-22, \$565,812 for FY 22-23, and \$565,812 for FY 23-24.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This rule has no known effect on competition and employment.

Patrick Gillies
Medicaid Executive Director
2110#054

Alan M. Boxberger
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Gaming Control Board**

Sports Wagering
(LAC 42:III.102, 104, 105, 107,
120, 2737 and VI.Chapters 1-13)

The Department of Public Safety and Corrections, Louisiana Gaming Control Board, in accordance with R.S. 27:15, R.S. 27:24, and the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., hereby gives notice that it intends to adopt Part VI of Title 42 of the Administrative Code, amend §§102, 104, 105, 107, and 120 of Chapter 1 of Part III of Title 42 of the Administrative Code, and amend §2737 of Chapter 27 of Part III of Title 42 of the Administrative Code. These rule changes clarify practices already required to take place in the industry and create uniformity with the amended statutes and the newly enacted statutes as a result of Acts 80, 435, and 440 of the 2021 Legislative Session and Act 215 of the 2020 Regular Legislative Session. The rule change allows for the conducting, application, licensing, permitting, enforcement, collection of fees and taxes, and regulation of sports wagering.

Title 42

LOUISIANA GAMING

Part III. Gaming Control Board

Chapter 1. General Provisions

**§102. Issuance and Renewal of Licenses by the
Department**

A. The department is authorized to issue to qualified applicants, non-key gaming employee permits and non-gaming vendors' licenses, and to renew licenses for the operation of video draw poker devices at facilities with no more than three video draw poker devices at their licensed establishment. The department is authorized to determine the applicants' qualifications in accordance with law, including but not limited to the provisions of the Louisiana Riverboat Economic Development and Gaming Control Act, R.S. 27:41 et seq., the Video Draw Poker Devices Control Law, R.S. 27:401 et seq., the Louisiana Economic Development and Gaming Corporation Act, R.S. 27:201 et seq., or the Louisiana Fantasy Sports Contests Act, R.S. 27:301, the Louisiana Pari-Mutuel Live Racing Facility Economic Redevelopment and Gaming Control Act, R.S. 27:351 et seq., the Louisiana Sports Wagering Act, R.S. 27:601, and rules promulgated in accordance therewith, when such provisions and rules are not in conflict with any provisions of the Louisiana Gaming Control Law, 1996 Acts, First Extraordinary Session, Number 7, enacting R.S. 27:1 et seq., and rules promulgated in accordance therewith.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:1140 (November 1996), amended LR 47:256 (February 2021), amended LR 47:

§104. Delegation to Chairman

A. - A.3. ...

4. issue a riverboat gaming operator license, a sports wagering license, a sports wagering platform provider, or a fantasy sports contest operator license, provided that the chairman may determine that conditions imposed on a conditionally licensed riverboat gaming operator, sports wagering licensee, sports wagering platform provider, or licensed fantasy sports contest operator have been met;

5. ...

6. approve transfers of ownership interests in a riverboat gaming operator licensee, the casino gaming operator, a sports wagering licensee, sports wagering platform providers, a fantasy sports operator or a qualified video poker truck stop facility.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Gaming Control Board, LR 22:1140 (November 1996), amended LR 25:80 (January 1999), amended LR 47:256 (February 2021), amended LR 47:

§105. Civil Penalties

A. The department is authorized to take enforcement action by imposing civil penalties against any entity that has a license, permit or casino contract, for violation of the provisions of the Louisiana Riverboat Economic Development and Gaming Control Act, R.S. 27:41 et seq., the Video Draw Poker Devices Control Law, R.S. 27:401 et seq., the Louisiana Economic Development and Gaming Corporation Act, R.S. 27:201 et seq., the Louisiana Fantasy Sports Contests Act, R.S. 27:301, the Louisiana Pari-Mutuel Live Racing Facility Economic Redevelopment and Gaming Control Act, R.S. 27:351 et seq., the Louisiana Sports Wagering Act, R.S. 27:601, or rules promulgated in accordance therewith, provided that such provisions and rules are not in conflict with any provisions of the Louisiana Gaming Control Law, 1996 Acts, First Extraordinary Session, Number 7, enacting R.S. 27:1 et seq., and rules promulgated in accordance therewith.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:1138 (November 1996), amended LR 47:256 (February 2021), amended LR 47:

§107. Standards of Conduct and Ethical Rules

A.1. - B.3. ...

C. As used in this Part, and for the purposes of R.S. 27:13, *Licensee* or *Permittee* shall mean any person who holds a license or permit issued pursuant to the provisions of the Louisiana Riverboat Economic Development and Gaming Control Act, R.S. 27:41 et seq., the Louisiana Economic Development and Gaming Corporation Act, R.S. 27:201 et seq., the Video Draw Poker Device Control Law, R.S. 27:401 et seq., the Louisiana Fantasy Sports Contests Act, R.S. 27:301, the Louisiana Pari-Mutuel Live Racing Facility Economic Redevelopment and Gaming Control Act, R.S. 27:351 et seq., the Louisiana Sports Wagering Act, R.S. 27:601, or the Louisiana Gaming Control Law, R.S. 27:1 et seq., specifically including, but not limited to, manufacturers, distributors, suppliers, vendors, device

owners, service entities, persons furnishing services or goods material and integral to the operation of a riverboat, gaming employees, key employees, non-key employees, equity owners, contractors, and all establishments regardless of the number of gaming devices in operation at the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:1139 (November 1996), amended LR 47:256 (February 2021), amended LR 47:

§120. Application and Reporting Forms

A. - A.7.xix. ...

8. Sports Wagering

a. Sports Wagering License Application, DPSSP 6760, including, but not limited to:

- i. instructions;
- ii. application for sports wagering license;
- iii. applicant information;
- iv. ownership interests and organizational information;
- v. general information;
- vi. records/books information;
- vii. vendor information;
- viii. gaming information (miscellaneous);
- ix. general applicant information;
- x. financial disclosure information;
- xi. affidavit of full disclosure;
- xii. applicant's request to release information;
- xiii. verification;
- xiv. release of all claims;
- xv. business tax information authorization request;
- xvi. federal business, trusts, estates, etc., consent to disclosure of tax information;
- xvii. Federal Internal Revenue Service gaming tax clearance certificate;
- xviii. state business, trusts, estates, etc., consent to disclosure of tax information;
- xix. Louisiana Department of Revenue and Taxation tax clearance certificate;
- xx. affidavit for temporary certificate of authority;
- xxi. business affidavit;
- xxii. individual affidavit.

b. Sports Wagering Platform Provider Permit Application, DPSSP 6761 including, but not limited to:

- i. instructions;
- ii. application for sports wagering platform provider permit;
- iii. applicant information;
- iv. ownership interests and organizational information;
- v. general information;
- vi. records/books information;
- vii. vendor information;
- viii. gaming information (miscellaneous);
- ix. general applicant information;
- x. financial disclosure information;
- xi. affidavit of full disclosure;
- xii. applicant's request to release information;
- xiii. verification;
- xiv. release of all claims;
- xv. business tax information authorization request;

- xvi. federal business, trusts, estates, etc., consent to disclosure of tax information;
- xvii. Federal Internal Revenue Service gaming tax clearance certificate;
- xviii. state business, trusts, estates, etc., consent to disclosure of tax information;
- xix. Louisiana Department of Revenue and taxation tax clearance certificate;
- xx. affidavit for temporary certificate of authority;
- xxi. business affidavit;
- xxii. Individual Affidavit.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR. 26:340 (February 2000), amended LR 40:1379 (July 2014), LR 41:2176 (October 2015), LR 42:575 (April 2016), amended LR 47:256 (February 2021), amended LR 47:

Chapter 27. Accounting Regulations

§2737. Casino Gaming Payment Interception

A. The Department of Children and Family Services (DCFS) shall provide real-time or immediate electronic access to a database containing current information for persons having child support arrearages or overpayments. This access shall be available to the entities licensed or permitted under chapters 1, 4, 5, 7, or 10 of title 27 of the *Revised Statutes*.

1. Upon the availability of a single-point inquiry system, which allows for searches of one or more real-time databases containing debt information to entities licensed or permitted under chapters 1, 4, 5, 7, or 10 of title 27 of the *Revised Statutes* the requirements of this Section will apply to that system. Debts owed to DCFS maintain priority over debts from this system in accordance with R.S. 47:1676(D)(4)(d).

B.1. Prior to issuing payment of winnings (either cash [including any sports wagering winnings] or a second or later progressive slot machine annuity payment) in an amount requiring the filing of a W-2G or substantially equivalent form, the payor shall access the DCFS database and/or any other system implemented in accordance with Subsection A of this Section to determine if the winning patron is recorded as owing overdue child support or receiving child support overpayments, or owing other debts to the state.

2. If the patron is recorded as owing a debt in the system(s), the payor may deduct up to \$35 as an administrative fee and shall then intercept the amount noted from the patron's winnings. Any amount remaining following the deduction of the administrative fee, intercept amount, and any other deductions required by law shall then be paid to the winning patron.

3. If the winning patron's information is not recorded in the database, a licensee shall maintain a record of the negative search results for each payment made to a cash prize winner by attaching a print out of the negative results or similar "No Record Found" page generated by the database to the jackpot payout slip. A generated log of all searches made may be printed and maintained in the licensee's accounting records in lieu of attaching the negative results record to each jackpot payout slip.

4. If the winning patron's information is not recorded in the database(s), a permittee who issues a second or later progressive slot annuity payment shall maintain a copy of the negative results or other "No Record Found" page generated by the database for each payment made to a progressive slot jackpot annuitant.

5. If the winning patron's information is not recorded in the database(s), a sports wagering operator shall maintain a record of the negative search results for each payment made to a sports wagering winner via electronic record or by attaching a printout of the negative results or similar "No Record Found" page generated by the database to the winning ticket or some other division approved report listing all winners issued a W2-G. A generated log of all searches made may be created and maintained in the sports wagering operator's accounting records in lieu of attaching the negative results record to each ticket. If available, the log shall be retained with the division approved report of winners issued a W2-G.

C.1. - 2. ...

D.1. Licensee's and sports wagering operator's internal controls shall include, but not be limited to, the following:

a. - b. ...

c. procedures designed to prevent employees from willfully failing to withhold intercept payments identified in one or more state systems providing access to the casino or sports book operation or platform;

d. - k. ...

1. procedures for attaching or maintaining a copy of the winning patron's interception receipt to the jackpot slip, ticket, or division approved W2-G report maintained by the cashier or sports wagering operator;

m. procedures for attaching the documentation required by Subsection F of this Section to the jackpot slip, ticket or division approved W2-G report in the event the database is inaccessible;

D.1.n. - E. ...

F. Any licensee or permittee searching the database or withholding money in accordance with R.S. 27:24(A), R.S. 47:1676(D)(4), and this Section, shall submit a monthly report to the division by the twentieth day of the month detailing the total number of searches of the databases, the number of matches found, the amount of winnings withheld, the amount of administrative fees retained for the preceding month, and a breakdown of the amount withheld for each database.

G.1. In the event the database is off-line when a search is made, a licensee or sports wagering operator shall not be responsible for intercepting cash winnings provided it prints a copy of the screen notification that the system is inaccessible, records the name and prize amount for the winning patron, and timely notifies the appropriate database contact for each database down, of the error to ensure the technical difficulty is not with the licensee or sports wagering operator. The unavailability of the database shall not affect interception requirements for second or later progressive slot machine annuity payments.

2. Licensees and sports wagering operators may notify the appropriate database operator that the database is either off-line or experiencing other technical difficulties by electronic mail sent to an address provided by the appropriate database operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 37:1415 (May 2011), amended LR 41:1494 (August 2015), amended LR 47:

Part VI. Sports Wagering

Chapter 1. General Provisions

§101. Statement of Policy

A. The rules contained herein are promulgated for the purpose of facilitating implementation of the sports wagering act referred to as the Louisiana Sports Wagering Act, R.S. 27:601 et seq., to achieve the effective regulation of sports wagering, and to maintain the health, welfare, and safety of the public. These considerations shall control the application and interpretation of the rules. Any subsequent restatement, repeal, or amendment of these regulations shall be in accordance with the aforementioned considerations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§103. Definitions

A. The provisions of the Act relating to definitions, words and terms are hereby incorporated by reference and made a part hereof and will therefore apply and govern the interpretation of these regulations, unless the context otherwise requires or unless specifically redefined in a particular Section. Any word or term not defined in these regulations shall have the same meaning ascribed to it in the Act. Any word not defined by the Act or these regulations shall be construed in accordance with its plain and ordinary meaning.

B. As used in this Chapter, the following words and terms shall have the following meanings:

Act—the provisions of the Louisiana Gaming Control Law, R.S. 27:1 et seq. and all provisions of the Louisiana Sports Wagering Act, R.S. 27:601 et seq.

Applicant—the same meaning as the term has in R.S. 27:602.

Application—the same meaning as the term has in R.S. 27:602.

Associated Persons—any person required by the Act or these regulations including, but not limited to, R.S. 27:28 and Section 2107 of Part III of this Title to submit to and meet suitability and any persons the board or division determines needs to submit to and meet suitability on the license including, but not limited to: directors; officers; and managers.

Board—the same meaning as that term in R.S. 27:11.

Business Year—the same meaning as the term has in Section 1701 of Part III of this Title.

Canceled Wager—a sports wager canceled by the operator due to an issue preventing the completion of the event or causing the subject of the bet to cease to exist.

Chairman—the chairman of the board.

Collegiate Sport or Athletic Event—a sport or athletic event offered or sponsored by or played in connection with a public or private institution that offers educational services beyond the secondary level.

Confidential Information—information related to the play of a sports wagering by players that is obtained as a result of or by virtue of a person's employment.

Division—the same meaning as the term has in R.S. 27:3.

Economic Interest—any interest in a licensee or permittee from which a person receives or is entitled to receive, by agreement or otherwise, a profit, gain, thing of value, loss, credit, security interest, ownership interest or other benefit. Economic interest includes voting shares of stock or otherwise exercising control of the date to day operations. Economic interest does not include a debt unless upon review of the instrument, contract, or other evidence of indebtedness, the board or division determines a finding of suitability is required based upon the economic relationship with the licensee or permittee.

Financial Statements or Financial Records—the same meaning as the term has in Section 1701 of Part III of this Title.

Gaming Employee—the same meaning as the term has in Section 1701 of Part III of this Title.

Gaming Employee Permit or Employee Permit—the same meaning as the term has in Section 1701 of Part III of this Title.

Gaming Equipment—the same meaning as the term has in Section 1701 of Part III of this Title, plus any equipment or devices that the board or division finds or determines to be used or expended in sports wagering operations or activities.

Gaming Supplier—the same meaning as the term has in R.S. 27:3.

Gaming Supplier Permit—the same meaning as the term has in Section 1701 of Part III of this Title.

Gaming Supplies—the same meaning as the term has in Section 1701 of Part III of this Title, plus services provided to the licensee or permittee that the board or division finds or determines to be used or expended in sports wagering operations or activities.

Geofence or Geofencing—a virtual geographic boundary defined by global positioning system (GPS) or radio-frequency identification (RFID) or other technology that enables software to trigger a response when a mobile device enters or leaves a particular area.

Geolocation—the process or technique of identifying the geographical location of a person or device by means of digital information processed by digital means.

In-Game Wagering—a sports wager placed on the outcome of a sports event after the sports event has started and can continue during the course of live play of the sports event.

In-Play Bet or Live Bet—a sports wager placed after the sports event has started on some specific action during the game that does not include the final outcome of the event.

Inactive Account—a sports wagering account that has not been logged into or has had no activity for a period of three years.

Independent Integrity Monitoring Provider—an independent individual or entity permitted as a sports wagering service provider and approved by the board to receive reports of unusual wagering activity from an operator for the purpose of assisting in identifying suspicious wagering activity.

Key Gaming Employee—the same meaning as that term in Section 1701 of Part III of this Title.

Layoff Bet—a sports wager placed by an operator with another operator for the purpose of offsetting sports wagers made by players pursuant to the Act.

Non-Gaming Supplier or Supplier of Goods or Services Other than Gaming Devices or Gaming Equipment—the same meaning as the term has in Section 1701 of Part III of this Title.

Non-Gaming Supplier Permit—the same meaning as the term has in Section 1701 of Part III of this Title.

Non-Key Gaming Employee—the same meaning as the term has in Section 1701 of Part III of this Title.

Non-Key Gaming Employee Permit—the same meaning as the term has in Section 1701 of Part III of this Title.

Parlay Bet—a sports wager that involves two or more sports wagers combined into one wager.

Prohibited Parish—a parish in which, at the election held pursuant to R.S. 18:1300.24, a majority of the qualified electors in the parish voting on the proposition to authorize sports wagering activities and operations in the parish voted against the proposition.

Prohibited Player—a person who is prohibited from placing a sports wager for reasons including, but not limited to: prohibited by R.S. 27:608; is under the age of 21; has self-restricted or self-excluded from the platform or operator or licensee; is employed by a sports wagering licensee or permittee; or is excluded or prohibited for any other reason.

Prohibited Sports Event—a sports event prohibited by R.S. 27:602 or by the board.

Promotional Play—non-cashable vouchers, promotional chips, coupons, electronic credits, electronics promotions, scrips, or any other cash equivalent that is provided to the patron by the operator or licensee used for sports wagering.

Proposition Bet—a sports wager made regarding the occurrence or non-occurrence during a sports event of an event that does not directly affect the final outcome of the sports event.

Segregated Account—a financial account that segregates the funds of players such that the operator's operational funds may not be commingled.

Sports Governing Body—an organization that performs a regulatory or sanctioning function over the conduct of a sports event as recognized by the board (e.g. NFL, NBA, NCAA, Olympic Committee).

Sports Wagering Lounge or Sports Book Lounge—an approved area on the premises of a sports wagering licensee where it offers wagering on sports events.

Sports Wagering Ticket or Ticket—a printed record issued or an electronic record maintained by the sports wagering platform that evidence a sports wager.

Spread—the predicted scoring differential between two persons or teams engaged in a sports event.

Straight Bet—a sports wager on a single game or single sports event that will be determined by a point spread, money line, or total score.

Suspicious Wagering Activity—unusual betting activity that cannot be explained and is indicative of match fixing, the manipulation of a sports event, misuse of inside information, money laundering, or other prohibited activity.

Unusual Wagering Activity—abnormal sports wagering activity exhibited by players and deemed by an operator as a potential indicator of suspicious wagering activity. Unusual wagering activity may include the size of a player's sports

wager or increased sports wagering volume on a particular event or sports wager type.

Voided Wager—a sports wager voided by an employee of the licensee or operator and approved by a supervisor or higher pursuant to the internal controls or house rules.

Voucher—a printed sports wagering instrument, or digital representation thereof, used in a cashless wagering system that has a fixed dollar wagering value and is redeemable for cash or cash equivalents approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§105. Gaming Control Board; Duties and Powers

A. The board shall perform the duties and functions as authorized by the provisions of these regulations and the regulatory authority with respect to the regulation of sports wagering as provided by R.S. 27:1 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§107. Construction of Regulations

A. Severability

1. Nothing contained in these regulations shall be so construed as to conflict with any provision of the Act or any other applicable statute. If any regulation is held invalid by a final order of a court of competent jurisdiction at the state or federal level, such provision shall be deemed severed and the court's finding shall not be construed to invalidate any other regulation.

B. Captions, Pronouns, and Gender

1. Captions appearing at the beginning of regulations are descriptive only, are for convenient reference to the regulations and in no way define, limit or describe the scope, intent or effect of the regulation. Masculine or feminine pronouns or neuter gender may be used interchangeably and the plural shall be substituted for the singular form and vice versa, in any place or places in the regulations where the context requires such substitution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

Chapter 3. Licensing

§301. Licenses, General

A. No person, business, or legal entity shall operate a sports book without first being licensed by the board.

B. Sports wagering licenses shall be applied for, issued, and regulated according to the Act, including, but not limited to R.S. 27:1 et seq., Part III of this Title, and this Part.

C. A license shall be issued in the name of the person responsible for a sports book.

D. Any license issued by the board or division is deemed to be a revocable privilege, and no person holding such a license is deemed to have acquired any vested rights therein.

E. All licenses shall be surrendered to the board or division upon their expiration or revocation at which time they will be destroyed unless needed for a pending investigation.

F. Licenses are not transferable or assignable. If the status of the sports wagering licensee should change such

that the person no longer needs or is entitled to the license, then the license shall be canceled and any tangible item which evinces such a license shall be surrendered to the board or division within five days of the change of status. Any license surrendered shall be marked canceled or destroyed.

G. Application Process and Notification

1. Bid Process after Initial Licensing Period if more Applicants than Licenses Available

a. Consideration for licensure shall be in accordance with R.S. 27:604.

b. No application shall be accepted after the close of the applicable application period.

c. Applicants and associated persons who are required to submit to suitability shall submit fingerprints and all required forms within 30 days after the close of the application period. An applicant may request an extension of up to 30 days for good cause shown. If all required forms and fingerprints are not submitted timely, the applicant shall be deemed ineligible and disqualified from that application period.

d. Applicants shall be notified in writing if they are deemed eligible or ineligible.

e. After every applicant that submitted during the applicable application period has been either deemed eligible or ineligible, the eligible applicants shall be evaluated and the board shall consider the following factors:

i. greatest potential for revenue generation for the state;

ii. the character, reputation, experience, and financial integrity of the applicant and its associated persons who are required to submit to suitability;

iii. whether the applicant has adequate capitalization to establish and maintain a sports wagering operation for the duration of the license;

iv. the design of the sports book lounge; and

v. any other factor relevant to the security and integrity of the sports wagering industry in Louisiana.

f. The division shall conduct an investigation of the applicant and its associated persons to determine whether the applicant and its associated persons are suitable for licensure under the Act and these regulations.

g. Available licenses will be awarded at a public meeting of the board.

2. Notification of Available License after Initial Issuance

a. Notification required by R.S. 27:604(B)(3)(a) to those entities listed in R.S. 27:604(B)(1) shall be satisfied by the board upon notifying the general manager(s) of said licensee(s) in writing.

b. Notification required by R.S. 27:604(B)(3) to those entities listed in R.S. 27:604(B)(2)(a) shall be satisfied by the board upon posting a statement about the availability of a license and the time period in which to apply on the board's website and in a public meeting of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§303. Permits, General

A. Permits for gaming suppliers, non-gaming suppliers, key gaming employees, and non-key gaming employees shall be applied for, issued, and regulated according to the

Act, including, but not limited to R.S. 27:1 et seq., Part III of this Title, and this Part.

B. Permits are not transferable or assignable. If the status of the sports wagering permittee should change such that the person no longer needs or is entitled to the permit, then the permit shall be canceled and any tangible item which evinces such a permit shall be surrendered to the board or division within five days of the change of status. Any permit surrendered shall be marked canceled or destroyed.

C. Any permit issued by the board or division is deemed to be a revocable privilege, and no person holding such a permit is deemed to have acquired any vested rights therein.

D. All permits shall be surrendered to the board or division upon their expiration or revocation at which time they will be destroyed unless needed for a pending investigation.

E. Sports Wagering Platform Providers

1. An applicant for a sports wagering platform provider permit shall submit its contract to operate all or a portion of a sports book on behalf of a licensee with the application. Any such contract must be contingent upon the permitting of the entity as a sports wagering platform provider.

2. A contract between a licensee and a sports wagering platform provider shall:

a. require the sports wagering platform provider to comply with the Act, these regulations, federal and state laws, and all internal controls applicable to the sport's book; and

b. require the sports wagering platform provider comply with all requests of the board and division and grant the division access to all records, etc.

3. A sports wagering platform provider permittee shall provide the division with a readily available point of contact to ensure compliance.

F. Sports Wagering Service Providers

1. Sports wagering service provider permits shall be a type of a gaming supplier permit in accordance with R.S. 27:29.2 and the fee for such a permit shall be in accordance with R.S. 27:623.

2. Entities that must submit as a sports wagering service provider include, but are not limited to, those providing geolocation, geofencing, patron identification, risk management, player account system, and integrity monitoring services.

3. An entity shall not engage in or provide support services for the operation of a sports book on behalf of an operator in this state without a sports wagering service provider permit and a contract to provide support services.

G. Sports Wagering Distributor

1. An entity may apply for a sports wagering distributor permit if it intends to market, buy, sell, lease, service, or repair sports wagering mechanisms in this state. Any such contract must be contingent upon the permitting of the entity as a sports wagering distributor.

2. An entity shall not market, buy, sell, lease, service, or repair sports wagering mechanisms in this state without a sports wagering distributor permit.

3. A sports wagering distributor permit shall be a type of gaming supplier permit in accordance with R.S. 27:29.2 and the fee for such a permit shall be in accordance with R.S. 27:624.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§305. Transfers of Interest; Loans and Restrictions

A. Any transfer of interest in a licensee or permittee shall be governed by and in accordance with the provisions of Chapter 25 of Part III of this Title.

