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Executive Orders

EXECUTIVE ORDER MJF 03-31

Bond Allocation? Louisiana Public Facilities Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15, was issued to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2003 (hereafter "the 2003 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2003 Ceiling; and

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

WHEREAS, the Louisiana Public Facilities Authority has requested an allocation from the 2003 Ceiling to finance student loans which, if the student meets certain timely payment requirements, will have interest rates below the interest rates established by the United States Department of Education and which

(1) have been made

(a) to residents of the state of Louisiana attending a post-secondary school located within or without the state of Louisiana, or

(b) to an out-of-state resident attending a post-secondary school located within the state of Louisiana;

(2) are guaranteed;

(3) are "eligible student loans" within the meaning of the Higher Education Act of 1965; and

(4) meet certain additional requirements under the financing documents, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE, I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the 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 private activity bond volume limits for the calendar year of 2003 as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$41,700,000	Louisiana Public Facilities Authority	Student Loan Revenue Bonds

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

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2003,

provided that such bonds are delivered to the initial purchasers thereof on or before December 22, 2003.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 16th day of December, 2003.

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

ATTEST BY
THE GOVERNOR

Fox McKeithen
Secretary of State
0401#008

EXECUTIVE ORDER MJF 03-32

Bond Allocation? Industrial Development Board of the City of New Orleans, Louisiana, Inc.? Florida II A, LLC

WHEREAS, Executive Order No. MJF 2003-26, issued on December 8, 2003, granted a private activity bond allocation from the 2003 private activity bond volume limit to the Industrial Development Board of the city of New Orleans, Louisiana, Inc., in accordance with the requirements of Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15; and

WHEREAS, it is necessary to amend Executive Order No. MJF 2003-26 in order to extend the time period in which the bonds may be delivered to initial purchasers;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: Section 3 of Executive Order No. MJF 2003-26, issued on December 8, 2003, is hereby amended to provide as follows:

The granted allocation shall be valid and in full force and effect through the end of 2003, provided that such bonds are delivered to the initial purchasers thereof on or before December 30, 2003.

EXECUTIVE ORDER MJF 03-34

Bond Allocation? Industrial Development Board of the City of New Orleans, Louisiana, Inc.? Fischer III, LLC

WHEREAS, Executive Order No. MJF 2003-28, issued on December 8, 2003, granted a private activity bond allocation from the 2003 private activity bond volume limit to the Industrial Development Board of the City of New Orleans, Louisiana, Inc., in accordance with the requirements of Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15; and

WHEREAS, it is necessary to amend Executive Order No. MJF 2003-28 in order to extend the time period in which the bonds may be delivered to initial purchasers;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: Section 3 of Executive Order No. MJF 2003-28, issued on December 8, 2003, is hereby amended to provide as follows:

The granted allocation shall be valid and in full force and effect through the end of 2003, provided that such bonds are delivered to the initial purchasers thereof on or before December 30, 2003.

SECTION 2: All other sections of Executive Order No. MJF 2003-28 shall remain in full force and effect.

SECTION 3: The provisions of this Order are effective upon signature.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 18th day of December, 2003.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0401#011

EXECUTIVE ORDER MJF 03-35

Bond Allocation? Industrial Development Board of the City of New Orleans, Louisiana, Inc. Savoy Place Associates, Limited Partnership

WHEREAS, Executive Order No. MJF 2003-29, issued on December 8, 2003, granted a private activity bond allocation from the 2003 private activity bond volume limit to the Industrial Development Board of the City of New Orleans, Louisiana, Inc., in accordance with the requirements of Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15; and

WHEREAS, it is necessary to amend Executive Order No. MJF 2003-29 in order to extend the time period in which the bonds may be delivered to initial purchasers;

SECTION 2: All other sections of Executive Order No. MJF 2003-26 shall remain in full force and effect.

SECTION 3: The provisions of this Order are effective upon signature.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 18th day of December, 2003.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0401#009

EXECUTIVE ORDER MJF 03-33

Bond Allocation? Industrial Development Board of the City of New Orleans, Louisiana, Inc.? Guste I, LLC

WHEREAS, Executive Order No. MJF 2003-27, issued on December 8, 2003, granted a private activity bond allocation from the 2003 private activity bond volume limit to the Industrial Development Board of the City of New Orleans, Louisiana, Inc., in accordance with the requirements of Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15; and

WHEREAS, it is necessary to amend Executive Order No. MJF 2003-27 in order to extend the time period in which the bonds may be delivered to initial purchasers;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: Section 3 of Executive Order No. MJF 2003-27, issued on December 8, 2003, is hereby amended to provide as follows:

The granted allocation shall be valid and in full force and effect through the end of 2003, provided that such bonds are delivered to the initial purchasers thereof on or before December 30, 2003.