B. All debt transactions shall be entered into in accordance with the provisions of Chapter 25 of Part III of this Title.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§307. Applications

A. General Authority of Board or Division

1. The securing of a license, permit or approval required under the Act is a prerequisite for conducting, operating, or performing any activity regulated by the Act. Each applicant must file a complete application as prescribed by the board or division.

2. An applicant for a license or permit authorized by the Act is seeking the granting of a privilege, and the burden of proving qualification and suitability to receive the license or permit is at all times on the applicant.

3. Applicants shall demonstrate experience, reputation, competence, and financial responsibility consistent with the best interest of the Louisiana gaming industry and in compliance with the laws of this state.

4. An applicant accepts the risk of adverse public notice, embarrassment, criticism, or other action or financial loss that may result from action with respect to an application and expressly waives any claim for damages as a result thereof, except relating to willful misconduct by the board or division.

5. The filing of an application under the Act or these regulations constitutes a request for a decision upon the applicant's general suitability, character, integrity, and ability to participate or engage in or be associated with a licensee or permittee. By filing an application, the applicant specifically consents to the making of such a decision by the board or division.

6. Any false statement, including improperly notarized documents, contained in any report, disclosure, application, permit form, or any other document required by the Act or these regulations shall be a violation of these regulations and the Act.

7. Incomplete applications, including failure to pay fees may result in a delay or denial of a license.

B. Submission and Filing of Application

1. All original and renewal applications shall be submitted to the division by the United States Postal Service certified or registered mail, return receipt requested, private or commercial interstate carrier, electronic submission in accordance with Chapter 4 of Part III of this Title, hand delivery or other board-approved method of delivery.

2. Each application, including renewal applications, shall be deemed filed with the board or division when the application and fee have been received by the division, as evidenced by the date stamp on the application.

3. Renewal applications for licenses to conduct sports wagering shall be submitted to the division no later than 120 days prior to the expiration of the license.

4. Failure to timely file or submit an application may constitute grounds for delaying consideration of the application or for denial of the application or imposition of a civil penalty.

5. Entities currently licensed under R.S. 27:44, R.S. 27:205, or R.S. 27:353 who are applying for a sports wagering license must submit a sports wagering license application, upon which its application for sports wagering shall be deemed complete for the purposes of the Act. The division reserves the right to request any other submissions that it deems necessary for these entities and their associated persons after the completed application is received.

C. Contents

1. An application is not complete nor is it considered filed with the division unless it is submitted with the required fee, is signed by the applicant, and contains all required information and documentation.

2. The applicant shall notify the division in writing of all changes to any information in the application within 15 business days of the effective date of the change.

3. An application may be amended upon approval of the board or division. A request to amend an application shall be in writing. A request to amend an application may have the effect of establishing the date of such amendment as the filing date of the application with respect to the time requirements for action on the application.

4. All applicants shall disclose any violation of law or regulation from any jurisdiction.

5. Applications shall be in accordance with the board's regulations and shall include all of the following:

- a. the name of the applicant;
- b. the applicant's primary place of business;
- c. the names of all persons listed in, or required to submit to suitability pursuant to, the Act or these regulations including, but not limited to, R.S. 27:28(H)(1) and §2107 of Part III of this Title;
- d. the names of employees and persons with substantial control of the applicant;
- e. complete information and details with respect to the applicant and associated persons antecedents, habits, character, business activities, financial affairs, criminal history and business associates;
- f. audited financial statements from the three most recently completed years;
- g. company documents including, but not limited to, articles of organization, amendments, operating agreement, corporate certificates, charters and bylaws, amended & reinstated, meeting minutes, and Louisiana Secretary of State filings;
- h. for operator applicants, a certification report from a designated gaming laboratory specified by the division or board indicating the sports wagering platform is in compliance with the Act, these regulations, division technical guidelines, Gaming Laboratories International Standard 33, and internal controls;

i. if an operator applicant does not have the certification report required in Subparagraph h of this Paragraph, an applicant may submit a sports wagering

platform certification report from a jurisdiction in the United States where the applicant is currently licensed or permitted. The report must certify the platform to either the GLI 33 V1.1 standard or, at the discretion of the board, a standard deemed to be the equivalent of GLI-33 v1.1. This alternative certification report must include a list of all critical files and associated signatures and an appendix which lists the differences of any controlled items or processes required to be certified in Louisiana which were not certified in the jurisdiction in which the report was issued. Upon review of the certification report, the board will make a determination on whether to accept the certification or require additional information or documentation or testing;

(a). if an applicant submits the alternative certification report from another jurisdiction with its application, the applicant must, upon receipt, submit the certification report required in Subparagraph h of this Paragraph to the division in order to be eligible for licensing or permitting;

ii. additional information, documentation, testing, or certifications may be required by the division prior to operating the sports wagering platform or prior to licensing and permitting;

i. for sports wagering license applications, a detailed plan of design of its sports book lounge and other areas of its establishment where sports wagering mechanisms may be placed. If operating initially out of a temporary sports book lounge, the applicant shall also submit a construction schedule for its sports book lounge; and

j. such other information and details as the board or division may require in order to properly discharge its duties.

6. All applications shall contain a certification signed by a duly authorized representative of the applicant wherein the applicant certifies that:

a. the information contained therein is true and correct;

b. the applicant has read the Act and these regulations, and any other informational materials supplied by the division that pertain to sports wagering; and

c. the applicant agrees to comply with these regulations and the Act.

7. All applications shall contain an email address, a telephone number and permanent mailing address for receipt of correspondence and service of documents by the division.

8. A complete ownership chart with ownership percentage equaling 100 percent. Define all shareholders, parent companies, subsidiaries, holding companies, partnerships, and any joint ventures.

9. A corporate structure flow chart illustrating all directors, key officers, positions and title for each person listed on their ownership chart.

D. Associated Persons

1. The provisions of R.S. 27:27 [institutional investors or institutional lenders] and R.S. 27:28 [suitability standards] apply to applicants, licensees, and permittees.

2. Any person who has or controls directly or indirectly 5 percent or more ownership, income, or profit or economic interest in an entity which has or applies for a license or permit pursuant to the provisions of this Title, or who receives 5 percent or more revenue interest in the form

of a commission, finder's fee, loan repayment, or any other business expense related to the sports wagering operation, or who has the ability or capacity to exercise significant influence over a licensee, a permittee, or other person required to be found suitable pursuant to the provisions of this Title, shall meet all suitability requirements and qualifications pursuant to the provisions of this Title.

3. In determining whether a person has significant influence for purposes of this Chapter, the board or division may consider, but is not limited to the following: management and decision-making authority; operational control; financial relationship; receipt of gaming revenue or proceeds; financial indebtedness; and gaming related associations.

4. Personal history questionnaires, personal financial questionnaires, and all other required forms shall be submitted for all associated persons along with the application.

5. Submissions will be required by, but not limited to, the following:

a. if the applicant is a corporation, each officer, director, and shareholder having a 5 percent or greater ownership interest;

b. if the applicant is a limited liability company, each officer, managing member, manager and any member having a 5 percent or greater ownership interest;

c. if the applicant is a general partnership or joint venture, each individual partner and co-venturer;

d. if the applicant is a limited partnership, the general partner and each limited partner having a 5 percent or greater ownership interest;

e. if the applicant is a registered limited liability partnership pursuant to R.S. 9:3431 et seq., the managing partner and each partner having a 5 percent or greater ownership interest; and

f. if such shareholder, owner, partner, or member from Paragraphs a through e of this Subsection is a legal entity, each officer, director, manager or managing member and each person with an indirect ownership or economic interest equal to or greater than 5 percent in the applicant.

6. Submissions may be required by any person who in the opinion of the board or division:

a. has significant influence over an applicant, licensee, or permittee;

b. receives or may receive any share or portion of the revenues associated with or generated from sports wagering or generated by gaming activities subject to the limitations provided in R.S. 27:28(H)(2)(b);

c. receives compensation or remuneration as an employee of an applicant, licensee or permittee in exchange for any service or thing provided to the applicant, sports wagering licensee or permittee; or

d. has any contractual agreement with applicant, licensee or permittee.

7. Failure to submit the documents required by this Section may constitute grounds for delaying consideration of the application or for denying the application.

E. Tax Clearances

1. The applicant and all persons required to submit to suitability pursuant to the Act or this Title shall provide tax clearances from the appropriate state agencies prior to the granting of a license or permit.

2. Failure to provide the tax clearances required by Subsection A of this Section may constitute grounds for delaying consideration or for denial of the application.

F. Fingerprinting

1. An initial application is not complete unless all persons required by the division have submitted to fingerprinting by or at the direction of the division.

2. Failure to submit to fingerprinting may constitute grounds for delaying consideration of the application or for denial of the application.

G. Truth of Information

1. All information included in an application shall be true, correct and a complete, accurate account of the information requested to the best of the applicant's knowledge as of the date submitted.

2. No applicant shall make any untrue statement of material fact in any application, form, statement, report or other document filed with the board or division.

3. An applicant shall not omit any material fact in any application, form, statement, report or other document filed with the board or division. The applicant shall provide all information that is necessary to make the information supplied in an application complete and accurate.

4. No applicant shall make any untrue statement in any written or verbal communication with the board or division.

H. Additional Information

1. All applicants shall provide all additional information requested by the division. If applicants fail to provide all additional information requested by the division, the application shall be considered incomplete.

2. Upon request of the board or division for additional information, the applicant shall provide the requested information within 10 days of receipt of written notice of the request or within such additional time as allowed by the board or division.

I. Application, Fees

1. All costs associated with conducting an investigation for suitability shall be borne by the applicant, licensee or permittee or the person who is the subject of the investigation.

2. An applicant shall pay all fees and costs associated with the application and investigation of the application as may be determined by the board.

3. Application fees for a sports wagering license or permit shall be charged and paid in accordance with the Act.

4. All costs associated with the application for and the investigation, granting, or renewal of licenses and enforcement of this Part shall be paid by the applicant.

J. Renewal Applications

1. The renewal application shall contain a statement made, under oath, by the applicant that any and all changes in the history and financial information provided in the previous application have been disclosed. This statement shall also be provided by each officer or director, each person with a 5 percent or greater economic interest in the applicant, and any person who, in the opinion of the board or division, has the ability to exercise significant influence over the activities of the applicant.

2. Renewal applications shall further contain:

a. a list of all civil lawsuits to which the applicant is a party instituted since the previous application;

b. a current list of all stockholders of the applicant, if the applicant is a corporation, or a list of all partners, if applicant is a partnership or limited partnership, or a list of all members if the applicant is a limited liability company, or a list of persons with a 5 percent or greater economic interest in the applicant. Applicants who are publicly traded corporations need not provide this information for any shareholder owning less than 5 percent of the applicant unless requested by the board or division;

c. a list of all administrative actions instituted or pending in any other jurisdiction against or involving the applicant, parent company of the applicant, or an affiliate related to gaming operations, sports wagering operations, fantasy sports operations, or alleged criminal actions or activities;

d. prior year's corporate or company tax return of the applicant;

e. a list of all charitable and political contributions made by the applicant during the last three years, indicating the recipient and amount contributed.

f. a complete ownership chart with ownership percentage equaling 100 percent. Define all shareholders, parent companies, subsidiaries, holding companies, partnerships, and any joint ventures; and

g. a corporate structure flow chart illustrating all directors, key officers, positions and title for each entity(s) listed on their ownership chart.

K. Withdrawal of Application

1. A request to withdraw an application shall be made in writing to the chairman or division at any time prior to issuance of the determination with respect to the application. The board or division may deny or grant the request.

2. If a request to withdraw an application is granted, any temporary certificate of authority issued to the applicant shall be automatically rescinded without notice or further action of the board or division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§309. Suitability and Requirements

A. An applicant and its associated persons shall be required to submit to an investigation to determine suitability, and shall meet and maintain the suitability standards provided for the Act or these regulations, including, but not limited to, R.S. 27:28 and Section 2901 of Part III of this Title.

B. The board or division shall not issue a license, permit or finding of suitability to any person who fails to prove by clear and convincing evidence that he is suitable and qualified in accordance with the provisions of the Act and these regulations.

C. The applicant must prove by clear and convincing evidence that it has the competence and experience to conduct sports wagering, by demonstrating through training, education, business experience, or a combination thereof, the adequate business probity, competence, experience, and capability to conduct sports wagering.

D. The applicant shall demonstrate that the proposed financing of the applicant and business operation is adequate for the nature of operating sports wagering and is from a source suitable and acceptable to the board. Any lender or other source of money or credit that the board finds does not meet the standards set forth in this Subsection may be deemed unsuitable.

E. An application for a license to conduct sports wagering constitutes a request for a suitability determination, as described in R.S. 27:28, of the general character, honesty, integrity, and ability of any person associated with the applicant to participate or engage in, or be associated with sports wagering.

F. Before obtaining a license to offer sports wagering in this state, an applicant shall:

1. be a person domiciled in Louisiana or a domestic business entity with a certificate of existence from the secretary of state and in good standing or a foreign corporation with a certificate of authority to transact business in this state from the secretary of state and in good standing;

2. obtain and maintain all required local licenses and permits; and

3. provide the board with financial statements indicating any sports wagering revenues or gaming revenues for the previous three years.

G. An applicant, licensee, permittee, and all associated persons shall remain current in filing all applicable tax returns and in the payment of all taxes, interest and penalties owed to the state of Louisiana and the Internal Revenue Service, excluding items under formal appeal in accordance with applicable statutes and regulations, and items for which the Department of Revenue and Taxation or the Internal Revenue Service has accepted a payment schedule for taxes owed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§311. Continuing Suitability, Duty to Report

A. Suitability is an ongoing process. An applicant, licensee or permittee, or person required to submit to suitability by the Act or these regulations has a continuing duty to inform the board and division of any action which could reasonably be believed to constitute a violation of the Act or these regulations. This obligation to report is to be construed in the broadest possible manner; any question that exists regarding whether a particular action or circumstance constitutes a violation shall be decided in favor of reporting. The board and division shall be notified no later than 15 days from the date the applicant, licensee or permittee, or person knew or should have known of the possible violation. No person who so informs the board and division shall be discriminated against by an applicant, licensee or permittee because of supplying such information.

B. An applicant, licensee or permittee, or person required to submit to suitability by the Act or these regulations shall also have a continuing duty to inform the board and division of material changes in their affiliations, businesses, financial standing, operations, ownership relationships, corporate management personnel, officers or directors within 15 days of the change. However, in the case of a publicly traded company, this obligation shall be

satisfied if such company files with the board and division copies of all form 10Ks, 10Qs, and 8Ks filed with the Securities and Exchange Commission within 15 days of the filing with the Securities and Exchange Commission.

C. An applicant, licensee or permittee, or person required to submit to suitability by the Act or these regulations shall also have a continuing duty to inform the board and division of all administrative actions instituted or pending in any other jurisdiction against or involving the applicant, licensee, permittee, or the parent corporation or affiliate of the applicant, licensee or permittee, within 15 days of receipt of notice of the administrative actions instituted or pending in any other jurisdiction.

D. Failure to report or provide notice required by this Section may constitute grounds for delaying consideration of the application or denial of the application, revocation, suspension, administrative action, or the imposition of a civil penalty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§313. Other Considerations for Licensing

A. The board may consider the following criteria when deciding whether to issue a license or a finding of suitability to conduct sports wagering or whether to continue licensing or finding a person suitable to participate in sports wagering. The various criteria set forth may not have the same importance in each instance. Other factors may present themselves in the consideration of licensing and a finding of suitability. The following criteria are not listed in order of priority:

1. applicant or licensee or permittee and its operation is properly financed;

2. adequate security. The board may consider whether the sports wagering platform is designed and secured in a manner that provides adequate security for all aspects of its operation and for players;

3. character and reputation. The board may consider the character and reputation of all persons identified with the ownership and operation of the applicant or licensee or permittee and their capability to comply with regulations and the Act; and

4. miscellaneous. The board may consider such other factors as may arise in the circumstances presented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§315. Surrender of a License

A. A license may not be surrendered without the prior approval of the board.

B. If a request to surrender a license is approved, the person is immediately eligible to apply for a license, unless the board or division has placed a condition that the applicant shall have to fulfill in order to reapply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§317. Temporary Certificate of Authority

A. The board may issue a temporary certificate of authority to an applicant for a sports wagering license, a

sports wagering platform provider permit, or a sports wagering service provider permit pursuant to the Act and these regulations, if all of the following conditions are met:

1. the applicant has filed a complete application and all required fees to the board;

2. the applicant has substantially demonstrated to the satisfaction of the board that the applicant meets the requirements of the Act, these regulations, the board's rules including emergency rules, and the board's or division's orders;

3. for applicants for a sports wagering license, the applicant must be issued a Louisiana gaming license that is in good standing;

4. for applicants for a sports wagering platform provider or sports wagering service provider permit, the applicant must be issued a gaming license or permit for similar activity in Louisiana or another state of the United States of America and that license or permit must be in good standing; and

5. the applicant must agree in writing to the following conditions of the temporary certificate of authority issued pursuant to this Section:

a. the temporary certificate of authority does not create a right or privilege;

b. the board may rescind the temporary certificate of authority issued under this Section at any time, with or without notice to the applicant/holder and without a hearing if any of the following occur:

i. the board is informed that the suitability of the applicant or anyone required to submit to suitability in conjunction with the application may be at issue; or

ii. the applicant or anyone required to submit to suitability in conjunction with the application fails to cooperate with the investigation into the qualifications and suitability of the applicant and its associated persons.

B. An applicant issued a temporary certificate of authority shall comply with all federal and state laws, the Act, these regulations, and its internal controls.

C. A temporary certificate of authority shall expire six months after issuance, unless the board issues a ninety-day extension of the certificate upon a showing of good cause. Only one extension may be issued.

D. An applicant desiring a ninety-day extension of the expiration of the temporary certificate of authority shall submit a written request to the board setting forth the factors, with supporting documentation, showing good cause for the extension. Factors that may be considered include, but are not limited to:

1. the reason for any delay that was not the fault of the applicant or its associated persons;

2. the investigation is almost concluded; and

3. the applicant and division have reason to believe the application will be considered within the extension period.

E. The chairman may act on behalf of the board for purposes of this Section and may issue all ancillary approvals not inconsistent with the Act and these regulations that are necessary to properly effectuate the operation of sports wagering under a temporary certificate of approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

Chapter 5. Rules; Operations

§501. Sports Wagering Operator Requirements and Restrictions; Internal Controls; Comprehensive Rules

A. Licensees and operators may only conduct sports wagering expressly authorized by the Act, these regulations, or its internal controls.

B. Sports wagering authorized by the Act shall be conducted pursuant to the Act, these regulations, and a licensee's and operator's internal controls.

C. Licensees and operators shall comply with all provisions of the Act, these regulations, and its internal controls regarding child support arrearages including, but not limited to, R.S. 27:24 and Part III of this Title, particularly Section 2737 of Part III of this Title.

D. Licensees and operators shall not accept a sports wager from a prohibited player.

E. An applicant shall submit its internal controls with its application for licensing as a sports wagering licensee or for permitting as a sports wagering platform provider. Whenever internal controls are updated, they shall be immediately submitted to the division for approval to ensure the division is in possession of the current internal controls at all times.

F. Licensees and operators shall implement internal controls and commercially reasonable procedures for sports wagering to ensure compliance with all requirements of the Act and these regulations including, but not limited to:

1. prohibit a player from sports wagering while the player is located in a prohibited parish;

2. comply with all applicable tax laws and regulations including, without limitation, laws and regulations applicable to winnings and tax withholdings;

3. preventing the sharing or prohibited release of personal patron data and confidential information that could affect sports wagering with third parties until the information is made publicly available;

4. not knowingly accept a wager from a prohibited player, and shall comply with the limitations listed in R.S. 27:608;

5. verifying that a player is 21 years of age or older;

6. providing players with access to information on responsible play;

7. providing players with access to the player's play history and account details that are not confidential;

8. allowing individuals to restrict themselves from placing a sports wager upon request and provide reasonable steps to prevent the person placing a sports wager offered by an operator;

9. maintaining a reserve in an amount of not less than the greater of one hundred thousand dollars or the amount necessary to ensure the ability to cover the outstanding sports wagering liability, which is the sum of wagers on future events, unpaid winnings, and sports wagering account balances. Reserve funds may take the form of cash, cash equivalents, payment processor reserves, payment processor receivables, an irrevocable letter of credit, a bond, or a combination thereof. The reserve funds shall not be used for operational activities. The reserve may be satisfied by the

licensee or the operator, but the reserve for sports wagering may not be used for or encumbered by other gaming activity;

a. if an operator chooses to utilize a special purpose segregated account for the purpose of segregation or reserve funds, it shall submit to the division all information and documentation regarding the account and shall receive approval prior to using the account for such purposes;

10. ensuring that commercially reasonable measures are in place to deter, detect, and, to the extent reasonably possible, prevent cheating, collusion, and the use of cheating devices;

11. not offer sports wagering on any prohibited sports events;

12. withholding all winnings from players determined to be under the age of 21 or determined to have participated in sports wagering from within a prohibited parish;

13. allowing players to file complaints regarding the sports wagering operation and the handling of the player's sports wagering account;

14. requiring patrons to establish a sports wagering account prior to accepting wagers through a website or mobile application. Verifying the following for players requesting to open an account, in accordance with the information provided by players under Section 507(B)(2) of this Chapter:

- a. identity; and
- b. date of birth.

15. publishing and facilitating parental control procedures to allow parents or guardians to exclude minors from access to a sports wagering platform;

16. determining the geographical location of a player when placing a sports wager;

17. reporting of problem gamblers;

18. operational controls for sports wagering accounts;

19. surveillance plans for all sports book lounges and other areas where sports wagering mechanisms are located;

20. setting up and maintaining user access control for a sports wagering platform and ensuring proper segregation of duties at the sports book and sports wagering platform;

21. procedures for identifying and reporting fraud and suspicious wagering activity;

22. anti-money laundering compliance standards, including limitations placed on anonymous sports wagering at sports wagering mechanisms;

23. detailing procedures for W-2G issuance when triggered, review of the DCFS arrearages database, the withholding of amounts owed, submission of amounts withheld to DCFS, and reporting requirements;

24. automated and manual risk management procedures;

25. process for submitting and receiving approval for all types of sports wagers available to be offered by the operator;

26. description of process for accepting sports wagers and issuing payouts, including additional controls for accepting sports wagers and issuing payouts in excess of \$10,000;

27. description of process for accepting multiple sports wagers from one player within a 24 hour cycle, including process to identify player structuring of sports wagers to circumvent recording and reporting requirements; and

28. detailed procedures for reconciliation of assets and documents contained in a sports book lounge, cashier's drawer, sports wagering mechanism, and online sports wagering, which shall include the drop, fill, and count procedures for sports wagering mechanisms.

G. Operators shall report all winnings withheld and remit all withheld amounts to the division. Winnings withheld from underage and excluded patrons shall be sent to the division immediately for submission to the Problem Gambling Fund. Unclaimed winnings that expire after 180 days shall be paid to the division in the same manner as expired tickets at the next quarterly due date.

H. Operators shall provide information regarding the player's ability to file a complaint with the division, provide the information necessary to file such a complaint.

I. Operators shall ensure that all information required by the Act, these regulations, or its internal controls to be provided to players is easily accessible through the sports wagering platform or printed copies, is clear and concise in language, and provides methods to contact the operator with questions.

J. Operators shall adopt comprehensive rules governing sports wagering transactions with its patrons. The operator's rules shall comply with R.S. 27:607(C) and shall be submitted to the division for approval. The comprehensive rules shall include, at a minimum:

1. the method for calculation and payment of winning wagers;

2. the effect of schedule changes for sports events;

3. the method of notifying players of odds or proposition changes;

4. acceptance of wagers at terms other than those posted;

5. expiration dates for winning tickets in accordance with the Act;

6. circumstances under which the operator will cancel a bet;

7. treatment of errors, late bets, and related contingencies;

8. method of contacting the operator with complaints or questions;

9. description of those persons who are prohibited from wagering with the operator;

10. instructions on how to self-restrict, self-limit, and self-exclude, including hyperlinks to such;

11. the method and location and posting and publishing the comprehensive rules; and

12. the methods for redeeming a winning ticket, including by mail if the operator allows such.

K. Operator may allow layoff bets in accordance with R.S. 27:611. The operator placing a layoff bet shall inform the operator accepting the layoff bet that it is being placed by another operator and shall disclose its identity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§503. Sports Wagering Platforms; Identification of Licensee; Duties of Licensee and Operators

A. To ensure the protection of players, a sports wagering platform shall identify the person that is the operator and, if different, the person that is the licensee.

B. Operators shall provide a set of terms and conditions readily accessible to the player on its sports wagering platforms.

C. Operators shall provide a readily accessible privacy policy to the player on its sports wagering platforms. The privacy policy shall state the information that is required to be collected, the purpose for information collection, and the conditions under which information may be disclosed. Any information about a player's sports wagering account that is not subject to disclosure pursuant to the privacy policy shall be kept confidential, except where the release is required by law or requested by the board or division. Player information shall be securely erased from hard disks, magnetic tapes, solid state memory, and other devices before the device is decommissioned. If erasure is not possible, the storage device must be destroyed.

D. An operator shall ensure that wagering on its sports wagering platform complies with the Act, these regulations, and any orders of the board. An operator shall comply with AML standards, federal and state law, and the limitations set forth in R.S. 27:608.

E. Operators shall have procedures that do all of the following prior to operating in this state:

1. prevent unauthorized withdrawals from a sports wagering account by the operator or others;
2. make clear that funds in a sports wagering account are not the property of the operator and are not available to the operator's creditors;
3. ensure any amounts won by a player from a sports wager is deposited into the player's account immediately upon verifying the results of the wager. In no case shall it take over 48 hours to apply the patron's winnings to their sports wagering account, unless the wager is part of an investigation;
4. ensure players can withdraw the funds maintained in their sports wagering accounts in accordance with the Act and these regulations;
5. allows a player to permanently close his sports wagering account at any time for any reason;
6. offers players access to their play history and account details;
7. provide a secure location the placement, operation, and play of sports wagering equipment; and
8. prevent all persons from tampering with or interfering with the operation of sports wagering or sports wagering equipment.
9. ensure that a surveillance system covers all areas of the licensed facility in which sports wagering is conducted.

F. An operator shall establish procedures for a player to report complaints to the operator regarding whether his sports wagering account has been misallocated, compromised, or otherwise mishandled, and a procedure for the operator to respond to those complaints. Operators shall maintain a record of all complaints for a period of five years.

1. A player who believes his account has been misallocated, compromised, or otherwise mishandled may notify the board or division. Upon notification, the board or division shall investigate the claim and may take any action the board deems appropriate pursuant to the provisions of the Act or these regulations.

G. If a session is terminated due to player inactivity, the player's device must display to the player that the session

has timed out and inform him of the steps needed to be taken to reestablish the session. If the session is terminated due to a player inactivity timeout, no further participation is permitted unless and until a new session is established by the player. This process shall include, at a minimum, the manual entry of the player's secure password or an alternate form of authentication approved by the board.

H. With the approval of the board, operators shall cooperate with investigations conducted by sports governing bodies or law enforcement agencies. However, an operator shall not share any information that would interfere or impede a criminal investigation or an investigation of the board or division. Information shared under this Subsection by an operator or a sports governing body is confidential, unless disclosure is required by the board or division or court order for enforcement or legal purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§505. Prohibited Parish; Geolocation, Geofencing; Proxy Servers

A. No operator nor any operator's employee shall allow a player to place a sports wager while located in a prohibited parish.

B. Operators shall implement and abide by protocols and procedures to ensure a player is not utilizing remote desktop software, rootkits, virtualization, proxy servers, virtual private network, spoofing, or other means to disguise their physical location or their computer or device's physical location when conducting a sports wagering transaction. Operators shall use, at a minimum:

1. geolocation and geo-fencing techniques and capability; and
2. commercially reasonable standards for the detection and restriction of remote desktop software, rootkits, virtualization, proxy servers, virtual private networks, spoofing, or other means of disguising one's location.

C. Operators shall prohibit the placing of a sports wager if a player is utilizing any means to disguise his identity or physical location or his computer or device's physical location or attempting to act as a proxy for another player.

D. Operators shall detect and block patrons that make malicious or repeated unauthorized attempts to access the online sports wagering system. This includes players utilizing any means to disguise their identity or physical location or their computer's or device's physical location or acting as a proxy for another player in order to place a sports wager. The player's sports wagering account shall be flagged and reviewed, and the operator shall follow protocols to reach a final determination about the player's sports wagering account and future access and account privileges. Operators shall maintain a record of all information, documentation, or evidence of such activity.

E. Operators shall immediately notify the division of any sports wagers made when the player was located in a prohibited parish and shall provide the division with all information, documentation, and other evidence of such sports wager.

F. Operators who send or receive sports wagers through electronic means shall ensure that any transfer of that sports wager is initiated and received and completed within the

state of Louisiana, and that only incidental intermediate routing of the sports wager, if any, occurs outside of the state, unless otherwise determined by the board in accordance with applicable federal and state laws. Operators shall be responsible for periodically reviewing their information and technology systems and networks to ensure compliance with this Subsection.

G. Operators who violate this Section shall be subject to administrative action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§507. Sports Wagering Account; Player Registration Required

A. A person shall register with an operator prior to placing a sports wager on a sports wagering platform through a website or mobile application. Operators shall not allow any person to place a sports wager on its sports wagering platform through a website or mobile application unless that person is registered and maintains a sports wagering account. Nothing in this Section shall prohibit an operator from accepting anonymous wagers at a sports wagering mechanism on the licensed premises in accordance with the Act, these regulations, and internal controls.

1. Operators shall include sports wagering account procedures necessary to setup and register for an account in the internal controls submitted for approval prior to implementation.

B. With respect to registration, an operator shall do all of the following:

1. implement security standards to prevent the placing of sports wagers by a person whose identity have not been verified in accordance with the Act, these regulations, or internal controls;

2. ensure that all persons provide the following information before establishing a sports wagering account and placing a sports wager;

a. legal name;

b. date of birth;

c. Social Security number, or the last four digits thereof, or an equivalent identification number for a noncitizen person such as a passport or taxpayer identification number;

d. residential address; a post office box is unacceptable;

e. electronic mail address;

f. telephone number; and

g. any other information necessary to verify the person's identity.

3. utilize commercially reasonable steps to confirm that a person registering for an account is at least 21 years of age before such person places a sports wager; and

4. clearly and conspicuously publish parental control procedures to facilitate parents or guardians to exclude minors from access to a sports wagering platform.

5. maintain a patron file including, at a minimum, the information obtained in establishing a sports wagering account, the method used to verify the person's identity; and the date of verification. The person's Social Security or identification number, passwords, PINs, and personal financial information shall be encrypted.

C. During the registration process, a person shall agree to the privacy policy and the following applicable terms and conditions of service:

1. registration information provided by the person to the operator is accurate;

2. the person has been informed, and acknowledges, that as a player he is prohibited from allowing any other person access to or use of his sports wagering account;

3. specify the handling of funds where the sports wager is canceled;

4. specify the handling of funds for sports events that are voided or canceled;

5. clearly define the rules by which any unrecoverable malfunctions of hardware or software are addressed;

6. advise the player to keep his password and login ID secure;

7. advise the player on requirements regarding forced password changes, password strength, and other related items;

8. no individual less than 21 year of age is permitted to maintain a sports wagering account or place a sports wager;

9. the method by which players will be notified of updates to the terms and conditions and privacy policy;

10. the conditions under which an account is declared inactive and explain what actions will be undertaken on the account once this declaration is made including the forfeiting of any monies remaining in the sports wagering account; and

11. clearly define what happens to any winnings from a sports wager prior to and after any self-imposed, licensee-imposed, or operator-imposed exclusion.

D. An operator shall not allow any business entity or any entity other than an individual person to register for a sports wager account or to place a sports wager.

E. Players may fund a sports wagering account through:

1. cash or check at the licensee's premises;

2. online and mobile payment systems that support online money transfers;

3. winnings remaining in the player's sports wagering account;

4. adjustments or refunds pursuant to these regulations;

5. promotional play;

6. reloadable prepaid card, issued in accordance with the Act, these regulations, and internal controls; and

7. any other method approved by the board or division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§509. Limitation on Active Accounts; Obligations to Players

A. An operator shall:

1. limit each authorized player to one active and continuously used account and username;

2. implement rules procedures to suspend all accounts of any player that establishes or seeks to establish more than one username or more than one account, whether directly or by use of another person as a proxy;

3. publish parental control procedures to facilitate parents or guardians to exclude minors from access to a sports wagering platform. The procedures shall include a link or toll-free number to call for help in establishing such parental controls;

4. make clear conspicuous statements that are not inaccurate or misleading concerning the conduct of sports wagering;

5. permit any player to permanently close an account registered to the player, on any and all sports wagering platforms supported by the operator, at any time and for any reason;

6. implement measures to protect the privacy and online security of players, their sports wagering account, and their personal financial information and personal patron data per Section 2811 of Part III of this Title;

7. not allow a player to transfer funds from a sports wagering account to another player's sports wagering account;

8. employ a mechanism that can detect and prevent any sports wagering or withdrawal activity initiated by a player that would result in a negative balance of a sports wagering account; and

9. allow a player to withdraw the funds maintained in his sports wagering account within five business days of the request being made. For purposes of this Paragraph, a request for withdrawal is considered honored if it is processed by the operator but delayed by a payment processor, credit card issuer, or by the custodian of a financial account through no fault, action or inaction of the operator. If an operator has requested documentation from a player in order to facilitate the withdrawal, the time waiting for such documentation shall not be factored into the five business days for approval.

a. An operator may decline to honor a player's request to withdraw funds only if the operator believes in good faith that the player engaged in fraudulent conduct or other conduct that would put the licensee or operator in violation of the Act or these regulations. In such cases, the operator may withhold the funds for a reasonable investigatory period until the investigation is resolved, if the operator conducts its investigation in a reasonable and expedient fashion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§511. Credit and Checks

A. Operators shall comply with Part III of this Title, specifically including Section 2729, and these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§513. Charging for Inactive Accounts

A. An operator shall not charge a player for an inactive sports wagering account.

B. No player shall be charged for failure to deposit certain amounts of cash or cash equivalent into a sports wagering account.

C. Operators shall follow state law as it regards unclaimed property for inactive accounts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§515. Protection for Problem or Compulsive Gamblers

A. Self-Restriction

1. Operators shall allow a player to restrict themselves from placing a sports wager or accessing a sports wagering account for a specific period of time, minimum of which shall be thirty days, as determined by the player and shall implement procedures to prevent the person from placing sports wagers.

2. Operators shall develop and maintain an online self-restriction form and a process to exclude any person from placing a sports wager who completes and submits the form to the operator or licensee and shall provide a mechanism on its sports wagering platforms to the online self-restriction form. Operators shall retain each submitted online self-restriction form and restrict such persons from placing a sports wager and may close the player's sports wagering account for the specified time.

3. Online self-restriction is different than submitting for the state's self-exclusion list. When a player chooses the option of self-restriction, the operator shall notify the requester of the option to also self-exclude with the state and the link to the self-exclusion form on the board's website.

B. Self-Imposed Limits

1. Operators shall implement and maintain procedures that allow players to limit themselves from:

a. placing a sports wager for a set period of time;

b. paying more than a certain amount of money for a sports wager; and

c. depositing more than a set amount of funds into their sports wagering account.

2. Players shall have the option to adjust the self-limits to make them more restrictive as often as they choose, but shall not have the option to make the time period or limits less restrictive within 72 hours of setting. Any change must provide a prompt to ensure the player is aware of the change and the player must then confirm the change.

C. Operators shall enforce the limitations placed upon sports wagering accounts by:

1. providing a plan to honor requests from players to self-restrict or self-limit or self-excluding;

2. providing a plan to ensure that, immediately upon a player self-restricting or self-excluding, no sports wagers or deposits are accepted from that player until the self-restriction expires or is removed or the self-exclusion is terminated;

3. providing a plan to allow a player that self-restricts or self-excludes to access and withdraw remaining funds from his sports wagering account; and

4. ensuring self-restricted and self-excluded persons do not receive marketing or advertisement during the period of self-restriction or self-exclusion.

D. Operators shall train employees on problem and compulsive gambling. Such training shall include, but not be

limited to training on policies and best practices for assisting players who may be problem or compulsive gamblers.

E. Operators shall provide the information necessary for a person to self-exclude.

F. Operators shall provide quarterly reports to the division as to how many persons have self-restricted or self-exclude.

G. Operators shall comply with all requirements of the Act, these regulations, and internal controls and, specifically, Chapter 3 of Part III of this Title.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§517. Advertising, Mandatory Signage

A. Licensees and operators shall not advertise sports wagering to a person by phone, email, or any other form of individually targeted advertisement or marketing material if the person has self-restricted or is excluded pursuant to the provisions of the Act or these regulations, or if the person is otherwise barred from participating in sports wagering (including, but not limited to, advertisements targeted to persons under the age of 21).

B. Advertisements and marketing material shall not depict minors.

C. Licensees and operators shall not advertise or run promotional activities at any primary or secondary schools, as defined by Louisiana law and including elementary, middle, and high schools, or sports venues exclusively used for primary or secondary schools.

D. Licensees and operators shall ensure that all advertisements of sports wagering do not target prohibited players, persons under the age of 21, or self-restricted or excluded persons.

E. Licensees and operators shall not misrepresent the frequency or extent of winning in any advertisement.

F. Licensees and operators shall provide on its sports wagering platform, any websites, and in any print advertisement of sports wagering for such the toll-free telephone number available for information and referral services regarding compulsive or problem gambling as required in R.S. 27:27.3.

G. Licensees and operators shall comply with the provisions of Section 2927 of Part III of this Title.

H. Operators shall ensure that all advertising, public relations activities, and marketing campaigns comply with this Section and do not: contain false or misleading information; fail to disclose conditions or limiting factors associated with the advertisement; use a font, type size, location, lighting, illustration, graphic depiction or color obscuring conditions or limiting factors associated with the advertisement; consist of indecent or offensive graphics or audio, or both; encourage players to chase their losses or re-invest their winnings; or suggest that sports wagering is a means of solving financial problems.

I. Advertisements, public relations activities, and marketing campaigns shall: provide information on compulsive gambling treatment or counseling; promote a problem gambling hotline be socially responsible; and give a balanced message with regard to winning and losing.

J. Licensees or operators shall delete or modify any advertisement which does not confirm to the requirements of this Section or is necessary for the immediate preservation of

public peace, health, safety, and welfare of Louisiana residents.

K. Licensees or operators shall retain a copy of all advertising and marketing materials intended to promote any sports wagering operation in the state of Louisiana, which shall be made available to the division upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§519. Promotions

A. Licensees and operators shall comply with Section 2953 of Part III of this Title.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§521. Sports Events

A. Operators shall not offer sports wagering on sports events or subjects prohibited by the Act, these regulations, or the board.

B. Special event or competition of relative skill.

1. An operator shall not accept sports wagers on any other event unless the board has approved the other event in writing, the other event has been sanctioned by an organization included on the list of sanctioning organizations maintained by the board, or the other event is listed on the list of pre-approved other events.

2. A request for approval to accept wagers on any other event shall be made by an operator at least 7 days prior to such event on such forms approved by the board, and shall include:

a. a full description of the event and the manner in which wagers would be placed and winning wagers would be determined

b. a list of jurisdictions where the event is currently approved for wagering;

c. a full description of any technology which is necessary to determine the outcome of the event;

d. such other information or documentation which demonstrates that the sports event meets the requirements of Section 523 of this Chapter and that:

i. the event would be effectively supervised;

ii. there are integrity safeguards in place;

iii. the outcome of the event would be verifiable;

iv. the outcome of the event would be generated by a reliable and independent process;

v. the outcome of the event would be unlikely to be affected by any sports wager placed;

vi. the event would be conducted in compliance with any applicable laws; and

vii. the granting of the request for approval would be consistent with the Act, these regulations, internal controls, and the public policy of the state;

e. the name of the sports governing body or sanctioning organization in charge of administering the sports event and any integrity commissions responsible for oversight of the event; and

f. such additional or supplemental information as the board or division may require.

3. The decision whether to grant approval to accept wagers on any other event shall be based on all relevant information including, but not limited to, the factors in this

Section or determined by the board or division and shall be at the sole discretion of the board.

4. Operators shall submit updated house rules, as necessary, for each newly approved sports event prior to offering it to the public for wagering.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§523. Sports Wagers

A. An operator shall not accept any sports wager on a sports event unless it has received approval from the board to conduct that type or category of sports wager. The chairman has the authority to approve, reject, and unapprove categories and types of sports wagers on behalf of the board. A type of sports wager refers to the method of determining the outcome of the sports wager. The category refers to the kind of event being wagered on. For all particular categories or sports wager types approved by the Act or these regulations or later approved by the board for its first use may be used on multiple events by all operators without further approval.

1. If an operator would like to offer a new category of sports event, it must submit the request to the board on the approved form at least seven days in advance of the proposed date of accepting sports wagers on such a category. The request shall include: a full description of the sports event and the manner which sports wagers would be placed and winning wagers would be determined; a full description of any technology which would be utilized to offer the sports event; information or documentation that demonstrates that the sports event meets the requirements of Subsection B of this Section and any other information requested by the board or division.

2. If an operator accepts a sports wager on an unapproved sports event, the operator shall void and refund all sports wagers associated with that sports event. If any sports wagers for unapproved sports events cannot be refunded in full, the operator shall immediately provide the board with a report detailing such sports wagers and the reasons therefore.

3. The board and division maintain the right to disapprove of the source of data for any reason including, but not limited to, the type of sports wager and method of data collection.

B. Sports Wagers; Restrictions

1. Operators shall only offer and accept sports wagers in accordance with the Act and these regulations and on sports events where:

- a. the outcome of the event can be verified, and the operator shall disclose the source of verification;
- b. the event would be effectively supervised;
- c. there are integrity safeguards in place;
- d. the outcome can be generated by a reliable and independent process;
- e. the outcome of the event is unlikely to be affected by any sports wager placed; and
- f. the outcome is conducted in conformity with all applicable federal and state laws, the Act, these regulations, and internal controls.

2. Sports wagers shall only be made through a player's sports wagering account, cash, cash equivalents, or promotional play.

3. Operators shall adopt procedures to obtain personally identifiable information from any person who places any single sports wager in an amount of \$10,000 or greater on a sports event. Subsequent to accepting a sports wager in excess of \$10,000 or making a payout in excess of \$10,000 on a winning sports wager, the Operator shall record or maintain records that include: the date and time of the sports wager or payout; the amount of the sports wager or payout; the player's legal name; the ticket number or other identifying number for the sports wager or payout; and the name and signature of the employees accepting or approving the sports wager or payout on the sports wager.

4. Operators shall not knowingly allow, and shall take reasonable steps to prevent, the circumvention of reporting requirements through a player making a structured sports wager, including multiple sports wagers or a series of sports wagers that are designed to accomplish indirectly that which could not be accomplished directly. A sports wager or wagers need not exceed the dollar thresholds at any single operator in any single day in order to constitute prohibited structuring. No operator shall encourage or instruct the player to structure or attempt to structure sports wagers. This Section does not prohibit an operator from informing a player of the regulatory requirements imposed upon the operator, including the definition of structured sports wagers. An operator shall not knowingly assist a player in structuring or attempting to structure sports wagers.

5. Operators shall prohibit an employee who is serving alcoholic beverages to customers from taking sports wagers during the same work shift. Operators shall take reasonable steps to prevent an intoxicated or impaired person from placing a sports wager.

6. Available sports wagers shall be displayed in a manner visible to the public and the operator's closed circuit television system. The display shall include: the event date/time; event participants; the odds; and a brief description of the event.

C. Categories

1. The board shall maintain a list of approved categories for which an operator may accept a sports wager.

D. Types

1. The board shall maintain a list of approved types of sports wagers that an operator may accept.

2. Parlay Bets

a. Each operator that offers to accept parlay card wagers shall fully, accurately, and unambiguously disclose on all parlay card wagering forms:

- i. the amounts to be paid to winners or the method by which such amounts are to be determined and, if the operator limits payouts to an aggregate amount under Subsection B of this Section, the aggregate amount and the establishments to which it applies;
- ii. the effect of ties;
- iii. the minimum and maximum betting limits, if any;
- iv. the procedure for claiming winnings, including but not limited to the documentation players must present to

claim winnings, time limits, if any, for claiming winnings, whether winnings may be claimed and paid by mail and, if so, the procedure for claiming winnings by mail;

v. the effects of a sports event wagered on not being played on the date specified and of other events that will cause selections to be invalid;

vi. the rights, if any, reserved by the operator, including but not limited to reservation of the right to refuse any wager or delete or limit any selection prior to the acceptance of a wager, or to withhold payouts of specified amounts until the outcome of each proposition offered by the parlay card has been determined;

vii. the requirement that the point spreads printed on the parlay card wagering form when the wager is accepted will be used to determine the outcomes of the wagers; and

viii. that the operator's comprehensive rules apply to parlay cards unless otherwise stated on the parlay card wagering form.

b. As used in this Subsection, "parlay card" means a sports wagering form offering exactly the same propositions on exactly the same terms.

i. An operator may limit the aggregate amount to be paid to winners on a parlay card in proportion to the amounts won, provided that the aggregate limit must not be less than the amount disclosed on the parlay card (the "base amount") plus twice the amount wagered on the parlay card at all establishments to which the aggregate limit applies.

ii. When an operator knows or reasonably should know that actual payouts on a parlay card will be limited by an aggregate amount, the operator shall cease accepting sports wagers and making payouts on the parlay card. After the outcome of the final game, match, or event covered by the parlay card has been determined, the operator shall pay each winner at least that proportion of the payout amount stated on the parlay card that the aggregate limit bears to total payouts (including payouts made prior to the suspension of payouts) that would otherwise have been made but for the limit.

iii. When an operator ceases accepting sports wagers and making payouts on a parlay card, the operator may accept wagers on the parlay card on those propositions whose outcomes have not been determined if the parlay card, patron receipts, and related documentation are distinguishable from the card, receipts, and documentation as to which the book has ceased accepting wagers, in which case the parlay card shall be considered a different parlay card for purposes of this Subsection.

iv. If an operator pays the winner of a parlay card wager more than 10 percent of the base amount established before the outcome of every proposition offered by the parlay card has been determined, the operator must pay every winner of a wager on that parlay card the proper payout amount stated on the parlay card in full and without regard to any aggregate limit established.

v. In specific cases the board may waive or impose requirements more restrictive than the requirements of this Subsection.

c. Prior to adopting or amending parlay card rules, a book shall submit such rules to the chairman for approval.

3. Proposition Bets

a. No sports wagers may be accepted or paid by an operator on the occurrence of injuries or penalties or the outcome of an athlete's disciplinary rulings, or replay reviews.

E. Tickets

1. Upon placing a sports wager, the player shall receive an unalterable virtual or printed wager record (ticket) which shall contain the information required in these regulations and, specifically, Section 901 of this Part.

2. Any sports wager placed with a sports wagering mechanism shall be evidenced by a ticket indicating: the information required in R.S. 27:609(B)(4)(a); the name of the licensee if different than the operator; and a statement that the patron must redeem the ticket at the establishment of the licensee that booked the wager within 180 days of the date of the event, that the failure to present a winning ticket within such time shall constitute a waiver of the right to the payment, and that the holder of the ticket shall thereafter have no right to enforce payment of the ticket.

F. Canceled Wagers

1. The operator's comprehensive rules shall clearly state what is to occur when a sports event is canceled or the subject of the bet ceases to exist. Any such cancellations of a sports wager shall be made available to the division.

2. Canceled wagers may only be made at the system level and in accordance with the requirements of this Subsection and these regulations.

3. All canceled wagers shall be refunded to the player as soon as practical and deducted from the adjusted gross sports wagering revenue if already included.

G. Voided Wagers

1. A sports wager is deemed void if the player is a prohibited person or located in a prohibited parish at the time the sports wager was made. An operator shall void sports wagers made by prohibited persons or a persons located in a prohibited parish immediately upon becoming aware or when the operator should have become aware the player is a prohibited person or located in a prohibited parish. The operator shall follow the Act and these regulations for the handling of any monies.

2. A sports wager is deemed void if the subject of the wager was not approved by the board prior to accepting the wager.

3. An operator may void a sports wager if the operator has reasonable basis to believe there was obvious error in the placement or acceptance of the sports wager. Errors include, but are not limited to: the sports wager was placed with incorrect odds; human error in the placement of the sports wager; the ticket does not correctly reflect the sports wager; or equipment failure rendering a ticket unreadable. Wagers voided in this case must be approved by a supervisor or higher, pursuant to the internal controls or house rules.

4. Licensees and operators shall include procedures and conditions on which they will void wagers in their internal controls.

5. All voided wagers shall be refunded to the player and deducted from the adjusted gross sports wagering revenue if previously included. However, should a player self-exclude after placing a wager, the player shall not be

entitled to a refund or any winnings; the monies shall be handled in accordance with internal controls.

6. No wagers shall be rescinded except in compliance with the Act, these regulations, internal controls, and house rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§525. Unusual and Suspicious Wagering Activity

A. Operators shall employ a system to identify irregularities in volume or odds and swings that could signal suspicious wagering activities that should require further investigation.

B. Operators shall have internal controls in place to identify unusual wagering activity and report such to an independent integrity monitoring provider or the division.

C. All independent integrity monitoring providers shall share information with each member and shall disseminate all reports of unusual activity to all member operators. All operators shall review such reports and notify the independent integrity monitoring provider whether they have experienced similar activity.

D. If an independent integrity monitoring provider finds that previously reported unusual wagering activity rises to the level of suspicious wagering activity, it shall immediately notify all other independent integrity monitoring providers, their member operators, the division, and all other regulatory agencies as directed by the division. All independent integrity monitoring providers receiving a report under this Section shall share such report with their member operators.

E. An operator must submit a yearly report to the division, which details its integrity monitoring system and summarizes any unusual wagering activity or other suspicious wagering activity notifications issued during that time period.

F. An operator receiving a report of suspicious wagering activity shall be permitted to cancel related wagers after receiving approval from the board or division and in accordance with approved procedures as set forth in internal controls.

G. If the division receives a suspicious wagering activity report from an independent integrity monitoring service provider, the division shall notify the relevant sports governing body as expeditiously as possible.

H. The division may require an operator to provide any hardware necessary to the division for evaluation of its sports wagering offering or to conduct further monitoring of data provided by its system.

I. All information and data received pursuant to this Section by the board or division related to unusual or suspicious wagering activity shall be considered confidential and shall not be revealed in whole or in part, except upon the lawful order of a court of competent jurisdiction or, with any law enforcement entity, member club, sports governing body, or regulatory agency that the board deems appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§527. Sports Book Lounge or Sports Wagering Lounge

A. An applicant for a sports wagering operator license shall submit a detailed plan of design of its sports book lounge and other areas of its establishment where sports wagering mechanisms may be placed. If operating initially out of a temporary sports book lounge, the applicant shall also submit a construction schedule for its sports book lounge.

B. A licensee shall inform the board and division of any plans to alter, update, renovate, or otherwise change the sports book lounge from that detailed with the application or subsequently approved.

C. A sports book lounge shall:

1. be limited to persons who are 21 years of age or older who are not prohibited persons;

2. be of a such a design and size deemed acceptable by the board;

3. contain an area where the odds at which sports wagers may be placed are displayed;

4. if not located in an area restricted to person who are 21 and over, contain a conspicuously posted sign that includes a statement similar to "It is unlawful for any individual who is under 21 years of age to enter the sports book lounge or place a sports wager;"

5. contain a conspicuously posted sign providing the National Council on Problem Gambling's 24 hour toll-free number or a similar toll-free number approved by the board, as well as separately providing information regarding the prevention, treatment, and monitoring of compulsive gambling; and

6. include a sports book lounge booth that:

a. shall be designed and constructed to provide maximum security for the materials stored and the activities performed therein. Such design and construction shall be approved by the division;

b. includes manually triggered silent alarm systems, which shall be connected directly to the monitoring rooms of the licensed premises and security departments;

c. includes one or more ticket writer stations, each of which shall contain:

i. a writer's drawer and terminal through which financial transactions related to sports wagering will be conducted; and

ii. a permanently affixed number, which shall be visible to the CCTV surveillance system;

d. includes closed circuit television cameras capable of accurate visual monitoring and recording of any activities, including the capturing of the patron's facial image when conducting transactions at the counter;

e. has an alarm for each emergency exit door that is not a mantrap;

f. includes a secure location for the purpose of storing funds issued by a cage to be used in the operation of sports wagering. The secure location shall:

i. be located in an area not open to the public;

ii. have a door with a locking mechanism that shall be maintained and controlled by the sports wagering lounge booth supervisor; and

iii. have closed circuit television cameras capable of accurate visual monitoring and taping of all activities in the secure location; and

g. a sports book lounge booth shall maintain a funds operating balance as necessary to operate the booth. Funds transferred to and from the cage shall be secured and transferred in accordance with internal controls for funds movement on the casino floor. Prior to transporting the funds, security shall notify surveillance of the movement of funds. If movement does not require security, the employee transferring the funds shall notify surveillance. The funds will be transferred with appropriate documentation.

D. A sports book lounge located in the designated gaming area of a licensed premise of an entity licensed pursuant to R.S. 27:44, R.S. 27:205, or R.S. 27:353 may have slot machines or other authorized games with the approval of the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

529.Sports Wagering Mechanisms

A. Sports wagering mechanisms may only be located on a licensee's premises in areas restricted to persons who are 21 years of age or older.

B. Sports wagering mechanisms shall be linked to a sports wagering operator's sports wagering platform.

C. Sports wagering mechanisms or the platform shall be capable of generating a transaction report which documents each completed transaction. Unless otherwise approved by the board, the report shall include, at a minimum:

1. the date and time;
2. a description of the transaction;
3. the value of non-cash transactions;
4. the value of currency inserted;
5. the value of all vouchers dispensed and redeemed;
6. the value of all promotional play dispensed and inserted; and
7. the value of all sports wagering tickets dispensed and inserted.

D. A licensee or operator shall remove the bill validator boxes from all sports wagering mechanisms on a schedule approved by the division.

1. Any changes to the schedule require notification to the division at least five days prior to the change.

2. The licensee or operator shall notify the division within 24 hours of any drop occurring outside the approved schedule.

3. The sports wagering mechanism drop shall be monitored and recorded by surveillance in accordance with internal controls.

E. A licensee or operator's accounting department shall reconcile the sports wagering mechanisms on a daily basis pursuant to internal controls. Licensees or operators shall document all variances and investigate variances in an amount as declared in the licensee's approved internal controls. The report shall indicate the cause of the variance and shall contain any documentation required to support the stated explanation.

F. Sports wagering mechanisms shall not: dispense cash; allow deposits to a sports wagering account of more than \$10,000; issue or redeem promotional play or voucher with a value of more than \$3,000; accept wagers of \$3,000 or more unless made using funds in a sports wagering account; or redeem a ticket with a value of more than \$3,000.

G. If a sports wagering mechanism redeems vouchers, the kiosk or kiosk system shall be able to generate a "sports voucher redemption machine report" or similar approved report by the division for each gaming day. The report shall include the voucher's unique identifier, the date and time of redemption, and the value of the voucher.

H. If used to redeem wagering tickets, the kiosk or kiosk system shall be able to generate a "sports ticket redemption machine report" or similar approved report by the division for each gaming date. The report shall include the ticket's unique identifier, the date and time of redemption, and the value of the ticket.

I. If used to issue sports vouchers, the kiosk or kiosk system shall be able to generate a "sports voucher issuance report" or similar approved report by the division for each gaming day. The report shall include the voucher's unique identifier, the date and time of issuance, and the value of the voucher.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

Chapter 7. Records; Accounting; Confidentiality

§701. Financial Statements and Records

A. Each operator, in such manner as the division may approve or require, shall keep accurate, complete, legible, and permanent records of all transactions pertaining to revenue that is taxable or subject to fees under the Act.

B. Each operator shall keep general accounting records on a double entry system of accounting, with transactions recorded on a basis consistent with generally accepted accounting principles, maintaining detailed, supporting, subsidiary records, including but not limited to:

1. records identifying:
 - a. revenues by day;
 - b. expenses;
 - c. assets; and
 - d. liabilities;
2. records required by the internal controls;
3. journal entries and all work papers, electronic or manual, prepared by the operator and their independent accountant;
4. financial statements and supporting documents; and
5. any other records the division requires.

C. Each licensee or its operators shall create and maintain records sufficient to accurately reflect income and expenses relating to its operations.

D. If a licensee or its operators fail to keep the records used to calculate gross revenue, net gaming proceeds, winnings paid out to patrons, and the amount of eligible promotional play wagers, or if the records are not adequate to determine these amounts, the division may compute and determine the amount of gross revenue, net gaming proceeds, winnings paid out to patrons, and the amount of eligible promotional play wagers based on an audit and statistical analysis conducted by the division.

E. Reporting net gaming proceeds.

1. Each licensee or its operators shall report the net gaming proceeds by providing the total gross revenue of all wagers placed by patrons, the total amount of all winnings paid out to patrons, and the total amount of all eligible promotional play wagers in accordance with requirements

provided by the division. This report is due monthly by the tenth of the following month. Daily records shall be maintained, including those providing revenues by event type (for example: NFL, NBA, MLB, NCAA by sports, parlay, etc.).

2. The payment of taxes in accordance with R.S. 27:625 shall be paid monthly and is due by the twentieth of the following month.

3. Taxes shall be deposited electronically in accordance with guidelines provided by the division. Overpayments may be deducted from future taxes owed, but shall not result in a refund to the licensee or operator unless caused by the division or if the licensee or operator is withdrawing from the state and returning its license or permit to operate.

F. Each licensee or its operators shall submit accounting controls to the division for review and approval prior to conducting sports wagering. These accounting controls shall include, at a minimum:

1. a process for documenting and verifying beginning of day cash balance;
2. processes for recording collection of sports wagers, payment of sports wager, and cancellation of sports wagers issued;
3. processes for handling cash within a sports book lounge or from a sports wagering mechanism, including segregation of duties related to counting and storage of cash;
4. the establishment of a segregated account related to sports wagering activities in the state of Louisiana; and
5. any other requirements as required by the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§703. Record Retention and Backup

A. Upon request and at a location designated by the division, each licensee and permittee shall provide the division with the records required to be maintained by this Chapter. Licensees and permittees shall retain all such records for a minimum of five years in a location approved by the division. In the event of a change of ownership, records of prior owners shall be retained in a location approved by the division for a period of five years unless a different period is authorized by the division. Electronic records may be maintained in other locations if access to the records is available on computers located at the principal place of business or other location approved by the division.

B. Each licensee or its operators shall conduct a complete system data backup to a primary off-site location a minimum of once a month. For purposes of this Section, the licensee or operator shall submit the name, location, and security controls of the primary off-site storage facility to the division. Licensees and operators shall submit changes to the location and security controls of the primary off-site storage facility at least 30 days prior to the change. Any changes less than 30 days in advance must include justification for the late submission. For licensees and operators using managed cloud service backups, the name of the cloud service and region where the primary copy of the data shall be provided at the time of licensure and at the time of any change thereafter. A complete system data backup includes, but is not limited to:

1. all revenue reports;
2. all sports wagers and results;
3. sports wagering account information; and
4. the geographical location of every player placing a sports wager on a sports wagering platform of the licensee or operator.

C. Each licensee or its operators shall have a written contingency plan in the event of a system failure or other event resulting in the loss of system data. The plan shall address backup and recovery procedures and shall be sufficiently detailed to ensure the timely restoration of data in order to resume operations after a hardware or software failure or other event that results in the loss of data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§705. Funds; Segregation of Funds

A. Operators shall:

1. segregate sports wagering account funds from operational funds; or
2. maintain a reserve in an amount of not less than the greater of one hundred thousand dollars or the amount necessary to ensure the ability to cover the outstanding sports wagering liability, which is the sum of wagers on future events, unpaid winnings, and sports wagering account balances. Reserve funds may take the form of cash, cash equivalents, payment processor reserves, payment processor receivables, an irrevocable letter of credit, a bond, or a combination thereof. The reserve funds shall not be used for operational activities. The reserve may be satisfied by the licensee or the operator, but the reserve for sports wagering may not be used for or encumbered by other gaming activity.

B. The requirements of Subsection A of this Section may be satisfied by establishing a special purpose segregated account that is maintained and controlled by a properly constituted corporate entity that has a governing board that includes one or more independent corporate directors. The corporate entity must require a unanimous vote of all corporate directors to file bankruptcy and must have articles of incorporation that prohibit commingling of funds with those of the operator, except as necessary to reconcile the accounts.

1. Any and all information and documentation regarding its special purpose segregated account shall be provided to the division and each such account must be approved by the division prior to the implementation of such.

C. Documentation of the amount in cash reserves as of the last day of each month shall be provided to the division by the tenth day of the following month.

D. Each licensee or its operators shall continuously monitor and maintain a record of all sports wagering liabilities and its cash reserves to ensure compliance with the cash reserves requirement. If at any time the operator's total available cash and cash equivalent reserve is less than the amount required, the operator shall notify the division within 48 hours of the deficiency, the reason, and the resolution to correct the deficiency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§707. Audits, Annual Review, and Periodic Reporting

A. Licensees or their operators shall comply with the provisions of the Act, Part III of this Title, and these regulations.

B. Annual financial statements shall be provided to the division not later than May 1 each year or 120 days after the end of the fiscal year if not December 31.

C. A licensee or operator shall submit to the division one copy of any report required to be filed with the Securities and Exchange Commission or other domestic or foreign securities regulatory agency by the licensee or operator, and their holding company, intermediate company, or parent company. These reports shall be delivered to the division within 15 days of the time of filing with such commission or agency or within 15 days of the due date prescribed by such commission or regulatory agency, whichever comes first.

D. Each operator shall submit to the division annual audited financial statements reflecting all financial activities of the sports book operations subjected to an examination conducted according to generally accepted auditing standards by an independent certified public accountant (CPA).

2. All audits and reports required by this Section shall be prepared at the sole expense of the operator.

E. Annual Review of Operations

1. Each licensee or, as applicable, their operator shall require the independent CPA, engaged for purposes of examining the financial statements, to submit to the operator two signed copies of a written report detailing the continuing effectiveness and adequacy of the internal controls.

2. Using the division's standard Minimum Internal Control questionnaire and guidelines, the auditor shall include in this report any items discovered by the auditor or brought to the auditor's attention where the operator does not act in accordance with the internal controls and procedures provided to the division. The report should also include notification and explanation for all occasions when the operator denies a player's request to withdraw funds and all occasions when the operator discovers the use of unauthorized scripts on its sports wagering platform.

a. Denial of a withdrawal means the operator or its agent issues the decision to deny a player's request to withdraw. Issues not controlled by the operator, such as banking system issues, incorrect deposit account numbers, or other issues not controlled by the operator are not included.

b. Reportable script items includes unauthorized scripts discovered on the sports wagering platform whether used or not.

3. This report is due no later than 30 days after the due date of the audited financial statements required in Subsection C of this Section.

F. Each licensee or operator shall engage an independent certified public accountant (CPA). The CPA shall examine the statements in accordance with generally accepted auditing standards. The CPA is prohibited from providing internal audit services. Should the CPA previously engaged as the principal accountant to audit the licensee's or operator's financial statements resign or be dismissed as the principal accountant, or if another CPA is engaged as principal accountant, the licensee or operator shall file a

report with the division within 10 days following the end of the month in which the event occurs, setting forth the following:

1. The date of the resignation, dismissal, or engagement;

2. Any disagreements with a former accountant, in connection with the audits of the two most recent years, on any matter of accounting principles, or practices, financial statement disclosure, auditing scope or procedure, which disagreements, if not resolved to the satisfaction of the former accountant, would have caused him to make reference in connection with his report to the subject matter of the disagreement; including a description of each such disagreement; whether resolved or unresolved;

3. Whether the principal accountant's report on the financial statements for any of the past two years contained an adverse opinion or a disclaimer of opinion or was qualified. The nature of such adverse opinion, disclaimer of opinion, or qualification shall be described; and

4. A letter from the former accountant furnished to the licensee or operator and addressed to the division stating whether the CPA agrees with the statements made by the licensee or operator in response to this Section.

G. Unless the division approves otherwise in writing, the statements required must be presented on a comparative basis. Consolidated financial statements may be filed by commonly owned or operated operations, but the consolidated statements must include consolidating financial information or consolidated schedules presenting separate financial statements for each licensee or operator. The CPA shall express an opinion on the consolidated financial statements as a whole and shall subject the accompanying consolidating financial information to the auditing procedures applied in the examination of the consolidated financial statements.

H. Each licensee or their operator shall submit to the division two originally signed copies of its audited financial statements and the applicable CPA's letter of engagement not later than May 1 or 120 days after the last day of the operator's business year if not December 31.

I. If an licensee or their operator changes its fiscal year, the licensee or their operator shall prepare and submit to the division audited financial statements covering the period from the end of the previous business year to the beginning of the new business year not later than 120 days after the end of the period.

J. Each operator shall submit a quarterly financial report including gross sports wagering revenues, net revenues, and taxes paid on net revenues. The report shall be forwarded to the division not later than 30 days after the last day of the applicable quarter.

K. The division may request additional information and documents from either the licensee, operator, or their CPA, regarding the financial statements or the services performed by the CPA. The division may review any and all work papers of the CPA at a time and place determined by the division. These requirements shall be included in agreements between the licensee, the operator, or its affiliates and the CPA.

L. The licensee or operator shall submit to the division, postmarked by the United States Postal Service or deposited for delivery with a private or commercial interstate carrier,

or in another manner approved by the division, any audit report prepared by the Internal Revenue Service (IRS) and issued to the licensee or operator. The report is due within 30 days of receipt from the IRS.

M. Impairments to the independence of a CPA to perform a financial audit include, but are not limited to:

1. during the period of professional engagement to perform an audit, or at the time the opinion was issued, the auditing person:

a. had or was committed to acquire any direct or indirect financial interest in the licensee or operator;

b. was a trustee of any trust or executor or administrator of any estate if the trust or estate had or was committed to acquire any direct or indirect financial interest in the licensee or operator;

c. had any joint closely held business investment with the licensee or operator or any key person or owner thereof that was material in relation to the auditing person or the auditing person's firm's net worth; or

d. had any loan to or from the licensee or operator or any key person or owner thereof, when made under normal lending procedures, terms, and requirements, except:

i. loans that are not material to the net worth of the borrower;

ii. home mortgages; or

iii. other secured loans, except loans guaranteed by the auditing person's firm that are otherwise unsecured;

2. during the period covered by the licensee's or operator's financial statements, during the period of the professional engagement to perform an audit, or at the time the opinion is issued, the auditing person was:

a. connected with the licensee or operator as a promoter, underwriter, voting trustee, key employee, or in any capacity equivalent to that of a key employee; or

b. a trustee for any pension or profit-sharing trust of the licensee or operator;

3. functioning as if a key employee of the licensee or operator;

4. performing an audit of the independent CPA or independent CPA's firm's own work;

5. advocacy for the licensee or operator; or

6. having any other role with the licensee or operator or its affiliates other than as independent auditor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§709. Public and Confidential Records

A. Except as provided in R.S. 44:1 et seq. and R.S. 27:21, records of the board and division shall be public records.

B. R.S. 44:1 et seq., R.S. 27:21, and Chapter 39 of Part III of this Title shall govern this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

Chapter 9. Computer Systems and Sports Wagering Platforms; Security

§901. Computer Systems and Sports Wagering Platforms

A. Operators shall use a sports wagering platform to offer, conduct, or operate sports wagering in accordance with the Act and regulations set forth by the board.

1. Operators shall comply with, and the division or board adopts and incorporates by reference, the Gaming Laboratories International, LLC Standard, GLI-33: Standards for Event Wagering systems and its Appendices, version 1.1 and any future amendments and updates thereto. The GLI-33 standards are intended to supplement rather than supplant other technical standards and requirements under these rules.

2. A sports wagering platform utilized to conduct sports wagering shall meet the specifications of these rules and any additional technical specifications prescribed by the board or the division. Failure to comply with the approved specifications, internal controls, or technical specifications may be grounds for administrative action by the board.

B. Operators shall submit all equipment and software utilized with the sports wagering platform to a designated gaming laboratory approved by the division for an initial certification to ensure the sports wagering platform is in operational compliance with the Act, these regulations, division technical guidelines, and internal controls. The certification report shall, at a minimum, identify system interfaces of service providers and the applicable methods, programs, protocols and security measures implemented by the operator to ensure compliance.

C. At the discretion of the division, additional testing or re-certification of the entire sports wagering platform may be required and shall be completed by a designated gaming laboratory approved by the division. The licensee or operator shall incur all costs associated with the testing of the sports wagering platform. Failure on the part of the licensee or operator to incur these costs may be grounds for administrative action by the division.

D. Upon placing a sports wager at a cashier or sports wagering mechanism, the player shall receive an unalterable virtual or printed wager record (ticket) which shall contain, at a minimum:

1. name and address of the operator, and licensee if different, issuing the ticket;

2. the date and time the sports wager was placed;

3. the date and time the sports event is expected to occur;

4. any patron choices involved in the sports wager including, but not limited to:

a. sports wager selection(s);

b. type of sports wager and line postings;

c. any special condition(s) applying to the sports wager;

d. pay out, applicable at the time the sports wager is placed;

5. total amount wagered, including any promotional play if applicable;

6. sports event and market identifiers;

7. a barcode or similar symbol or marking as approved by the division, corresponding to the unique wager identifier; and

8. the cashier or self wagering mechanism that generated the ticket.

E. If the sports wagering platform issues and redeems a sports book voucher, the system shall be capable of recording the following information for each voucher:

1. amount of voucher;

2. date, time, and location of issuance;

3. unique voucher identifier used for redemption, at least three digits of which shall be masked on all system menus, printed reports, and displays, except when accessed by users with supervisor or higher authority, for all unredeemed and unexpired vouchers;

4. expiration date of the voucher; and

5. date, time, and location of redemption, if applicable.

F. Sports book vouchers issued by a sports wagering platform shall contain the following information:

1. date, time, and location of issuance;

2. amount of the voucher;

3. unique voucher identifier;

4. expiration date of the voucher;

5. name of permit holder; and

6. an indication that the voucher can only be redeemed in exchange for a sports wager or cash.

G. A sports wagering platform system that offers in-play wagering shall be capable of the following:

1. the accurate and timely update of odds for in-play wagers;

2. the ability to notify the patron of any change in odds after a wager is attempted that is not beneficial to the patron;

3. the ability for the patron to confirm the wager after notification of the odds change; and

4. the ability to freeze or suspend the offering of wagers, when necessary.

H. A sports wagering platform shall be capable of performing the following functions:

1. creating wagers;

2. settling wagers;

3. reprinting tickets;

4. resettling wagers;

5. voiding wagers;

6. cancelling wagers; and

7. preventing the acceptance of wagers on prohibited sports events.

I. When a sports wager is voided or cancelled, the operator shall clearly indicate that the ticket is voided or cancelled, render it nonredeemable, and make an entry in the system indicating the void or cancellation and identity of the cashier or automated process.

J. A sports wagering platform shall prevent past posting of wagers and the cancellation of wagers after the outcome of an event is known.

K. In the event a patron has a pending sports wager and then the licensee or its operator becomes aware of the patron

self-excluding, the wager shall be governed in accordance with the Act, these regulations, and internal controls.

L. A sports wagering platform shall, at least once every 24 hours, perform a self-authentication process on all software used to offer, record, and process wagers to ensure there have been no unauthorized modifications. In the event of an authentication failure, the sports wagering platform operator shall notify the appropriate casino licensee employees as provided in the internal controls using an automated process. The licensee shall notify the division of the authentication failure within 24 hours. The results of all self-authentication attempts shall be recorded by the system and maintained for a period of 90 days.

M. A sports wagering platform shall have controls in place to review the accuracy and timeliness of any data feeds used to offer or settle wagers. In the event that an incident or error occurs that results in a loss of communication with data feeds used to offer or redeem wagers, such error shall be recorded in a log capturing the date and time of the error, duration of the error, the nature of the error, and a description of its impact on the system's performance. Such information shall be maintained for a period of two years.

N. The sports wagering platform operator shall provide access to wagering transaction and related data as deemed necessary by the division in a manner approved by the division.

O. A sports wagering platform shall be capable of preventing any wager in excess of \$10,000 or making a payout in excess of \$10,000 until authorized by a supervisor, unless pre-approved and in accordance with internal controls or house rules.

P. A sports wagering platform shall be capable of recording and storing the following information for each wager made:

1. description of the event;

2. wager selection;

3. type of wager;

4. amount of wager;

5. amount of potential payout or an indication that it is a pari-mutuel wager;

6. date and time of wager;

7. identity of the cashier accepting the wager;

8. unique wager identifier, which shall be masked on

all system menus, printed reports, and displays, except when accessed by users with supervisor or higher authority, for all unredeemed and unexpired wagers;

9. expiration date of ticket;

10. patron name, if known;

11. date, time, amount, and description of the settlement;

12. location where the wager was made;

13. location of redemption; and

14. identity of cashier settling the wager if applicable.

Q. For all lost tickets that are redeemed, a sports wagering platform shall record and maintain the following information:

1. date and time of redemption;

2. employee responsible for redeeming the ticket;

3. name of patron redeeming the wager;

4. unique ticket identifier; and

5. location of the redemption.

R. For all sports wagering accounts, a sports wagering platform shall record and maintain the following information:

1. a unique player identification;
2. the player's identity details including, but not limited to: player's legal name; date of birth; and residential address;
3. any self-restrictions;
4. any previous accounts; and
5. the date and location from which the sports wagering account was registered or accessed.

S. Operators shall provide the following information upon demand by the board or division. As appropriate, the information shall include, at a minimum, month to date and year to date:

1. total sports wagering account deposits for the requested period;
2. total sports wagering account withdrawals for the requested period;
3. total sports wagers collected from players; and
4. total winnings paid to players.

T. A sports wagering platform shall be capable of recognizing valid tickets and vouchers that contain a duplicate unique wager identifier used for redemption and require the redemption by a ticket writer.

U. A sports wagering platform shall be capable of preventing the redemption of any vouchers or tickets when the data related to the vouchers or tickets has been manually altered outside of the approved system procedures.

V. All servers necessary for the processing of sports wagers, other than backup servers, shall be physically located in Louisiana, and shall be located in a restricted area with adequate security and surveillance in accordance with internal controls and as approved by the division. Other servers used in the operation of the sports book may be located outside of the state as long as they are not used to process sports wagers. The board may approve of the use of internet or cloud-based hosting of duplicate data or data not related to transactional wagering data upon written request of an operator or licensee.

W. All sports wagering mechanisms shall be submitted to a designated gaming laboratory for testing and required certification prior to being placed at a licensed premise. A designated gaming laboratory shall certify that the sports wagering mechanism meets or exceeds the most current board approved version of standards for sports wagering mechanisms, or equivalent standards as approved by the board, and the standards established by the board or the division.

X. System integrity and security assessment

1. Operators of online sports wagering shall, within 90 days of commencing sports wagering operations in this state and annually thereafter, perform a system integrity and security assessment of sports wagering platforms and systems which shall be conducted by an independent professional selected by the licensee and subject to approval of the division. The scope shall include, at a minimum: a vulnerability assessment of digital platforms, mobile applications, internal, external, and wireless networks with the intent of identifying vulnerabilities of all devices, the sports wagering platform, and applications transferring, storing, and/or processing personal identifying information

and other sensitive information connected to or present on the networks; a penetration test of all digital platforms, mobile applications, internal, external, and wireless networks to confirm if identified vulnerability of all devices, the sports wagering platform, and applications are susceptible to compromise; a review of the firewall rules to verify the operating condition of the firewall and the effectiveness of its security configuration and rule sets performed on all the perimeter firewalls and the internal firewalls; a technical security control assessment against the provisions adopted in these rules with generally accepted professional standards and as approved by the board; an evaluation of information security services, cloud services, payment services (financial institutions, payment processors, etc.), location services, and any other services which may be offered directly by the operator or involve the use of third parties; and any other specific criteria or standards for the sports wagering platform integrity and security assessment as prescribed by the board. The assessment report shall be submitted to the division no later than 30 days after the assessment is conducted (and in no event later than July 1) and shall include, at a minimum: scope of review; name and company of affiliation of who conducted the assessment; date of assessment findings; recommended corrective action, if any; and the operator's response to the findings and recommended corrective action.

2. Consistent with Chapter 28 of Part III of this Title, licensees conducting sports wagering at its licensed premises shall perform a system integrity and security assessment of sports wagering platforms and systems used for conducting retail sports wagering, which shall be completed by an independent professional selected by the licensee and subject to approval of the division. No later than 36 months from its last assessment, the licensee shall submit the results of an independent system integrity and security assessment to the division for review, subject to the following requirements:

- a. the testing organization must be independent of the licensee and casino operator;
- b. results from the network security risk assessment shall be submitted to the division no later than 90 days after the assessment is conducted;
- c. at the discretion of the division, additional network security risk assessments may be required; and
- d. a licensee shall periodically, but no later than 36 months from its last assessment, assess the risk to operations, assets, patrons, employees, and other individuals or entities resulting from the operation of the casino's computer systems and the processing, storage, or transmission of information and data. The assessment shall be documented and recorded in a manner that can be displayed or printed upon demand by the board or division and shall be maintained for a period of five years. Licensees shall assess the collection of personnel and patron data annually to ensure that only information necessary for the operation of the business is collected and maintained. No unnecessary personal information shall be retained.

3. The licensee may submit for approval a request to the division to leverage the results of prior assessments within the past year conducted by the same independent professional against standards such as ISO/IEC 27001, ISO/IEC 27017, ISO/IEC 27018, the NIST Cybersecurity Framework (CSF), the Payment Card Industry Data Security

Standards (PCI-DSS), or equivalent. Such leveraging shall be noted in the independent professional's report. This leveraging does not include critical components unique to the state which will require more current and separate assessments.

Y. Sports wagering platforms and systems shall provide a mechanism for the board or division to query and export, in a format approved by the board or division, all sports wagering platform data.

Z. The sports wagering platform and systems shall be designed in a way to comply with all federal requirements including, but not limited to: suspicious wagering activity; Title 31 of the United States Code; and W-2G reporting.

AA. Upon request by the division, sports wagering operators shall create test accounts for the division's use to conduct compliance inspections and testing of the sports wagering platform.

BB. The licensee may establish test accounts to be used to test the various components and operation of a sports wagering platform pursuant to its division approved internal control procedures which must address procedures for identifying test accounts, issuing funds, maintaining proper records for all test accounts and conducting audits of all test activity to ensure proper adjustments to gross sports wagering revenue and any additional requirements specified by the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§903. Sports Wagering Platform Change Management Program

A. Prior to offering sports wagering, the licensee shall submit change control processes to the board or division for approval which detail evaluation procedures for identifying the criticality of updates and determining the updates that must be submitted to the independent testing laboratory for review and certification. These processes must be:

1. developed in accordance with the minimum guidelines for change management established by the division and any future amendments and updates thereto; and

2. certified prior to its deployment and is subject to an audit at any time by the division or its designee which may be a designated gaming laboratory.

B. The division may require on an annual basis that each product operating under the certified change control processes must be fully certified to the specifications set forth in these rules and other technical specifications as prescribed by the division or board and accompanied by formal certification documentation from the designated gaming laboratory. The licensee shall be allowed to seek approval for extension beyond the annual approval if hardship can be demonstrated. Granting of a hardship waiver is the sole discretion of the division.

C. The operator shall identify and classify all components of the sports wagering platform operated under the approved Change Management Program as part of the initial certification and configuration baseline of the platform and aid the designated testing laboratory as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§905. Information Security Management and Data Security

A. The licensee shall implement, maintain, regularly review and revise, and comply with a comprehensive Information Security Management System (ISMS), the purpose of which shall be to take reasonable steps to protect the confidentiality, integrity, and availability of personal identifying information of individuals who place a wager with the licensee, and shall contain administrative, technical, and physical safeguards appropriate to the size, complexity, nature, and scope of the operations and the sensitivity of the personal information owned, licensed, maintained, handled, or otherwise in the possession of the licensee. Additional ISMS specifications may be adopted by the division or board.

B. Licensees and operators shall comply with all applicable state and federal requirements for data security.

C. Logging of sports wagering platform data

1. All sports wagering platforms shall be designed to ensure the integrity and confidentiality of all patron communications and ensure the proper identification of the sender and receiver of all communications. If communications are performed across a public or third-party network, the system shall either encrypt the data packets or utilize a secure communications protocol to ensure the integrity and confidentiality of the transmission.

2. Sports wagering platforms shall employ a mechanism capable of maintaining a separate copy of all of the information required to be logged in this Section on a separate and independent logging device capable of being administered by an employee with no incompatible function. If the sports wagering platforms can be configured such that any logged data is contained in a secure transaction file, a separate logging device is not required.

3. Operators shall provide upon request, in a format required by the board, all online sports betting system data. Sports betting system data includes, but is not limited to, employee data and logs, geo-fence logs, player activity and betting information, and event logs related to the operator's Louisiana sports wagering operations.

4. Requirements for system specifications and sports wagering platform logging shall be detailed in internal controls.

D. The sports wagering platform shall provide a logical means for securing individual and player data and wagering data, including accounting, reporting, significant event, or other sensitive information, against alteration, tampering, or unauthorized access.

E. The licensee shall describe its process for the backup and recovery of the required sports wagering platform data in its approved internal controls. Any changes to the process shall be approved by the division prior to the changes being implemented on the platform.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§907. Defective and Malfunctioning Devices, Equipment, and Accessories

A. Operators shall document and maintain any system malfunction or deviation from the sports wagering platform and maintain the data for a minimum period of three years.

B. The sports wagering platform must have sufficient redundancy and modularity so that if any single component or part of a component fails, the functions of the internet sports betting platform and the process of auditing those functions can continue with no critical data loss. If two or more components are linked, the process of all internet sports betting operations between the components must not be adversely affected by restart or recovery of either component and upon restart or recovery, the components must immediately synchronize the status of all transactions, data, and configurations with one another.

C. A business continuity and disaster recovery plan must be in place to recover sports wagering operations conducted under the Act if the sports wagering platform's production environment is rendered inoperable.

§909. Sports Wagering Platform Reporting

A. Sports wagering platforms shall be able to generate reports supporting gross revenue of all wagers placed by patrons, wagering liability, winnings, and any other reports considered necessary by the board or division or as required by the internal controls. The reporting must be done on a form and in the manner prescribed by the division.

B. The sports book system shall generate the following daily reports for each in-person and online operation, including the gaming date, in a format approved by the division:

1. a sports wagering detail report or similar approved report by the division, which includes the following transaction information:

- a. transaction time;
- b. patron account identifier (for online operations);
- c. wager identification number;
- d. event type;
- e. wager description;
- f. event date;
- g. wager placed amount;
- h. wager paid amount;
- i. voided wager amount;
- j. canceled wager amount;
- k. resettled wager adjustment amount; and
- l. transaction impact on sports pool revenue;

2. a sports voided wager report or similar approved report by the division, which shall include the following:

- a. transaction time;
- b. patron account identifier (for online operations);
- c. ticket wager identification number;
- d. date and time of issuance;
- e. time of void;
- f. event type;
- g. wager description;
- h. event date;
- i. wager amount;
- j. for retail, cashier employee name or identification number; and
- k. reason for void;

3. a sports canceled wager report or similar approved report by the division, which shall include the following:

- a. transaction time;
- b. patron account identifier (for online operations);
- c. ticket wager identification number;
- d. date and time of issuance;
- e. event type;
- f. wager description;
- g. event date;
- h. wager amount; and
- i. reason for cancellation; and

4. a sports pool resettlement report or similar approved report by the division, which shall include the following:

- a. patron account identifier (for online operations);
- b. wager identification number;
- c. event type;
- d. wager description;
- e. date and time of initial settlement;
- f. date and time of resettlement;
- g. unsettled amount;
- h. resettled amount; and
- i. net adjustment.

C. The sports wagering system shall generate, on a monthly basis, both a retail sports pool wager liability report or similar approved report by the division and an online sports pool wager liability report or similar approved report by the division, as applicable, in a format approved by the division. The report(s) shall be generated for the last day of each month and shall also be produced upon demand, as requested by either the division or the sports wagering licensee. The report(s) shall include the:

- 1. date generated;
- 2. patron account identifier (for online operations);
- 3. wager identification number;
- 4. event type;
- 5. wager description;
- 6. date and time of issuance;
- 7. event date;
- 8. amount; and
- 9. status (for example, pending or complete).

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

Chapter 11. Procedures; Access; Investigations

§1101. Access to Premises and Records

A. The board and division, upon displaying proper credentials, shall be given immediate access to any premises, sports wagering platform, and geolocation systems to be used in the operation of an applicant or licensee or permittee for the purpose of inspecting or examining:

- 1. premises, sports wagering platforms, geolocation systems, etc. belonging to or under the control of or related to the operation of sports wagering and any activity relating to the provisions of the Act and these regulations;
- 2. records or documents required to be kept under the provisions of the Act and these regulations;
- 3. gaming equipment to be used in the licensed operation; or
- 4. the conduct of any gaming activity in the licensed operation.

B. The board and division are empowered to inspect, examine, audit, photocopy and if necessary seize, all papers, books, records, documents, information and electronically

stored media of an applicant or licensee or permittee pertaining to the operation or activity on all premises where such information is maintained. The division shall provide an evidence receipt to the applicant or licensee or permittee providing a general description of all documents and items seized.

C. Board and division agents shall have unrestricted contemporaneous access to all records, data, documents and electronic media of a licensee or permittee and its operation.

D. Failure to allow access and inspection as provided in this Section may constitute grounds for delaying consideration of the application, denial of the application, or administrative action against the licensee or permittee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§1103. Refusal to Answer

A. Refusal to provide information to, answer questions of, or cooperate in any investigation by the division or board, or a claim of privilege with respect to any testimony or evidence, may constitute sufficient grounds for denial of the application or administrative action including revocation, suspension, and penalty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§1115. Assisting in or Notification of Violations

A. No licensee or permittee or their employee, agent, or representative shall assist another person in violating any provision of the Act or these regulations; any order, authorization or approval from the board or division; or the internal controls. Such assistance shall constitute a violation of these regulations.

B. It is incumbent upon a licensee or permittee and their employee, agent, or representative to promptly notify the division of any possible violation of any federal, state or municipal law, the Act, these regulations, any order, authorization or approval from the board or division, or the internal controls.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

Chapter 13. Hearings; Administrative Actions; Penalties

§1301. Administrative Actions

A. The board or division may initiate administrative action authorized by the Act for any violation of the Act or of the rules after notice of the proposed administrative action and after opportunity to request a hearing before the board.

B. The board or division may initiate administrative action authorized by the Act for any violation of any condition, restriction, or limitation imposed by the board on a license or permit.

C. The board or division may initiate administrative action against a licensee, permittee, or person required to submit to suitability by the Act or these regulations who, or

whose affiliate or parent company, has been subject to administrative action in another jurisdiction for gaming related activity.

D. The board or division may initiate administrative action authorized by the Act for violation of a licensee's or permittee's internal controls as approved by the division.

E. Administrative action includes revocation, suspension, finding of unsuitability, or conditioning of a license or permit, imposition of a civil penalty or such other costs as the board or division deems appropriate. The board or division may determine the appropriate sanction considering factors contained in the Act including, but not limited to:

1. the risk to the public and the integrity of sports wagering operations created by the conduct;

2. the seriousness of the conduct and whether the conduct was in violation of the Act or rules promulgated in accordance with the Act;

3. a justification or excuse for the conduct;

4. the history of the licensee or permittee with respect to gaming activity and the operation of sports wagering;

5. the corrective action taken to prevent similar misconduct from occurring in the future;

6. whether there was any material involvement, directly or indirectly, with the licensee or permittee by a disqualified person as defined in the Act; and

7. in the case of a civil penalty or fine, the amount of the fine in relation to the severity of the misconduct and the financial means of the licensee or permittee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

§1303. Civil Penalties

A. Pursuant to R.S. 27:15, and these regulations, the board or division may impose a civil penalty as provided for in Part III of this Title and in the penalty schedule contained in this Section.

B. The penalty schedule lists a base fine and proscriptive period for each violation committed by the licensee or permittee. If the total amount of the penalty or penalties recommended by the division resulting from an inspection or investigation exceeds \$300,000, the matter shall be forwarded to the board for administrative action.

C. The proscriptive period is the amount of time in which a prior violation is still considered active for purposes of consideration in assessment of penalties. A prior violation is a past violation of the same type which falls within the current violation's proscriptive period. The date of a prior violation shall be the date the licensee or permittee receives the significant action report or violation/inspection report. If one or more violations exist within the proscriptive period, the base fine shall be multiplied by a factor based on the total number of violations within the proscriptive period.

D. A violation of §2931 of Part III of this Title may result in a civil penalty in the same amount as provided in the penalty schedule for the respective violation.

E. Penalty Schedule

Section Reference	Description	Proscriptive Period (Months)	1st
Louisiana Administrative Code, Title 42, Part VI			
42:VI.501(D)	Prohibited Person Placing a Sports Wager	12	\$10,000
42:VI.505(A)	Person Placing a Sports Wager While Located in a Parish that Voted Against Sports Wagering	12	\$10,000

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 47:

Family Impact Statement

Pursuant to the provisions of R.S. 49:972, the Gaming Control Board, through its chairman, has considered the potential family impact of the proposed Rule.

The proposed Rule has no known impact on the following:

1. The effect on stability of the family.
2. The effect on the authority and rights of parents regarding the education and supervision of their children.
3. The effect on the functioning of the family.
4. The effect on family earnings and family budget.
5. The effect on the behavior and personal responsibility of children.
6. The ability of the family or a local government to perform the function as contained in the proposed rule.

Poverty Impact Statement

Pursuant to the provisions of R.S. 49:973, the Gaming Control Board, through its chairman, has considered the potential poverty impact of the proposed Rule.

The proposed Rule has no known impact on the following:

1. The effect on household income, assets, and financial security.
2. The effect on early childhood development and preschool through postsecondary education development.
3. The effect on employment and workforce development.
4. The effect on taxes and tax credits.
5. The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

Pursuant to the provisions of R.S. 49:965.2-965.8, the Regulatory Flexibility Act, the Louisiana Gaming Control Board, through its chairman, has concluded that the proposed Rule is not anticipated to have an adverse impact on small business; therefore, a Small Business Impact Statement has not been prepared.

Provider Impact Statement

Pursuant to the provisions of HCR170 of 2014, the Gaming Control Board, through its chairman, has considered the potential provider impact of the proposed Rule.

The proposed Rule has no known impact on the following:

1. The effect on the staffing level requirements or qualifications required to provide the same level of service.
2. The total direct and indirect effect on the costs to the provider to provide the same level of service.
3. The overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Earl G. Pitre, Jr., Assistant Attorney General, Louisiana Department of Justice, Gaming Division, 1885 North Third Street, Fifth Floor, Baton Rouge, LA 70802. All comments must be submitted no later than the end of business day, central time zone, of November 10, 2021.

Ronnie Johns
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Sports Wagering

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule may increase the workload for existing staff within the Gaming Control Board as the result of inspecting, ensuring compliance, and regulating sports wagering that includes issuing possibly 20 facility licenses and 40 mobile platform applications. The proposed rule codifies Act 80, Act 435, and Act 440 of the 2021 Regular Legislative Session and Act 215 of the 2020 Regular Legislative Session that enacts the Sports Wagering Act and authorizes the conducting, application, licensing, permitting, enforcement, collection of fees and taxes, and regulation of sports wagering. In addition, the proposed rule clarifies practices already required in the gaming industry and creates uniformity.

The Gaming Control Board may need one additional position. To the extent the additional workload is less than anticipated, the additional workload may be absorbable, either partially or wholly, using existing staff and resources. Alternatively, if sports wagering activity expands immensely, the Board may require additional resources over the estimate provided. To the extent costs cannot be fully funded by licensing fees deposited into the Sports Wagering Enforcement Fund created by Act 80, additional budgetary resources may be needed.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have an unknown impact on the revenue collection of state and local governmental units. Act 80 of the 2021 Regular Session authorizes the Gaming Control Board to assess and collect fees of \$250,000 for an initial non-refundable license application fee, licensing fees of \$500,000 for a 5-year license; initial nonrefundable permit application fees of \$5,000 (distributor), \$10,000 (service provider), and \$100,000 (platform provider); licensing fees of \$2,500 (distributor), \$12,500 (service provider), and \$250,000 (platform provider) for a 5-year permit; and civil fines not to exceed \$100,000.

The amount of tax revenues generated from a 10% tax levy on sports wagering at on-site licensed establishments and a 15% tax levy on sports wagering electronically through a website or mobile application is indeterminable, and will largely depend on the scope of gaming access ultimately authorized. The taxes collected are first to be deposited and credited to the Bond Security and Redemption Fund in accordance with Article VII, Section 9(B) of the Constitution of Louisiana. Monies in the fund shall be invested in the same manner as monies in the state general fund. Also, Act 435 of the 2021 Regular Session provides for the State Treasurer to credit the monies collected to various funds. The exact amount of state revenues from application and licensing fees, state taxes, as well as, civil fines is unknown.

Authorizing sports wagering will impact consumer behavior in an unknown manner. Whether this behavior will

increase state and local revenues or shift revenues from other forms of existing legalized gaming is unknown. To the extent the proposed rule change results in an expansion of gaming activity, revenue may increase at the statewide or local level. Also, to the extent the proposed rule change shifts gaming behavior, local revenues may increase or decrease between localities.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will result in an unknown impact on costs and economic benefits to licensed operators of sports wagering. Authorizing sports wagering will impact consumer behavior in an unknown manner. Whether this behavior will result in costs or economic benefits to licensed operators of sports wagering is unknown. To the extent the proposed rule may increase gaming activity, economic benefits may increase at the statewide or local level. To the degree that the proposed rule change shifts gaming behavior, existing gaming locations may realize indeterminate costs or economic benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will result in an unknown impact on competition and employment. To the extent the proposed rule change may increase gaming activity, competition and employment may benefit at the statewide or local level. To the extent the proposed rule change shifts gaming behavior, competition and employment may expand or contract between localities.

Ronnie Johns
Chairman
2110#018

Alan M. Boxberger
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of State
Office of the Secretary of State**

Remote Online Notarization (LAC 46:XLVI.144)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), and under the authority granted in La. R.S. 35:624, the Office of the Louisiana Secretary of State hereby gives notice of its intent to promulgate rules regarding the practice of remote notarization for commissioned notaries public in the state of Louisiana.

Title 46

PROFESSIONS AND OCCUPATIONAL STANDARDS

Part XLVI. Notaries Public

Chapter 1. Notaries Public

§144. Authority to Perform Remote Online Notarization

A. A notary public who has been duly appointed and commissioned as provided for under La. R.S. 35:191, who currently holds a valid commission as provided by R.S. 35:191(A)(3), and whose authority to exercise the functions of a notary public is not suspended may be authorized by the secretary of state to perform remote online notarization upon satisfaction of the following requirements:

1. submitting an application using the form provided by the secretary of state for authorization to perform remote online notarization during the term of that notary public's commission;

2. successfully completing an education program provided by the secretary of state covering the statutes and rules governing the remote online notarization;

3. paying a one-time fee of \$100 to the secretary of state upon filing the application for authorization to perform remote online notarization.

B. A notary public authorized to perform remote online notarization may do so for as long as:

1. the notary maintains a valid notarial commission as provided by R.S. 35:191(A)(3);

2. the authority of the notary to perform notarial functions is not suspended; and

3. the authority of the notary to perform remote online notarization has not suspended or revoked.

C. Identity proofing shall be performed through either of the following:

1. dynamic knowledge-based authentication that is performed through the administration of a quiz completed by the party or witness whose identity is being verified that satisfies the following requirements:

a. the quiz shall consist of five questions related to the personal history or identity of the party or witness, formulated from public or proprietary data sources;

b. each question shall contain a minimum of five possible answer choices;

c. all questions must be answered within two minutes; and

d. following a failed attempt by a party or witness, the quiz may be administered no more than once within a 24-hour period. The second administration may consist of no more than 40 percent of the questions presented during the first administration;

2. analysis of biometric data, including facial recognition, voiceprint analysis, or fingerprint analysis.

D. Credential analysis shall ensure that the credential is unexpired, government-issued identification credential that contains the photograph and signature of the party or witness whose identity is being verified by a process that does both of the following:

1. uses automated software processes to aid the notary public in verifying the identity of a party or any witness; and

2. ensures the credential passes an authenticity test consistent with sound commercial practices that meet the following requirements:

a. confirms the integrity of visual, physical, or cryptographic security features;

b. confirms that the credential is not fraudulent or modified in a manner not authorized by the issuing authority;

c. confirms the validity of personal information set forth on the credential when the issuing authority provides access to the information;

d. provides output of the authenticity test to the notary public.

e. enables the notary public to visually compare the information and photo presented on the credential itself and the party or witness as viewed by the notary public through substantially simultaneous audio-visual transmission; and

f. enables the notary public to determine that the party or witness is in possession of the credential at the time of their remote online notarization.

E. Communication technology systems used to perform remote online notarization to do each of the following:

1. provide sufficient video resolution and audio clarity to enable the notary public, the party, and any witness to engage in substantially simultaneous communication by sight and sound;

2. provide sufficient captured-image resolution for credential analysis to be performed in accordance with Part D.2;

3. include a communication encryption protocol and means of authentication that reasonably ensures that only the parties, participating witnesses, and notary public have access to the audio-video communication;

4. ensure that the electronic record that is presented for remote online notarization is the same record electronically signed by the party;

5. create and store or transmit securely to be stored an electronic recording of the audio-video communication, keeping confidential the questions asked as part of any identity-proofing process and the means and methods used to generate the credential analysis output, and;

6. prevent unauthorized access to all of the following:

a. the live transmission of the audio-video communication;

b. any recording of the audio-video communication being stored or being transmitted by the communication technology;

c. the verification methods and credentials used to verify the indemnity of the party; and

d. the instrument presented for electronic notarization.

7. provide for the notary public to maintain in the notary's records a copy of the remote online notarial act;

8. provide the notary public a method of generating a paper copy of the remote notarial act;

9. provide the notary public a detailed audit record of the remote online notarization;

10. provide a means by which the notary public is able to add a statement to any document being notarized that the act is a remote notarial act;

11. provide a mean by which the notary public is able to attach the notary public's electronic signature and insert the notary public's identifying information into the remote online notarial act;

12. provide a means by which each party and each witness can attach such person's electronic signature; and

13. provide a means by which the notary public can digitally sign the remote online notarial act in a manner that renders any subsequent change or modification of the remote online notarial act to be evident.

D. The secretary of state shall maintain a registry of identify-proofing, credential-analysis, and communication providers who have certified by affidavit that their technologies meet the minimum requirements set forth in Parts C and D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:624 and R.S. 49:222.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, LR 47:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children; and
6. the ability of the family or a local government to perform the function as contained in the proposed amendments to the Rule.

Poverty Impact Statement

The proposed Rule has no known impact on poverty as described in R.S. 49:973. Specifically, there should be no known or foreseeable effect on:

1. the household income, assets and financial security;
2. early childhood development and preschool through postsecondary education development;
3. employment and workforce development;
4. taxes and tax credits; and
5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The proposed amendments to the Rule on small business has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small business as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small business.

Provider Impact Statement

The proposed amendments to the Rule does not have any known or unforeseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments relative to the proposed Rule or request a public hearing on the proposed Rule until 4:30 p.m., November 10, 2021, by U.S. mail to the Louisiana Department of State, Attn: Steve Hawkland, 8585 Archives Ave., Baton Rouge, LA 70809.

R. Kyle Ardoin
Secretary of State

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Remote Online Notarization

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule is anticipated to increase the expenditure of self-generated funds by the Secretary of State in the amount of \$176,000 in FY 22 with recurring costs of \$14,080 annually thereafter.

ACT 254 of the 2020 Regular Session requires the Secretary of State to make changes to notary functionality within the Commercial Online Registration Application (CORA). Other changes are made necessary by this proposed rule drafted by a stakeholder committee as required by the act. The changes are necessary to find and denote a notary as authorized to perform Remote Online Notarization (RON), to provide proof of completion of an education program prior to requesting authorization, to apply for and receive such authorization online, and to request removal of their authorization when filing their annual report or at any other time. Other changes to CORA are required to provide notaries with a list of vendors approved by the department to be used for remote online notarization and to allow those vendors to automate confirmation that a notary is both authorized and not revoked or suspended.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

In order to recoup a portion of the cost of implementation, a one-time registration fee of \$100 to perform remote online notarization was approved by the stakeholder committee. This fee includes a prepaid resignation. The use of the Application Programming Interface (API) by vendors to confirm that a notary is authorized and not revoked or suspended is free but an annual fee of \$500 is required for other users. Both vendors and other businesses using the API must renew annually. Based on the projected number of current notaries who might desire to perform online notarization and other businesses who might be interested in using the API, self-generated revenue collections will increase by approximately \$1,133 for FY 22, \$2,609 for FY 23, and \$4,315 for FY 24.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO SMALL BUSINESSES, DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The adoption of this proposed rule will increase costs only for notaries wishing to perform remote online notary services by \$20. Legislative discussions on ACT 254 considered that RON vendors will charge for their services with market forces keeping rates reasonable. The cost of a digital certificate used to sign and prevent modification of documents produced via RON was also considered. RON benefits notaries by saving travel time and fuel and document handling expenses. More notarizations might occur daily as a result of RON thus increasing their revenue stream. RON can increase the health and safety of notaries by reducing in-person exposure and appearances in homes of strangers in unfamiliar neighborhoods.

Other businesses, besides RON vendors, who wish to utilize the optional API to integrate notary searches into their applications will have \$500 per year in cost. Businesses can still search manually on our website for notaries or download a database of all notaries for free.

As discussed during ACT 254 deliberations, small businesses and non-governmental organizations will benefit from RON by being able to use notaries not physically located near them, saving travel time and scheduling difficulties. They

may also benefit by not having to have a notary employed by them or available during all business hours. Businesses wishing to utilize RON must have internet access and might have an additional cost to purchase increased bandwidth.

RON vendors were consulted in the drafting of the rule and the requirements placed on them are consistent with those required by other states.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

ACT 254 may reduce the income of traditional notaries by transferring work to online notaries. Total available work itself should not be reduced as non-Louisiana notaries are not allowed to perform RON. Notaries employed by businesses that move to online notarization may see their work duties change or may need to work independently. Competition in some regions of the state where there aren't many notaries available could increase and might cause downward pressure on the unregulated fees that they are able to charge.

Shanda R. Jones
Undersecretary
2110#004

Alan M. Boxberger
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

**Domesticated Aquatic Organisms
(LAC 76:VII.Chapter 9)**

Under the authority of R.S. 56:411, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Wildlife and Fisheries Commission hereby advertises its intent to add and update permit fees as mandated in Act 356 of the 2021 Legislative Session. Additional definitions were added to this Rule, which further define the permits as updated in law. The associated fees serve to offset departmental costs for required inspection and oversight.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and final Rule, including but not limited to, the filing of the fiscal and economic impact statement, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic life

Chapter 9. Aquaculture

§900. Domesticated Aquatic Organisms (DAO)

A. Definitions

Culture—all activities associated with the rearing, nurturing, or growing of approved DAO species and life stages.

Species Specific Culture Permits—permits that are required for any species which have restricted methods of culture.

B. - D.20. ...

E. The domesticated aquatic organism license shall cost \$20 for residents and \$500 for nonresidents. All holders of species specific culture permits must have a valid domesticated aquatic organism license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:327(A)(2) and R.S. 56:411.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 47:1335 (September 2021), amended LR 48:

§901. Triploid Grass Carp (TGC)

A. - B.3.e. ...

C. TGC Sales Permit

1. Request Procedure for a TGC Sales Permit

a. Individuals wishing to sell live TGC in the state must first obtain a TGC sales permit through an application furnished by the department.

b. The TGC sales permit shall be valid for one year beginning January 1 and ending December 31 of that same calendar year. The permit may be purchased at any time during the year for the current permit year and beginning November 15 for the immediately following permit year. The cost of a TGC Sales Permit is \$100.

C.1.c. - D.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318, R.S. 56:319 and R.S. 56:319.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 17:806 (August 1991), amended LR 19:511 (April 1993), LR 24:962 (May 1998), LR 37:3534 (December 2011), repromulgated LR 38:433 (February 2012), amended by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 47:1337 (September 2021), LR 48:

§903. Tilapia

A. - F.4. ...

G. General Rules for Tilapia

1. The cost of a tilapia culture permit shall be \$100 and live holding permit shall be \$50 and may include the actual cost of the on-site inspection. Universities conducting research approved by the department shall be exempt from the fee charge.

G.2. - G.15. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318, R.S. 56:319 and R.S. 319.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 17:804 (August 1991), amended LR 20:1022 (September 1994), LR 21:594 (June 1995), LR 25:1987 (October 1999), amended by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 47:1338 (September 2021), LR 48: .

§911. Shovelnose Sturgeon

A. - F.3. ...

G. General Rules for Shovelnose Sturgeon

1. The cost of a shovelnose sturgeon permit shall be \$100 and may include the actual cost of the on-site inspection. Universities and other facilities conducting research approved by the department shall be exempt from the fee charge.

G.2. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318 and R.S. 56:319.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 44:1455 (August 2018), amended LR 47:1341 (September 2021), LR 48:

§913. Rainbow Trout

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

5. The cost of a rainbow trout permit shall be \$100 and may include the actual cost of the on-site inspection. Universities and other facilities conducting research approved by the department shall be exempt from the fee charge. Permits expire on December 31 of every year. Any permit issued after November 15, will be valid for the remainder of that calendar year and the following calendar year.

C.6. - C.14. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318 and R.S. 56:319.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 47:1344 (September 2021), amended LR 48:

§915. Aquarium Livestock

A. - C.8.a. ...

9. The cost of an aquarium livestock permit shall be \$100 and may include the actual cost of the on-site inspection. Universities and other facilities conducting research approved by the department shall be exempt from the fee charge. Permits expire on December 31 every year. Any permit issued after November 15 will be valid for the remainder of that calendar year and the following calendar year.

C.10. - C.19. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318 and R.S. 56:319.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 47:1345 (September 2021), amended LR 48:

§919. Freshwater Prawns

A. - C.8.a. ...

9. The cost of a freshwater prawn permit shall be \$100 and may include the actual cost of the on-site inspection. Universities and other facilities conducting research approved by the department shall be exempt from the fee charge. Permits expire on December 31 every year. Any permit issued after November 15 will be valid for the remainder of that calendar year and the following calendar year.

C.10. - C.18. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318 and R.S. 56:319.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 47:1346 (September 2021), amended LR 48:

Family Impact Statement

In accordance with Act 1183 of 1999 Regular Session of the Louisiana Legislature, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

This proposed Rule has no known impact on small businesses as described in R.S. 49:965.2 through R.S. 49:965.8.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments relative to the proposed Rule to Mr. Robert Bourgeois, Fisheries Biologist, Office of Fisheries, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA 70898-9000, prior to 4:30 p.m., Thursday, December 2, 2021.

Jerri G. Smitko
Chair

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Domesticated Aquatic Organisms

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no expenditure impact on state or local governmental units.

The proposed rule change adjusts the schedule of fees for several permits for the sale or possession of domestic aquatic organisms to make the published rule consistent with Louisiana Revised Statutes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is anticipated to have a minor effect on revenue collections of the Louisiana Department of Wildlife and Fisheries (LDWF) from license fees, ranging from \$800 to \$1,000.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO SMALL BUSINESSES, DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change is anticipated to result in a minor aggregate expenditure increase statewide on persons or businesses holding the associated permits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is anticipated to have no impact on receipts or income in Louisiana.

Bryan McClinton
Undersecretary
2110#028

Alan M. Boxberger
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Menhaden Season
(LAC 76:VII.307)

The Wildlife and Fisheries Commission does hereby give notice of intent to amend a Rule (LAC 76:VII.307) by modifying the allowable distance from the inside-outside line (described in R.S. 56:495) that the commercial menhaden fishery is allowed to operate statewide by restricting the fishery to operate within waters beyond 1/4 statute mile from the inside-outside line and 1/4 mile from the double-rig line as described in this rule. Further restrictions are proposed with no operations allowed within waters 1 statute mile seaward of the inside-outside line from

the eastern shore of Belle Pass to the eastern shore of Caminada Pass (off of Elmer's Island), within waters 3 statute miles seaward of the inside-outside line from the eastern shore of Caminada Pass to the eastern shore of Baratavia Pass (off of Grand Isle), and within waters 1 statute mile seaward of the inside-outside line from the eastern shore of Baratavia Pass to the eastern shore of Pass Abel (off of West Grand Terre Island). This Rule is being amended as a result of user conflicts between private recreational and charter boat anglers and the commercial menhaden fishery in the proposed areas where commercial menhaden fishing is being restricted. Authority for amendment of this Rule is included in the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 56:6(25)(a), R.S. 56:313, R.S. 56:315, and R.S. 56:326.3 to the Wildlife and Fisheries Commission.

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 3. Saltwater Sport and Commercial Fishery §307. Menhaden Season

A. - B. ...

C. The menhaden season shall apply to all waters 1/4 statute mile seaward of the inside-outside line described in R.S. 56:495, except as noted in Subsection D, including waters in the Federal Exclusive Economic Zone (EEZ), and in Chandeleur and Breton Sounds as described in Subsection E below. All other inside waters and passes are permanently closed to menhaden fishing.

D. Coastal Buffer Restrictions

1. Restrictions off Elmer's Island, Louisiana. The menhaden season shall apply to waters beginning 1 statute mile seaward of the inside-outside line from the eastern shore of Belle Pass, Louisiana to the eastern shore of Caminada Pass, Louisiana.

2. Restrictions off Grand Isle, Louisiana. The menhaden season shall apply to waters beginning 3 statute miles seaward of the inside-outside line from the eastern shore of Caminada Pass, Louisiana to the eastern shore of Baratavia Pass, Louisiana.

3. Restrictions off West Grand Terre Island, Louisiana. The menhaden season shall apply to waters beginning 1 statute mile seaward of the inside-outside line from the eastern shore of Baratavia Pass, Louisiana to the eastern shore of Pass Abel, Louisiana.

4. Restrictions in Breton and Chandeleur Sounds. The menhaden season shall apply to waters beginning 1/4 mile seaward of the defined waters of Breton and Chandeleur Sounds as described in Subsection E below.

E. For purposes of the menhaden season, Breton and Chandeleur Sounds are described as that portion of the statutorily described inside waters as shown on a map by Raymond C. Impastato, P.L.S., dated July 20, 1992, and more particularly described as follows.

1. Beginning at the most northerly point on the south side of Taylor Pass, Latitude 29 degrees 23 minutes 00 seconds N, Longitude 89 degrees 20 minutes 06 seconds W which is on the inside-outside shrimp line as described in R.S. 56:495; thence westerly to Deep Water Point, Latitude 29 degrees 23 minutes 36 seconds N, Longitude 89 degrees 22 minutes 54 seconds W; thence westerly to Coquille Point, Latitude 29 degrees 23 minutes 36 seconds N, Longitude 89 degrees 24 minutes 12 seconds W; thence westerly to Raccoon Point, Latitude 29 degrees 24 minutes 06 seconds N, Longitude 89 degrees 28 minutes 10 seconds W; thence northerly to the most northerly point of Sable Island, Latitude 29 degrees 24 minutes 54 seconds N, Longitude 89 degrees 28 minutes 27 seconds W; thence northwesterly to California Point, Latitude 29 degrees 27 minutes 33 seconds N, Longitude 89 degrees 31 minutes 18 seconds W; thence northerly to Telegraph Point, Latitude 29 degrees 30 minutes 57 seconds N, Longitude 89 degrees 30 minutes 57 seconds W; thence northerly to Mozambique Point, Latitude 29 degrees 37 minutes 20 seconds N, Longitude 89 degrees 29 minutes 11 seconds W; thence northeasterly to Grace Point (red light no. 62 on the M.R.G.O.), Latitude 29 degrees 40 minutes 40 seconds N, Longitude 89 degrees 23 minutes 10 seconds W; thence northerly to Deadman Point, Latitude 29 degrees 44 minutes 06 seconds N, Longitude 89 degrees 21 minutes 05 seconds W; thence easterly to Point Lydia, Latitude 29 degrees 45 minutes 27 seconds N, Longitude 89 degrees 16 minutes 12 seconds W; thence northerly to Point Comfort, Latitude 29 degrees 49 minutes 32 seconds N, Longitude 89 degrees 14 minutes 18 seconds W; thence northerly to the most easterly point on Mitchell Island, Latitude 29 degrees 53 minutes 42 seconds N, Longitude 89 degrees 11 minutes 50 seconds W; thence northerly to the most easterly point on Martin Island, Latitude 29 degrees 57 minutes 30 seconds N, Longitude 89 degrees 11 minutes 05 seconds W; thence northerly to the most easterly point on Brush Island, Latitude 30 degrees 02 minutes 42 seconds N, Longitude 89 degrees 10 minutes 06 seconds W; thence northerly to Door Point, Latitude 30 degrees 03 minutes 45 seconds N, Longitude 89 degrees 10 minutes 08 seconds W; thence northerly to the most easterly point on Isle Au Pitre, Latitude 30 degrees 09 minutes 27 seconds N, Longitude 89 degrees 11 minutes 02 seconds W; thence north (grid) a distance of 19214.60 feet to a point on the Louisiana-Mississippi Lateral Boundary, Latitude 30 degrees 12 minutes 37.1781 seconds N, Longitude 89 degrees 10 minutes 57.8925 seconds W; thence S60 degrees 20 minutes 06 seconds E (grid) along the Louisiana-Mississippi Lateral Boundary a distance of 31555.38 feet, Latitude 30 degrees 09 minutes 57.4068 seconds N, Longitude 89 degrees 05 minutes 48.9240 seconds W; thence S82 degrees 53 minutes 53 seconds E (grid) continuing along the Louisiana-Mississippi Lateral Boundary a distance of 72649.38 feet, Latitude 30 degrees 08 minutes 14.1260 seconds N, Longitude 89 degrees 52 minutes 10.3224 seconds W; thence south (grid) a distance of 32521.58 feet to the Chandeleur Light, Latitude 30 degrees 02 minutes 52 seconds N, Longitude 88 degrees 52 minutes 18 seconds W, which is on the inside-outside shrimp line as described in R.S. 56:495; thence southeasterly along the inside-outside shrimp line as described in R.S. 56:495 to the point of beginning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:313, R.S. 56:6(25)(a), R.S. 56:315, and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 5:329 (October 1979), amended LR 14:547 (August 1988), LR 19:58 (January 1993), LR 19:1179 (September 1993), amended LR 48:

Family Impact Statement

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issue its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

This proposed Rule has no known impact on small businesses as described in R.S. 49:965.2 through R.S. 49:965.8.

Provider Impact Statement

This proposed Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

Interested persons may submit comments relative to the proposed Rule to Jason Adriance, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, or via e-mail to jadriance@wlf.la.gov prior to Thursday, December 2, 2021.

Jerri G. Smitko

Chair

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Menhaden Season

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no expenditure impact on state or local governmental units.

The proposed rule change prohibits the commercial harvest of menhaden in Louisiana territorial waters within close proximity of the inside-outside line statewide. The zone in which commercial menhaden harvests would be prohibited extends from the inside-outside line to ¼ miles seaward of the inside-outside line for most of the state except for three portions in the central part of the coast. Between the eastern shore of Belle Pass and the eastern shore of Caminada Pass the prohibition zone stretches from the inside-outside line to one mile seaward of the inside-outside line. Between the eastern shore of Caminada Pass to the eastern shore of Barataria Pass, the prohibition zone extends from the inside-outside line to three miles seaward thereof. Between the eastern shore of Barataria Pass and the eastern shore of Pass Abel, the prohibition zone extends from the inside-outside line to one-mile seaward thereof between.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is not anticipated to have an effect on revenue collections of the Louisiana Department of Wildlife and Fisheries from license fees. A potential reduction in menhaden harvesting and processing may result in an indeterminable decrease in state and local sales taxes and state income tax.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO SMALL BUSINESSES, DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change is expected to reduce the receipts or income for commercial fishers and processors involved in the commercial harvest and processing of menhaden. The proposed rule change could accordingly reduce menhaden harvests by 0.2 percent to 4.2 percent or \$0.1 to \$2.9 million in dockside value. The reduction in landings would incur additional losses in value added among menhaden processors that cannot be assessed with the available information.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

In the event that there is a reduction in the landings of menhaden, the proposed rule change may have a negative effect on employment in the commercial menhaden harvesting and processing sectors. The potential impact on employment cannot be predicted with the available information.

Bryan McClinton
Undersecretary
2110#031

Alan M. Boxberger
Deputy Fiscal Officer
Legislative Fiscal Office

Administrative Code Update

CUMULATIVE: JAN-SEP 2021

LAC Title	Part #.Section #	Action	Location: Month	Page #	LAC Title	Part #.Section #	Action	Location: Month	Page #	
7	III.701,703,705,707,709,711	Adopted	July	850	33	III.505,507,2160,3003,5116,5122,5311,5901	Amended	Mar.	355	
	XXIII.701	Repromulgated	June	717		III.2803,2811	Amended	July	874	
	XXV.101,141	Amended	Aug.	1100		V.304	Amended	Aug.	1140	
	XXV.145	Repealed	Aug.	1100		VI.1103,1107,1109,1111,1113	Amended	July	873	
	XXIX.111	Amended	Sep.	1274		IX.1109	Amended	July	876	
	XXXV.125	Amended	July	852		IX.2619	Amended	July	875	
	XXXV.127,321	Amended	May	562		IX.4901,4903	Amended	Mar.	357	
	XXXV.135	Repealed	May	562						
	XXXV.701,703,705,707,709,711,713,715	Adopted	Mar.	348		34	V.109,301,303,307,311,315,317,319,327,325	Amended	May	578
	XXXIX.539	Amended	Feb.	229			V.341,1313,2401,2601,2603,2605	Adopted	May	578
	XXXIX.539	Amended	Aug.	1101			V.501,509,905,907,1101,1103,1105,1107	Amended	May	578
	XXXIX.1303,1307	Amended	May	564			V.503,1705,1903,2533,2539,2542,2545	Repealed	May	578
	XXXIX.1503	Amended	May	563			V.1111,1301,1307,1309,1501,1709,1901	Amended	May	578
				V.1905,2105,2301,2305,2503,2512,2518	Amended		May	578		
13	I.701,703,717,721,723,725,729,731	Amended	July	852	V.2521,2527,2530,2536,2549,2551,2554	Amended	May	578		
	I.702,705,716	Adopted	July	852	V.2521	Repromulgated	June	722		
	I.709,711,713,715,741,751	Repealed	July	852	V.2557,3101,3103	Amended	May	578		
	I.Chapter 33	Amended	Aug.	1105	V.2587,2703,2901	Repealed	May	578		
	I.3303,3307	Amended	Jan.	037						
17	I.101	Amended	Jan.	079	37	XI.501,503,505,507,509,511,513,515,517	Amended	May	594	
						XI.519,521,523,525,527,529,531	Amended	May	594	
22	I.101	Amended	July	888		XI.701,703,705,707,709,711,713,715,717	Amended	May	599	
	I.319	Amended	July	890		XI.719,721,723,725,727,729,731,733	Amended	May	599	
	III.4705,4709	Amended	Sep.	1304		XI.901	Amended	Sep.	1330	
	V.203,205,211	Amended	Mar.	358		XI.903	Adopted	Sep.	1330	
	V.211	Amended	Aug.	1107		XI.2501	Repealed	June	746	
	XI.102,103,121,501,504,511,513,514,705	Amended	Mar.	358		XIII.705	Amended	Jan.	052	
	XI.510,514	Amended	Aug.	1107		XIII.1101	Amended	Jan.	052	
	XI.1502	Adopted	Aug.	1107		XIII.3507,3509,3510,3513,3515,3517,3519	Amended	Sep.	1313	
	XIII.301	Amended	Mar.	364		XIII.3511	Adopted	Sep.	1313	
						XIII.3523,3525,3527	Amended	Sep.	1313	
				XIII.4901,4903,4905,4907,4909,4913		Amended	Sep.	1326		
25	I.1301	Amended	Aug.	1103	XIII.4915,4917	Amended	Sep.	1326		
	I.1305	Adopted	Aug.	1103	XIII.6301,7901,7903,7905,7907,7909,7911	Repealed	Sep.	1312		
28	III.101,105,501,503,505,507,509,511,513	Amended	Sep.	1296	XIII.7913,7915,7917,7919	Repealed	Sep.	1312		
	III.701,703,901,903,1501,1701,1901,1903,1905	Amended	Sep.	1296	XIII.15501,15517	Amended	June	745		
	IV.509,703,705,803,805	Amended	Jan.	038	XIII.16101	Amended	Sep.	1328		
	IV.509,703,705,803,805,2103,2105	Amended	July	863	XIII.16701,16703,16705,16707,16709	Adopted	Sep.	1328		
	IV.703,1809,2103	Amended	July	861	XIII.16711,16713	Adopted	Sep.	1328		
	IV.703,705,803,805,2103,2105	Amended	July	868						
	VI.311	Amended	Jan.	042	40	I.5117,5157	Amended	Jan.	606	
	VI.507,509,511,513,517,519,521	Amended	May	575						
	IX.305,309,311,313,315,317,319,321,323	Amended	Sep.	1293		42	III.102,104,105,107,120,1907	Amended	Feb.	255
	IX.325,327,329	Amended	Sep.	1293			VII.Chapters 1-13	Amended	Feb.	255
	IX.307	Adopted	Sep.	1293		XV.103,105,107,123,127,129,703,705,707	Amended	Mar.	366	
	XI.413	Repromulgated	May	565		XV.713,725,727,729,731,733,735,737	Amended	Mar.	366	
	XI.5105,5107,5305,5701,5907,6153,6803	Amended	May	565						
XI.5701	Repromulgated	June	721	43		I.725	Amended	Sep.	1347	
XI.6151,7703	Repealed	May	565			XIII.303,311,322,401,507,921,1113,1309,1511	Amended	Aug.	1140	
XI.6819,6823,6825,6829,6901,6913,7209	Amended	May	565			XIII.312,3509	Repealed	Aug.	1140	
XI.6821	Amended	July	859			XIII.1725,1729,2117,2133,2143,2719,2912	Amended	Aug.	1140	
XI.7301,7501,7701,8301,8303,8306,8307	Amended	May	565			XIII.2940,3503,3505,3507,3515,5103,6103	Amended	Aug.	1140	
XI.8501,8507	Amended	May	565			XIII.311,1113,1515,2940,3503	Repromulgated	Sep.	1330	
XXXV.101,103,105,107,109,111	Adopted	June	721		XVII.601,603,605,607,609,611,613,615	Adopted	Jan.	053		
XXXV.101,103,105,107,109,111	Repromulgated	Sep.	1287		XVII.617,619,621,623,625,627,629,631,633	Adopted	Jan.	053		
XXXV.301,303,501,503,505,507,701,901	Repealed	Sep.	1287		46	V.2701,2801,2901-2907,3101,3701,3901	Amended	Feb.	230	
XXXV.1101,1301,1303,1307,1309	Repealed	Sep.	1287			V.4301,4401-4405,4501,4701-4710	Amended	Feb.	230	
LXXIX.1105,1107	Amended	Sep.	1290	XXIX.129		Amended	Mar.	364		
CXV.401,403	Amended	Sep.	1290	XXXIII.203,701		Amended	Feb.	236		
CXV.2318,2319	Amended	July	859	XXXIII.322,1502		Repromulgated	Jan.	042		
CXXXI.203	Repromulgated	May	574	XLV.323,361,363		Amended	June	729		
CXXXI.203	Amended	July	858	XLV.402,412		Amended	June	735		
CXXXIX.103,311,503,511,513,515	Amended	May	569	XLV.433,435,437,439,441,443,444		Amended	June	727		
CXXXIX.4101,4103	Amended	Sep.	1290	XLV.445,447,449		Amended	June	727		
CXLVII.105,301,305	Amended	Mar.	354	XLV.1307		Amended	June	730		
CXLIX.2101	Amended	Mar.	355	XLV.9301,9303,9305,9307,9309,9311		Adopted	June	734		
CLXI.103,303,701,703,709,903,1103,1105	Amended	Sep.	1274	XLV.9714		Adopted	June	736		
CLXI.1305,1507,1509,1515,1711,1715,1717	Amended	Sep.	1274	XLV.9716		Adopted	July	883		
CLXI.1719,1721,1723,1725,1805,1811	Amended	Sep.	1274	XLV.9935	Adopted	June	726			
CLXI.1727	Adopted	Sep.	1274	LI.503,507,801	Amended	Feb.	237			
CLXI.1813	Repealed	Sep.	1274	LIII.506,904	Amended	Feb.	244			
CLXI.1901,1903,1907,1911,1919,2105	Amended	Sep.	1274	LIII.519	Amended	May	592			
CLXV.103,309,311,313	Amended	Sep.	1279	LIII.2443,2451	Amended	May	590			
CLXV.509,515	Amended	May	573	LIII.2457	Amended	Feb.	246			
CLXV.707	Repromulgated	May	574	LIII.2457	Amended	Aug.	1111			
CLXVII.509,511,512	Amended	Sep.	1286	LIII.2719,2829,2901,2911,2917,2921,2929	Amended	Jan.	084			

LAC Title	Part #.Section #	Action	Location:		LAC Title	Part #.Section #	Action	Location:			
			Month	Page #				Month	Page #		
46	LIII.2903,2905,2907,2909	Repealed	Jan.	084	50	XV.12903,12913,12917,12919	Amended	May	593		
	LIII.2914	Adopted	Jan.	084		XIX.Chapters 39,41,43	Amended	Feb.	250		
	LIII.3001,3003,3005	Adopted	May	590		XXI.501	Amended	July	886		
	LIII.Chapter 12	Amended	Feb.	240		XXI.701,703,707,709,711,713,715	Amended	Aug.	1112		
	LIII.Chapter 29	Amended	Feb.	247		XXI.717,719,721,723	Amended	Aug.	1112		
	LIV.147,183	Repealed	Aug.	1131		XXI.2901,2903,2905,2907,2909,2911	Repealed	Aug.	1112		
	LIV.111,121,123,145,151,153,155,157,159	Amended	Aug.	1131		XXI.2913,2915	Repealed	Aug.	1112		
	LIV.169,171,175,180,181,185,187,194,195	Amended	Aug.	1131		XXI.8307,8323,9501	Amended	July	885		
	LIV.303,309,311,319,325,331,333,337,341	Amended	Aug.	1131		XXI.9503	Repealed	July	885		
	LIV.345,357,387,392,396,397	Amended	Aug.	1131		XXII.8101,8103,8105,8107,8109	Repromulgated	Jan.	043		
	LV.101,301	Amended	Feb.	274		XXII.8111,8301,8303,8501	Repromulgated	Jan.	043		
	LX.2109	Amended	July	888		XXIX.991,993	Amended	July	887		
	LXI.705,709,903,1301,1309,1311,1313,1315	Amended	July	893		XXVII.541	Amended	Mar.	371		
	LXI.1305	Repealed	July	893							
	LXI.1509,1901,2103,2301,2305,2501	Amended	July	893		51	II.105,107	Amended	Jan.	051	
	LXI.3109,3115,3117	Amended	July	893			II.503,505	Amended	June	743	
	LXIII.601	Amended	Aug.	1111		52	I.1703	Amended	July	852	
	LXX.3101,3701,3801,3901,3905	Adopted	July	877			I.2401,2403,2405,2407,2409,2411	Amended	June	718	
	LXX.3103,3105,3107,3201,3203,3207,3209	Amended	July	877			I.2413,2415,2417	Amended	June	718	
	LXX.3211,3301,3401,3403,3501,3601,3603	Amended	July	877		55	V.Chapter 34	Adopted	Feb.	253	
	LXX.3605,3607	Amended	July	877			VII.801,803,805,807	Adopted	Jan.	080	
	48	I.4901,4903,4951	Amended	Sep.		1305	61	I.4909	Amended	Sep.	1345
		I.5038	Adopted	Jan.		047		I.4919	Amended	July	892
		I.6101,6103,6105	Amended	June		742		III.1539-1546	Adopted	Feb.	272
		I.8201, 8217	Amended	Sep.		1307		III.2121,2123,2125	Adopted	Sep.	1332
		I.8519	Amended	Sep.		1308					
		I.8591	Adopted	Sep.		1308					
		I.9769,9771	Adopted	Sep.		1309		67	III.403	Amended	Aug.
I.12529		Amended	Sep.	1306	III.5553	Adopted			Jan.	036	
50		I.2111	Amended	Mar.	369	III.5591		Amended	Mar.	350	
		II.10137	Amended	Mar.	371	V.1105		Amended	Aug.	1101	
	III.2525	Amended	June	737	V.3903	Amended	Jan.	036			
	V.117	Adopted	Sep.	1311	V.6953,7103,7303,7503	Amended	Feb.	229			
	IX.601,701,703,705,901,903,905	Amended	Jan.	048	V.7311,7313,7315,7321,7323	Amended	Mar.	350			
	IX.8301,8305	Amended	Jan.	049	VII.901,903,905,907,909,911,913,915	Amended	Mar.	371			
	IX.8305,8505,15113	Amended	July	887	VII.917,919,921	Amended	Mar.	371			
	IX.8501,8501	Amended	Jan.	049	70	VIII.303	Amended	Aug.	1148		
	IX.8503	Repealed	Jan.	049							
	IX.8505	Repealed	Jan.	049	72	I.111	Adopted	Aug.	1109		
	VII.32901	Amended	Aug.	1124		I.119	Adopted	July	877		
	VII.32903	Amended	Mar.	370	76	V.111	Amended	May	605		
	VII.32904	Adopted	May	593		V.319	Repealed	July	938		
	XI.7503	Amended	Sep.	1311		VII.537Ass	Amended	May	605		
	XI.10301,10303,10503,10701	Amended	Jan.	046		VII.537	Repromulgated	June	746		
	XI.16301,16303,16503,16701	Amended	Jan.	050		VII.900,913,915,919	Adopted	Sep.	1335		
	XV.9501,9503,9505,9511,9521,9523,9525	Amended	June	738		VII.901,903,907,911	Amended	Sep.	1335		
	XV.9531,9533,9535,9541	Amended	June	738		VII.905	Repealed	Sep.	1335		
	XV.10101,10301,10501,10503,10507,10701	Amended	Aug.	1124		XIX.101,103,111,115,117	Amended	July	900		
	XV.10703,10901,10905,11301,11303,11701	Amended	Aug.	1124							
XV.10903,11501,11503,11505	Repealed	Aug.	1124								
XV.11703	Adopted	Aug.	1124								

Potpourri

POTPOURRI

Office of the Governor
Division of Administration
Office of Broadband Development and Connectivity

Public Hearing—Substantive Changes to Proposed Rule; Granting Unserved Municipalities Broadband Opportunities (GUMBO) (LAC 4:XXI.Chapters 1-7)

The office published a Notice of Intent to promulgate Part XXI, Granting Unserved Municipalities Broadband Opportunities (GUMBO) in the September 20, 2021, edition of the *Louisiana Register* (LR 47:1387-1401). In response to updated guidance from the United States Department of the Treasury, and as a result, address necessary grant program adjustments, the office proposes to amend certain portions of the proposed Rule. Within §307.A, the office proposes to include an attestation that the applicant has not violated federal or state labor and employment law in the previous ten years. Within §311.B, the office proposes to include additional reporting requirements, to include technical details and proposed broadband transmission speeds, with associated scoring criteria adjustments in §405.B. Within §315.B, the office proposes to include an encouragement that an applicant submit a workforce plan prioritizing the hiring of local, Louisiana resident workers, to include a signed letter of intent with a member of the LCTCS system to put forth a good-faith effort to hire recent graduates, among other provisions. Within §405.L and M, the office proposes to increase the number of points awarded for the Small Business Entrepreneurship and Small Business Entrepreneurship Subcontracting scoring criteria. Within §405.N, the office proposes to update the summary table to reflect listed scoring criteria changes. Within §701.A, the office proposes to change the proposed advertised minimum download and minimum upload speeds to at least 100:20 Mbps. Further, in Subsection F, the office proposes to establish the requirement that grant recipients participate in federal programs that provide low-income consumers with subsidies on broadband internet access services. Within §703.B, the office proposes to include additional reporting requirements, including project and expenditure reports and performance reports. Finally, in §709, the office proposes to include federal oversight, civil rights compliance, and the applicability of other federal laws and regulations.

Taken together, these proposed amendments will closely align the proposed Rule with the proposed Rule on the same topic as published by the Office of Broadband Development and Connectivity in the September 2021 edition of the *Louisiana Register* (LR 47:1387-1401). The alignment of these Rules will permit the deployment of broadband service to unserved areas of the state. No fiscal or economic impact will result from the amendments proposed in this notice.

Title 4

ADMINISTRATION

Part XXI. Granting Unserved Municipalities Broadband Opportunities (GUMBO)

Chapter 3. Applications

§307. Application Information, Statement of Qualifications, and Partnerships

A. Every application shall include:

1. the identity of the applicant and its qualifications and experience with the deployment of broadband; in addition, the applicant shall include the following:

a. - f. ...

g. an attestation that the applicant has not violated federal or state labor and employment law in the previous ten years.

2. - 3.b.iii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§311. Technical Report

A. ...

B. Reporting requirements for all deployments:

1. technical detail of the technology/technologies to be used in the proposed project and the broadband transmission speeds offered to prospective broadband recipients as a result of the project. If it would be impracticable, because of geography, topography, or excessive cost to design a broadband infrastructure project that would deliver 100:100 Mbps, the applicant must provide an explanation. Transmission speeds of 100:20 Mbps are the minimum allowable under this grant program.

B.2. - D.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§315. Proposed Services, Marketing, Adoption, and Community Support

A. Every application shall include:

1. - 6. ...

B. It is highly encouraged that every application should include:

1. a workforce plan prioritizing the hiring of local, Louisiana resident workers, to include a signed letter of intent with a post-secondary educational institution that is a member of the Louisiana Community and Technical College System, containing an obligation upon the applicant, and contractors or subcontractors of the applicant, to put forth a good-faith effort to hire, when possible, recent graduates of broadband-related programs. At minimum, the workforce plan should also contain a commitment to offer wages at or above the prevailing rate and a description of the applicant's safety and training standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

Chapter 4. Scoring

§405. Factors Subject to Scoring

A. - B. ...

Broadband Speeds (Mbps Down: Mbps Up)	Points
At least 100:20	1
100:100 and beyond	7

Scalability (Mbps Down: Mbps Up)	Points
At least 100:100	1
At least 300:300	3
At least 500:500	7
At least 1000:1000	10

* * *

C. - L. ...

Certified Hudson / Vet Initiative Grant Recipient	Points
Grant recipient certified by the Hudson and/or the Veterans Initiative	10

M. ...

Certified Hudson / Vet Initiative Subcontractor(s)	Points (max. 20 points)
Each subcontractor certified by the Hudson and/or the Veterans Initiative	2

N. ...

Summary	
Scored Section	Points
A-1. Experience (Years Providing Internet Service)	0 – 5
A-2. Experience (Households Provided Access)	0 – 5
A-3. Experience (Completed Internet Projects)	0 – 5
A-4. Experience (Penalties Paid)	0 – 5
A-5. Experience (Defendant in Criminal or Civil)	0 – 5
B-1. Technical Ability (Broadband Speeds)	1 – 7
B-2. Technical Ability (Scalability)	0 – 10
B-3. Technical Ability (Distance Between Broadband Recipients)	0 – 5
C-1. Financial Wherewithal (Cost Per Prospective Broadband Recipient)	0 – 10
C-2. Financial Wherewithal (GUMBO Cost Per Prospective Broadband Recipient)	0 – 20
C-3. Financial Wherewithal (Bankruptcy)	0 – 2
D. Provider Matching Funds	0 – 1 – 5+
E. Local Government Letters of Support	1 – 3
F. Number of Unserved Households in Parish	1 – 5
G. Percent of Total Unserved Households Now Served	1 – 5
H. Unserved Businesses Now Served	1 – 5
I-1. Leverage of Existing Infrastructure (Percentage of Mileage of Preexisting Infrastructure)	0 – 5
I-2. Leverage of Existing Infrastructure (Timing of Construction Start Date)	1 – 5
I-3. Leverage of Existing Infrastructure (Timing of Wireline Construction Completion)	1 – 10
Or	

Summary	
Scored Section	Points
I-4. Leverage of Existing Infrastructure (Timing of Wireless Construction Completion)	1 – 5
J. Consumer Price	0 – 10
K. Local Government Matching	0 – 1 – 5+
L. Certified Hudson/Vet Initiative Grant Recipient	0 – 10
M. Certified Hudson/Vet Initiative Subcontractor	0 – 20
Total Possible Points:	7 – 167+

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

Chapter 7. Compliance

§701. Speed and Cost Compliance

A. The office shall require that grant recipients offer the proposed advertised minimum download and minimum upload speeds of at least 100:20 Mbps.

B. - E. ...

F. Grant recipients shall be required to participate in federal programs that provide low-income consumers with subsidies on broadband internet access services. Initially, grant recipients will be required to participate in the Federal Communications Commission’s Emergency Broadband Benefit program. Once the FCC’s EBB program has terminated, the grant recipient shall participate in any program so designated by the U.S. Department of the Treasury.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§703. Reporting

A. ...

B. Grant recipients, upon request from the office, shall provide:

1. project and expenditure reports, to include but not limited to: expenditures, project status, subawards, civil rights compliance, equity indicators, community engagement efforts, geospatial data, workforce plans and practices, and information about subcontracted entities; and

2. performance reports, to include but not limited to project outputs and outcomes.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

§709. Federal Oversight, Civil Rights Compliance, and Other Applicable Federal Law

A. Grant recipients are subject to audit or review by the U.S. Department of the Treasury Inspector General and Government Accountability Office.

B. Grant recipients shall not deny benefits or services, or otherwise discriminate on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity), in accordance with the following authorities:

1. Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. 2000d-1 et seq., and the Treasury Department’s implementing regulations, 31 C.F.R. part 22;

2. Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. 794;

3. Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. 1681 et seq., and the Treasury Department's implementing regulations, 31 C.F.R. part 28; and

4. Age Discrimination Act of 1975, 42 U.S.C. 6101 et seq., and the Treasury Department's implementing regulations, 31 C.F.R. part 23.

C. Grant recipients and all proposed projects must comply with all applicable federal environmental laws. Additionally, grant recipients and all proposed projects must comply with the following federal laws and regulations:

1. the 2019 National Defense Authorization Act (NDAA);

2. 2 C.F.R. Part 200; and

3. the Contract Work Hours and Safety Standards Act, 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations 29 C.F.R. Part 5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370-2370.16.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 47:

Public Hearing

In accordance with the provisions of the Administrative Procedure Act, specifically at R.S. 49:968(H)(2), the office gives notice of a public hearing to receive additional comments and testimony on these substantive amendments to the proposed Rule. The hearing will be held at 10 a.m. on Wednesday, November 24, 2021, in room 2-207 at the Office of Broadband Development and Connectivity, which is located in the Claiborne Building at 1201 N. Third Street in Baton Rouge, LA. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing. Interested persons may submit written comments to Veneeth Iyengar, Executive Director, Louisiana Office of Broadband Development and Connectivity, P.O. Box 94095, Baton Rouge, LA 70804-9095, or through email at connect@la.gov. He is responsible for responding to inquiries regarding these substantive amendments to the proposed Rule. The deadline for receipt of all written comments is 10 a.m. on Wednesday, November 24, 2021.

Veneeth Iyengar
Executive Director

2110#059

POTPOURRI

Department of Public Safety and Corrections Oil Spill Coordinator's Office

Notice of Restoration Plan—2006 Calcasieu River Oil Spill

Action: Notice of Availability of a Draft Damage Assessment and Restoration Plan and Environmental Assessment with a 30-day public review and comment period—LOSCO NRDA case file #LA2006_0621_0846 (Calcasieu River 2006).

Agencies: Louisiana Oil Spill Coordinator's Office, Department of Public Safety and Corrections (LOSCO); Louisiana Department of Environmental Quality (LDEQ); Louisiana Department of Natural Resources (LDNR); Louisiana Department of Wildlife and Fisheries (LDWF); Louisiana Coastal Protection and Restoration Authority (CPRA); the United States Department of the Interior (DOI), represented by the U.S. Fish and Wildlife Service (USFWS); and the United States Department of Commerce, represented by the National Oceanic and Atmospheric Administration (NOAA); collectively referred to herein as the "Trustees".

Authorities: The Oil Pollution Act of 1990 (OPA), 33 U.S.C. 2701 et seq., and the Louisiana Oil Spill Prevention and Response Act of 1991 (OSPRA), La. R.S. 30:2451 et seq., are the principal federal and state statutes, respectively, authorizing federal and state agencies and tribal officials to act as natural resource trustees for the recovery of damages for injuries to trust resources and services resulting from oil spill incidents in Louisiana. OPA implementing regulations may be found at 15 C.F.R. Part 990 and OSPRA regulations at LAC 43:XXIX. In accordance with OPA, OSPRA, and the regulations, the Trustees have conducted a Natural Resource Damage Assessment (NRDA) for the 2006 oil discharge into the lower Calcasieu River estuary, approximately eight miles south-southwest of Lake Charles, Louisiana, in Calcasieu Parish (Incident). CITGO Petroleum Corporation (CITGO) was identified as the Responsible Party for the Incident.

Summary: Pursuant to 15 C.F.R. §§ 990.23, 990.55 and LAC 43:XXIX, Chapter 1, notice is hereby given that a document entitled, "Draft Damage Assessment and Restoration Plan and Environmental Assessment, 2006 Calcasieu River Oil Spill, NRDA Case File #LA2006_0621_0846" (Draft DARP/EA) is available for public review and comment. The Draft DARP/EA identifies the natural resources and services that were determined to be injured by the Incident, describes the assessment procedures used to quantify injury, outlines the scaling approach and restoration alternative selection process, and presents the Trustees' proposed plan to restore natural resources or services equivalent to those lost as a basis for compensating the public for the injuries to natural resources and services resulting from the Incident. The Draft DARP/EA evaluates restoration alternatives that the Trustees considered and identifies the Trustees' preferred restoration alternative, which is a suite of restoration actions including: (1) the Long Point Bayou Marsh Creation (CS-0085) Project; (2) Calcasieu Lake Oyster Cultch Plant Project; and (3) Houma Navigation Canal (HNC) Bird Island Project. After finalization of the Draft DARP/EA, the Trustees will prepare a Final Damage Assessment and Restoration Plan and Environmental Assessment (Final DARP/EA) and make it available to the public.

The Draft DARP/EA is available to the public for a 30-day comment period, which will begin on the date of this public notice announcing availability of the document for public review. The Trustees invite the public to review this document and submit comments to the mailing or email address listed below. The Trustees will consider comments received during the public comment period before finalizing the Final DARP/EA. Public review of the Draft DARP/EA is

consistent with all federal and state laws and regulations that apply, including Section 1006 of OPA, 33 U.S.C. § 2706; the OPA regulations, 15 C.F.R. Part 990; Section 2480 of OSPRA, La. R.S. 30:2480; and the OSPRA regulations, LAC 43:XXIX, et. seq.

Public Participation: Interested members of the public are invited to view the Draft DARP/EA via the internet at <http://www.losco.state.la.us> (look under Newsflash/current news for 2006 Calcasieu River Oil Spill Draft Damage Assessment and Restoration Plan and Environmental Assessment Available) or by requesting a copy of the document at the following address:

Louisiana Oil Spill Coordinator's Office
Department of Public Safety and Corrections
Attn: Charles K. Armbruster
P.O. Box 66614
Baton Rouge, LA 70896
(225) 925-6606
losco@la.gov

Public participation is encouraged. Opportunities to participate in the process include public availability of Administrative Record (AR) documents as well as an opportunity for the public to review and comment on the Draft DARP/EA. The AR can be found at <https://data.losco.org> under "Search Administrative Records".

Comment Submittals: Comments must be submitted in writing or digitally to Charles K. Armbruster at the above address on or before the end of the 30-day comment period.

For Further Information: Contact Charles K. Armbruster at (225) 925-6606 or by email at charles.armbruster@la.gov.

Supplementary Information: On October 20, 2014, the Trustees published a Notice of Intent in the *Louisiana Register* (Vol. 40, No. 10, pp. 2170-2172) to notify the public that they intended to conduct restoration planning for the Incident, develop restoration alternatives that would restore, replace, rehabilitate, or acquire the equivalent of natural resources injured and/or natural resource services lost as a result of the Incident, and open an Administrative Record to facilitate public involvement in the restoration planning process. In June of 2021, Citgo agreed to settle their NRDA liability for a cash amount, and shortly thereafter on July 20, 2021, the Trustees published a Notice of Availability of a proposed Consent Decree for Natural Resource Damages in the *Louisiana Register* (Vol. 47, No. 7, pp. 1069-1070). The Trustees did not receive comments during the 30-day public comment period, and on September 1, 2021, the United States District Court for the Western District of Louisiana entered the Consent Decree. A copy of the Consent Decree is available on LOSCO's website.

Sam Jones
Oil Spill Coordinator

2110#045

**CUMULATIVE INDEX
(Volume 47, Number 10)**

2021	
Pages	Issue
1-206	January
207-329	February
330-427	March
428-552	April
553-701	May
702-835	June
836-1077	July
1078-1208	August
1209-1448	September
1449-1624	October
EO—Executive Order	
PPM—Policy and Procedure Memoranda	
ER—Emergency Rule	
R—Rule	
N—Notice of Intent	
CR—Committee Report	
GR—Governor's Report	
L—Legislation	
P—Potpourri	
QU—Administrative Code Quarterly Update	

ADMINISTRATIVE CODE UPDATE

Cumulative

- January 2020-December 2020, 200QU,
- January 2021-March 2021, 539QU
- January 2021-June 2021, 1067QU
- July 2021-September 2021, 1612QU

AGRICULTURE AND FORESTRY

Agriculture and Environmental Sciences, Office of

- Annual quarantine listing, 540P
- Certifications, 437R, 717R
- Examinations, 437R, 717R
- Fees, 437R
- Industrial hemp, 1351N
- Licensing, 437R, 717R
- Medical marijuana program, 1540N
- Restrictions on application of certain pesticides, 1358N

Agricultural Chemistry and Seed Commission

- Industrial hemp, 438R, 1352N

Horticulture Commission

- Minimum examination performance levels required, 503N, 1274R

Structural Pest Control Commission

- Structural pest control, 504N, 1100R

Agriculture Finance Authority

- Louisiana Agricultural Workforce Development Program, 499N, 850R

Agro-Consumer Services, Office of

Division of Weights and Measures

- Annual fee for registration of mass flow meters, 501N, 852R
- Commercial weighing and measuring, 562R
- Fuel price advertising, 562R
- Indian Creek campsite fees, 229R, 1101R
- Meat labeling, 562R

Suspension of standard fuel specifications for gasoline and gasoline-oxygenate blends, 703ER, 703ER, 704ER, 1211ER

Weights and measures, 1361N

Weights and Measures, Commission of

Truth in labeling of food products, 348R

Weights and measures, 1361N

Forestry, Office of

Electronic transfer/driver cards, 276N, 375N, 563R

Forestry Productivity Program, 277N, 564R

Veterinary Medicine, Board of

Board nominations, 1068P

Continuing veterinary education, 841ER, 1068P,

Examination dates, 1068P

Licensure procedures, 1451ER

CHILDREN AND FAMILY SERVICES

Child Welfare, Division of

Extended foster care services, 4ER, 36R

Louisiana's 2021 Annual Progress and Services Report, 413P

Social Services Block Grant Intended Use Report, 413P

Child Protective Services

Maintenance and disclosure of information on reports, 608N, 1101R

Investigations on the state repository, 608N

Economic Stability Section

Caseload reduction, 203P

Expungement of unused benefits, 609N, 1102R

Jobs for America's Graduates Louisiana (JAGS-LA) Program, 210ER, 350R

TANF Grant amounts, 1361N

TANF NRST benefits and Post-FITAP transitional assistance, 1079ER, 1363N

Vulnerable communities and peoples initiative, 36R

Family Support, Division of

Caseload reduction, 123P

Licensing Section

Child placing provisions, 350R, 441R, 1081ER

Child placing supervisory visits, 1366N

Residential homes (Type IV), 1081ER

Sanctions, 1081ER, 1367N

Specialized provider provisions, 1367N

Suspension of license renewal fees, 229R

CIVIL SERVICE

Ethics, Board of

Food and drink limit, 504N, 852R

Third party ethics training, 376N, 718R

CULTURE, RECREATION AND TOURISM

Cultural Development, Office of

State commercial tax credit program credit reservation process, 610N, 1103R

State Parks, Office of

Rosedown Plantation admission fee, 1374N

ECONOMIC DEVELOPMENT

Business Development, Office of

Public hearing

Enterprise Zone Program, 414P, 852R

Secretary, Office of the

Angel Investor Tax Credit Program, 37R, 613N, 1105R

EDUCATION

Elementary and Secondary Education, Board of

Bulletin 111—The Louisiana School, District, and State Accountability System, 87N, 444R, 565R

Index components, 1211ER

Interests and opportunities, 1211ER

Bulletin 118—Statewide Assessment Standards and Practices, 279N, 565R, 721R

Performance standards, 1212ER

Bulletin 126—Charter Schools

Fiscal responsibilities, 940N, 1491R

School renewals and virtual charter school attendance, 284N, 569R

Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel, 354R, 1545N

Bulletin 131—Alternative Education Schools/Programs Standards, 355R

Bulletin 133—Scholarship Programs, 1547N

Bulletin 135—Health and Safety, 94N, 450R

Bulletin 137—Louisiana Early Learning Center Licensing Regulations, 748N, 1274R, 1549N

CPR and First Aid certification, 1213ER

Bulletin 139—Louisiana Child Care and Development Fund Programs, 4ER, 210ER, 573R, 1551N

CCAP household eligibility, 96N, 288N, 452R, 574R, 754N, 1279R

Bulletin 140—Louisiana Early Childhood Care and Education Network, 5ER, 98N, 452R, 556ER, 761N, 1286R

Bulletin 741—Louisiana Handbook for School Administrators, 1553N

Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators—African American History, 1558N

Bulletin 746—Louisiana Standards for State Certification of School Personnel, 5ER, 99N, 453R, 506N, 574R, 839ER, 858R, 941N, 1213ER, 1491R

Bulletin 1566—Pupil Progression Policies and Procedures, 944N, 1493R, 1559N

Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act, 1560N

Bulletin 1903—Regulations and Guidelines for Implementation of the Louisiana Law for the Education of Dyslexic Students, 291N, 722R, 1287R

High school assessment requirements, 428ER, 508N, 859R

High school social studies assessment, 1564N

Minimum reopening standards, 705ER, 763N, 1290R

Phase 3 minimum requirements pertaining to reopening school facilities, 101N, 431ER, 453R

Physical distance between students in classrooms, 430ER

School food service, 945N, 1493R

Regents, Board of

Academic program standards, 616N, 1293R

Student level data collection and reporting, 616N, 1293R

Proprietary Schools Section

Affidavits and Bonds, 619N, 1296R

General provisions, 619N, 1296R

License requirements, 619N, 1296R

Proprietary schools applications, 619N, 1296R

Student complaint procedure, 619N, 1296R

Student records, 619N, 1296R

Violations, 619N, 1296R

Student Financial Assistance, Office of

Extension of the ACT testing deadline, 6ER

Scholarship/Grant Programs

2020 natural disasters, 103N, 221ER, 863R

2020 Regular Session of the Louisiana Legislature, 38R

2021-2022 Chafee ETV Award amount, 767N, 1494R

Chafee Educational and Training Voucher grade reporting, 331ER, 380N, 861R

COVID-19 exceptions, 331ER, 380N, 861R

Dual enrollment calculus, 331ER, 380N, 861R

TOPS 5.0 grading scale

AP Psychology, 38R

Waivers of certain TOPS initial eligibility for students affected by natural disasters in 2020, 383N, 868R

Tuition Trust Authority

Student Financial Assistance, Office of

Achieving a Better Life Experience (ABLE) Program, 295N, 575R

START Saving Program, 42R, 768N, 1495R

ENVIRONMENTAL QUALITY

Office of the Secretary

Legal Affairs and Criminal Investigations Division

2020 annual incorporation by reference of certain federal air quality regulations, 355R

Brownfields Cleanup Revolving Loan Fund Program, 511N, 873R

Carbon dioxide (CO₂) streams in geologic sequestration activities, 1374N

Lead-Based paint activities

Accreditation, 513N, 874R

Recognition, 513N, 874R

Licensure, 513N, 874R

Standards for conducting lead-based paint activities, 446N, 874R

Medical use of byproduct material, 1150N

Public hearing and request for comments

Triennial review of Louisiana water quality standards, 420P

Regional Haze 5-Year Report

State Implementation Plan (SIP) revision, 203P, 542P

ENVIRONMENTAL QUALITY (continued)

Regulation and licensing of naturally occurring radioactive material (NORM), 1166N
Requirements for credits, 514N, 875R
Water pollution control, 516N, 876R
Water Quality Management Plan
Updates
Volume 4: Basin and Subsegment Boundaries, 421P
Appendix A: Subsegment Descriptions by Basin, 421P

EXECUTIVE ORDERS

JBE 20-22 Atchafalaya River Basin Restoration and Enhancement, 1EO
JBE 20-23 Flags at Half-Staff—Dr. Adam John Tassin, Jr, 2EO
JBE 20-24 Flags at Half-Staff—Victor and Terry Stelly, 2EO
JBE 20-25 Flags at Half-Staff—Luke Letlow, 3EO
JBE 21-01 Flags at Half-Staff—Percy Joseph “P.J.” Mills, Jr., 207EO
JBE 21-02 Carry-Forward Bond Allocation 2020, 207EO
JBE 21-03 Amending Carry-Forward Bond Allocation 2020, 208EO
JBE 21-04 Flags at Half-Staff—Stephen Frank “Steve” Carter, 209EO
JBE 21-05 Flags at Half-Staff—Michael Hanley O’Keefe, 330EO
JBE 21-06 Flags at Half-Staff—Dr. Virgil Orr, 553EO
JBE 21-07 Governor’s Task Force on Murdered and Missing Indigenous Women and Girls, 553EO
JBE 21-08 Flags at Half-Staff—Former Governor Charles Elson “Buddy” Roemer, III, 703EO
JBE 21-09 Flags at Half-Staff—Former Lt. Governor James E. “Jimmy” Fitzmorris, Jr., 836EO
JBE 21-10 Bond Allocation 2021 Ceiling, 836EO
JBE 21-11 Flags at Half-Staff—Former Governor Edwin Washington Edwards, 837EO
JBE 21-12 Bond Allocation 2021 Ceiling, 1078EO
JBE 21-13 Elections—Rescheduled Due to Statewide State of Emergency Caused by Hurricane Ida, 1209EO
JBE 21-14 Flags at Half-Staff—Stephen E. Pugh, 1210EO
JBE 21-15 Flags at Half-Staff—Judge John Dewey Saunders, 1449EO
JBE 21-16 Bond Allocation 2021 Ceiling, 1449EO

GOVERNOR

Administration, Division of

Broadband Development and Connectivity, Office of
Granting Unserved Municipalities Broadband Opportunities (GUMBO), 1082ER, 1387N, 1452ER
Public hearing—substantive changes to proposed Rule, 1614P

Patient’s Compensation Fund Oversight Board

Qualified health care provider services, 1465ER, 1467ER

Racing Commission

Colors, 1176N
Declaring a horse ineligible to be claimed at time of entry, 1177N

Permitted medications in quarter horses, 1178N
Pick N procedure, 630N, 1495R
Protective helmets and safety vests, 1178N

State Procurement, Office of

PPM 49—General Travel Regulations, 814PPM, 1052PPM
PPM 56—Delegated Procurement Authority; Standard and Special Delegations, 198PPM
Procurement, 110N, 324P, 578R, 725R

State Uniform Payroll, Office of

Temporary extension of time period to meet minimum participation level
Certain approved statewide vendors, 840ER

Tax Commission

Ad Valorem taxation, 12ER, 122N, 456R

Architectural Examiners, Board of

Adoption and amendment of rules, 1171N
Declaratory orders and rulings, 1172N
Members of the military and spouses and dependents of members of the military, 1173N

Auctioneers Licensing Board

Auctioneers, 1377N

Boxing and Wrestling Commission

Boxing and wrestling standards, 109N, 456R

Coastal Protection and Restoration Authority

Deepwater Horizon Oil Spill
Phase II Restoration Plan, 323P

Commission on Law Enforcement and Administration of Criminal Justice

Peace officer training, 949N, 1304R

Crime Victims Reparations Board

Compensation to victims, 364R, 1386N

Indian Affairs, Office of

American Indian Scholarship, 472R

Law Enforcement and Administration of Criminal Justice, Commission on

Peace officer training, 394N

Licensing Board for Contractors

Licensure and exemption of exam for individuals with military training and experience, 364R
Military spouses and dependents, 364R

New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, Board of Examiners for

Examinations, 335ER, 1381N
General provisions, 333ER
Qualifications, 333ER, 1381N
Standards of conduct, 12ER, 333ER, 557ER, 1384N

Oil Spill Coordinator’s Office

Notice of Draft Restoration Plan
Lake Washington 2003 Oil Spill, 421P

Pardons, Board of

General provisions, 358R, 455R
Inactive parole supervision, 627N, 1107R
Meeting and hearing for the Board of Parole, 627N, 1107R
Notification and request for reconsideration of decision, 947N

River Port Pilot Commissioners for the Port of New Orleans, Board of

River port pilots, 388N, 877R

Used Motor Vehicle Commission

Used motor vehicles, 230R

GOVERNOR'S REPORTS

Governor's review and determination for an Emergency Rule adopted by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, 690GR

HEALTH

Aging and Adult Services, Office of

Home and community-based services waivers
Community Choices Waiver, 522N, 885R, 1095ER
Cost reporting requirements, 631N, 1112R
Support coordination standards for participation, 524N, 886R

Personal care services

Long term care, 304N, 1095ER

Programs and services amendments due to the Coronavirus disease 2019 (COVID-19) public health emergency, 213ER, 341ER, 433ER, 711ER, 842ER, 1095ER, 1479ER

Behavior Analyst Board

Temporary reduction of license and certificate renewal fees, 1469ER

Behavioral Health, Office of

Behavioral health services

Services for targeted populations, 1408N

Programs and services amendments due to the Coronavirus disease 2019 (COVID-19) public health emergency, 213ER, 711ER, 1479ER

Citizens with Developmental Disabilities, Office for

Act 421 children's Medicaid option, 43R, 1404N

Council on the Purchase of Goods and Services of Individuals with Disabilities, 371R

Home and community-based services waivers, 1095ER

Children's Choices Waiver

Direct support worker wages, 1473ER, 1568N

Cost reporting requirements, 631N, 1112R

New Opportunities Waiver

Direct support worker wages, 1474ER, 1570N

Residential Options Waiver, 986N, 1507R

Direct support worker wages, 1475ER, 1572N

Supports Waiver

Direct support worker wages, 1476ER, 1574N

Personal care services

Long-term care, 1095ER

Programs and services amendments due to the Coronavirus disease 2019 (COVID-19) public health emergency, 341ER, 433ER, 842ER, 1095ER

Targeted case management, 646N, 1124R

Counselors, Licensed Professional, Board of

Examiners

Consulting, 306N

License renewal, 557ER

Teletherapy, 558ER

Dentistry, Board of

CDC Inspection violation expungement, 42R

Continuing education requirements, 950N, 1496R

Costs, 1567N

Dentists, 1567N

Fees, 1567N

General provisions, 1567N

Nitrous Oxide Analgesia, 42R

Teledentistry

Authorized duties, 236R

Emergency Medical Services, Bureau of

Emergency medical services professionals, 1012N

Emergency Medical Services Certification Commission

Emergency medical services professionals, 1012N

Health Services Financing, Bureau of

2021 fourth quarter hospital stabilization assessment, 829P

2021 third quarter hospital stabilization assessment, 422P

2022 first quarter hospital stabilization assessment, 1436P

Abortion facilities

Licensing standards, 338ER, 708ER, 1470ER

Act 421 children's Medicaid option, 43R, 1404N

Adult residential care providers

Licensing standards, 951N, 1496R

Behavioral health services

Services for targeted populations, 1408N

Case management

Licensing standards, 763N, 1305R

Dental Benefits Prepaid Ambulatory Health Plan

Payment methodology, 369R

Emergency telemedicine, 212ER, 710ER, 1472ER

Facility need review

Relocation of nursing facility beds, 143N, 1306R

Federally qualified health centers, 46R

Community health worker services

Alternative payment methodology, 1410N

Free-standing birth centers

Licensing standards, 969N

Home and community-based services providers

Licensing standards, 47R

Home and community-based services waivers, 1095ER

Children's Choice Waiver

Direct support worker wages, 1473ER, 1568N

Community Choices Waiver, 522N, 885R

Cost reporting requirements, 631N, 1112R

New Opportunities Waiver

Direct support worker wages, 1474ER, 1570N

Residential Options Waiver, 986N, 1507R

Direct support worker wages, 1475ER, 1572N

Support coordination standards for participation, 524N, 886R

Supports Waiver

Direct support worker wages, 1476ER, 1574N

Home Health Program

Durable medical equipment, 644N, 1123R

Hospice

Licensing standards, 771N, 1307R

Intermediate care facilities for persons with developmental disabilities, 773N

Licensing standards, 1308R

Intermediate care facilities for persons with intellectual disabilities

HEALTH (continued)

Reimbursement methodology, 370R
Direct care floor recoupment, 645N, 1124R
Temporary reimbursement for private facilities, 212ER, 302N, 341ER, 593R
Laboratory and radiology services, 250R
Reimbursement methodology, 1179N
Licensing standards
Crisis receiving centers, 138N, 472R
Managed care for physical and behavioral health
Independent review process for provider claims, 1412N
Medicaid eligibility
Twelve-Month continuous eligibility, 396N, 737R
Medical Transportation Program, 1181N
Non-emergency medical transportation, 371R
Nursing facilities
Licensing standards, 775N, 1309R
Non-Emergency transportation for medical appointments, 371R
Supplemental payments
Non-State governmental organizations, 144N, 476R
Personal care services
Long term care, 304N, 593R, 1095ER
Professional Services Program, 48R
Immunizations, 49R
Reimbursement methodology, 146N, 477R
Programs and services amendments due to the Coronavirus disease 2019 (COVID-19) public health emergency, 213ER, 215ER, 341ER, 433ER, 711ER, 713ER, 842ER, 1095ER, 1478ER, 1479ER
Public Hearing
Substantive changes to proposed Rule Facility Need Review—Relocation of Nursing Facility Beds, 691P
Reimbursement for Coronavirus Disease 2019 (COVID-19) laboratory testing, 778N, 1311R
Reimbursement to federally qualified health centers and rural health clinics for Coronavirus Disease 2019 (COVID-19) vaccine administration, 1008N, 1528R
Reimbursement for vaccine administration during a declared public health emergency, 28ER, 434ER, 459N, 526N, 887R
Rural health clinics, 50R
Community health worker services
Alternative payment methodology, 1408N
School-Based health services, 398N, 738R
Targeted case management, 646N, 1124R
Licensed Professional Counselors Board of Examiners
Consulting with medical practitioners, 888R
Notification of change, 1010N, 1528R
Tele-supervision, 1011N, 1529R
Teletherapy guidelines for licensees, 714ER, 714ER
Medical Examiners, Board of
Assessment of costs and fines, 726R
Complaints and investigations, 735R, 736R, 883R
Continuing medical education, 727R
Licensure
Application, 729R
Certification, 730R, 731R
Rules of procedure, 735R, 883R

Nursing, Board of

Advanced practice registered nurses, 123N, 300N, 336ER
Continuing education, 333ER
Temporary permits, 211ER
Delegation of medication administration, 211ER

Optometry Examiners, Board of

2020-2021 continuing education, 337ER
License to practice optometry
Fees, 237R
Licensure by endorsement, 237R
Optometric telemedicine, 1401N
Petitions for rulemaking, 734R

Pharmacy, Board of

Automated medication systems, 240R
Controlled dangerous substance license for hemp facility, 126N
Labeling and delivery of marijuana products, 128N, 590R
Licensing for military families, 244R
Marijuana recommendations, 246R
Pharmacists, pharmacies and prescriptions, 130N
Pharmacy benefit managers, 590R
Prescription Monitoring Program, 84R, 247R
State of emergency, 136N, 592R
Temporary suspension of license renewal fees, 338ER
Transfer of marijuana recommendations, 521N, 1111R

Physical Therapy Board

Licensing and certification, 654N, 1131R

Psychologists, Board of Examiners of

Fees, 299N, 1111R

Public Health, Office of

Automated external defibrillators, 402N, 742R
Emergency medical services professionals, 1012N
Mandatory tuberculosis (TB) testing, 405N, 743R
Public health immunization requirements, 1414N
Registration of foods, drugs, cosmetics and prophylactic devices, 148N, 478R
Sanitary Code
Disease reporting requirements, 51R

Family Health, Bureau of

MCH Block Grant, 1201P

INSURANCE

Commissioner, Office of the

Emergency Rule 46—Medical Surge-Related Patient Transfers in Louisiana during the Outbreak of Coronavirus Disease (COVID-19), 1096ER
Emergency Rule 47—Suspension of Certain Statutes Regarding Cancellations, Terminations, Non-Renewals, and Nonreinstatements, Premium Payments, Claim Filings and Related Provisions Regarding Any and All Insurance Matters Affecting Insureds in Louisiana Caused by the State of Emergency Declared by Governor John Bel Edwards on August 26, 2021, Due to Hurricane Ida, 1240ER, 1481ER
Regulation 17—Reinstatement of Policies, 780N, 1312R

INSURANCE (continued)

- Regulation 29—Correlated Sales of Life Insurance and Equity Products, 528N, 1312R
Regulation 39—Statement of Actuarial Opinion, 52R
Regulation 42—Group Self-Insurance Funds, 52R
Regulation 56—Credit for Reinsurance, 781N, 1313R
Regulation 65—Bail Bond Licensing Requirements/Bounty Hunter, 796N, 1327R
Regulation 87—Louisiana Citizens Property Insurance Corporation—Producer Binding Requirements, 1022N, 1530R
Regulation 109—Producer, Adjuster and Related Licenses, 408N, 745R
Regulation 112—Adoption of NAIC Handbooks, Guidelines, Forms, and Instructions, 530N, 1329R
Regulation 115—Title Insurance Record Retention, 799N, 1328R
Regulation 117—Submission of Contact Information for Risk-Bearing Entities, 1183N
Regulation 118—Requirements in the Event of a Declared Emergency, 1025N, 1532R
Regulation 119—Issuance of Consent or a Waiver Pursuant to R.S. 22:1554, 1416N
Rule 7—Legal Expense Insurers, 1031N, 1537R
Rule 9—Prelicensing Education, 307N, 594R
Rule 10—Continuing Education, 313N, 599R
Rule 12—Transmission of Forms and Documents, 801N, 1330R
Rule 14—Records Management; General, 410N, 736R
Life and Annuity Insurance, Office of Health
Annual HIPAA assessment rate, 829N

LOUISIANA LOTTERY CORPORATION

- Lottery sports wagering, 1419N
On-Line and instant lottery games, 366R

NATURAL RESOURCES

- Coastal Management, Office of**
Local coastal management programs, 151N, 1347R
Coastal Protection and Restoration Authority
Fiscal Year 2022 Draft Annual Plan2, 203P
Conservation, Office of
Class VI injection wells, 53R
Commercial deep well injection waste disposal facility, 542P
Fire hazards, 1033N
Orphaned oilfield sites, 325P, 542P, 691P, 829P, 1069P, 1201P, 1439P
Pipeline safety, 663N, 1140R, 1330R
Water well registration, 1186N

PUBLIC SAFETY AND CORRECTIONS

- Corrections Services**
Access to and release of active and inactive offender records, 532N, 888R
Restoration of good time, 535N, 890R

Gaming Control Board

- Fantasy sports contest, 255R
Louisiana sports wagering, 1245ER
Sports wagering, 1576N

Liquefied Petroleum Gas Commission

- Class I-E permit, 29ER, 216ER, 480R

Oil Spill Coordinator's Office

- Draft Damage Assessment and Restoration Plan and Environmental Assessment for 2008 Mississippi River Oil Spill, 694P
Notice of Consent Decree—2008 Mississippi River Oil Spill, 1440P
Notice of Restoration Plan—2006 Calcasieu River Oil Spill, 1616P
Notice of Restoration Plan—2016 Green Canyon 248 Oil Spill, 1070P
Notice of Final Restoration Plan Lake Washington 2003 Oil Spill, 695P
Notice of Settlement Agreement—Mooringsport Oil Spill, 1201P

State Fire Marshal, Office of the

- Fire-resistant material applicators, 253R
Storm shelters, 79R
Transporter license/modular homes, 484R

State Police, Office of

- Hazardous materials, 155N, 489R
Motor carrier safety, 155N, 489R

Uniform Construction Code Council

- Storm shelters, 33ER

REVENUE

Alcohol and Tobacco Control, Office of

- Direct delivery of alcohol
Public safety regulations, 80R
Third party service permit, 1187N
Regulation IX—Prohibition of Certain Unfair Business Practices, 1034N, 1537R

Policy Services Division

- Abatement of presumed accuracy-related penalties, 803N, 1332R
Claim for refund requirements, 805N, 1334R
Consolidated filer sales tax returns
Form R-1029—Electronic Filing and Payment Requirement, 188N
Income tax withholding on gaming winnings, 1271ER, 1486ER
Installment agreement for payment of tax, 537N, 892R
Mandatory electronic filing, 271R
Consumable hemp products tax returns, 1190N
Payment of tax, 1190N

STATE

Elections Division

- Opportunity to cure deficiencies in absentee by mail ballot, 226ER, 716ER, 807N, 1538R

Secretary of State, Office of the

- Remote online notarization, 1605N

TRANSPORTATION AND DEVELOPMENT

Offshore Terminal Authority

Offshore terminal facilities air emissions, 672N, 1148R
Recordkeeping and reporting, 672N, 1148R

Professional Engineering and Land Surveying Board

Continuing professional development, 1437N
Engineering and land surveying, 893R
Engineering co-op programs, 1437N
Principles and practice of land surveying examination, 1437N

TREASURY

Deferred Compensation Commission

Administration, 346ER, 714ER
Distribution, 346ER, 714ER

Municipal Police Employees' Retirement System

Disability retirement, 1035N
Reinstated employees, 1036N
Renunciation of benefit, 1038N
Trustee elections, 1039N
Withdrawals and interest, 1041N

Teachers' Retirement System of Louisiana, Board of Trustees of the

Mandatory submission of monthly salaries and contributions reports, contributions corrections, prior years certifications/corrections of member data and (RET) annual salary files, 1539R
Optional Retirement Plan (ORP), 808N
Voluntary deductions from retiree benefits payroll, 811N

TRANSPORTATION AND DEVELOPMENT

Offshore Terminal Authority

Superport Environmental Protection Plan, 156N, 490R

Professional Engineering and Land Surveying Board

Accredited land surveying curriculum, 490R
Continuing professional development, 490R
Military members/spouses/dependents, 490R

UNIFORM LOCAL SALES TAX BOARD

Audit protocols for local sales and use taxes, 518N, 898R
Claims for refund or credit, 674N, 1109R
Interest on refunds or credits, 675N

WILDLIFE AND FISHERIES

Wildlife and Fisheries Commission

Crab
Derelict Crab Trap Removal Program, 1197N
Deer
Deer Management Assistance Program
Signage change, 158N, 605R
Season amendments
Joyce, Maurepas Swamp, and Salvador/Timken WMAs, 1490ER

Domesticated aquatic organisms, 677N, 1335R, 1607N
Gray triggerfish
2021 recreational season closure
Hunting regulations for the 2021-2023 season, 159N, 900R
Menhaden season, 1609N
Oyster
2021-2022 season on public areas of Louisiana, 1486ER
Designation of a temporary natural oyster reef in Lake Barre, 1489ER
Harvest restriction, 319N, 605R, 746R
Poverty Point Reservoir
Netting season extension, 347ER
Public hearing
Substantive change to Notice of Intent
2021-2023 hunting regulations and seasons, 423P
Recreational reef sites, 319N, 746R
Red grouper
2021 recreational season closure, 1488ER
Red snapper
2021 recreational season and bag limit adjustment, 1490ER
Shark
Season adjustment
Commercial large coastal shark, 435ER
Shrimp
Season closure
Portions of state inshore and outside waters, 227ER
Portions of state inside waters, 34ER
Spring inshore shrimp
Biloxi Marsh area, 846ER
Remaining areas, 847ER
Season opening
Inshore shrimp, 559ER
Fall season, 1098ER
Portions of state outside waters, 436ER, 560ER
Snapper
Commercial and recreation lane
2021 season closure, 1488ER
Special bait dealer's permit, 1042N
Waterfowl
Hunting zones, 411N, 938R
Yo-Yo and trotline regulations, 497R

WORKFORCE COMMISSION

Plumbing Board

Multi-site signage, 273R

Rehabilitation Services

Income scale used for financial needs and budgetary analysis tests, 847ER
Rehabilitation services, 1044N

Unemployment Insurance Administration, Office of

Invocation of the Statutory Savings Clause under R.S. 23:1664 to delay implementation of Act 297 of the 2021 Regular Legislative Session, 1272ER
State income tax withholding from unemployment insurance benefits, 34ER, 560ER

Workers' Compensation Administration, Office of

Medical treatment guidelines, 320N, 606R, 1191N
Weekly compensation benefits limits, 326P, 829P