SECTION 2: All other sections of Executive Order No. MJF 2003-27 shall remain in full force and effect.

SECTION 3: The provisions of this Order are effective upon signature.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 18th day of December, 2003.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0401#010

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: Section 3 of Executive Order No. MJF 2003-29, issued on December 8, 2003, is hereby amended to provide as follows:

The granted allocation shall be valid and in full force and effect through the end of 2003, provided that such bonds are delivered to the initial purchasers thereof on or before December 30, 2003.

SECTION 2: All other sections of Executive Order No. MJF 2003-29 shall remain in full force and effect.

SECTION 3: The provisions of this Order are effective upon signature.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 18th day of December, 2003.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0401#012

EXECUTIVE ORDER MJF 03-36

Bond Allocation? Louisiana Public Facilities Authority
Ascension Water Company

WHEREAS, Executive Order No. MJF 2003-30, issued on December 8, 2003, granted a private activity bond allocation from the 2003 private activity bond volume limit to the Louisiana Public Facilities Authority in accordance with the requirements of Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15; and

WHEREAS, it is necessary to amend Executive Order No. MJF 2003-30 in order to extend the time period in which the bonds may be delivered to initial purchasers;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: Section 3 of Executive Order No. MJF 2003-30, issued on December 8, 2003, is hereby amended to provide as follows:

The granted allocation shall be valid and in full force and effect through the end of 2003, provided that such bonds are delivered to the initial purchasers thereof on or before December 23, 2003.

SECTION 2: All other sections of Executive Order No. MJF 2003-30 shall remain in full force and effect.

SECTION 3: The provisions of this Order are effective upon signature.

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

Louisiana, at the Capitol, in the city of Baton Rouge, on this 18th day of December, 2003.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0401#013

EXECUTIVE ORDER MJF 03-37

Bond Allocation? Louisiana Public Facilities Authority
Air Products and Chemicals, Inc.? Calcasieu Parish

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15, was issued to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2003 (hereafter "the 2003 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2003 Ceiling; and

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

WHEREAS, the Louisiana Public Facilities Authority has requested an allocation from the 2003 Ceiling to be used in connection with a project to finance the acquisition, construction, and installation of equipment for solid waste disposal facilities, recycling facilities, resource recovery facilities and/or industrial sewage and wastewater treatment facilities at Air Products and Chemicals, Inc., located in the parish of Calcasieu, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2003 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$3,650,000	Louisiana Public Facilities Authority	Air Products and Chemicals, Inc.

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

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2003, provided that such bonds are delivered to the initial purchasers thereof on or before December 30, 2003.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 24th day of December, 2003.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0401#014

EXECUTIVE ORDER MJF 03-38

Bond Allocation? Parish of Jefferson
Home Mortgage Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15, was issued to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2003 (hereafter "the 2003 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2003 Ceiling; and

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

WHEREAS, the Parish of Jefferson Home Mortgage Authority has requested an allocation from the 2003 Ceiling to be used in connection with a program to provide funds to finance the purchase of certain qualifying loans secured by mortgages made to qualified individuals for single family residences located within the parish of Jefferson, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2003 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$10,000,000	Parish of Jefferson Home Mortgage Authority	Single Family Mortgage Revenue Bonds

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

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2003, provided that such bonds are delivered to the initial purchasers thereof on or before December 24, 2003.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 19th day of December, 2003.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0401#015

EXECUTIVE ORDER MJF 03-39

Bond Allocation? Louisiana Public Facilities Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15, was issued to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2003 (hereafter "the 2003 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2003 Ceiling; and

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

WHEREAS, the Louisiana Public Facilities Authority has requested an allocation from the 2003 Ceiling

EXECUTIVE ORDER MJF 03-40

**Hours of Service of Drivers of Gas and/or
Electric Utility Service Vehicles**

to be used in connection with a project to finance the acquisition, construction, and installation of equipment for solid waste disposal facilities, recycling facilities, resource recovery facilities and/or industrial sewage and wastewater treatment facilities at Air Products and Chemicals, Inc., located in the parish of Orleans, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2003 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$18,650,000	Louisiana Public Facilities Authority	Air Products and Chemicals, Inc.

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

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2003, provided that such bonds are delivered to the initial purchasers thereof on or before December 30, 2003.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 19th day of December, 2003.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0401#016

WHEREAS, the welfare of the citizens of the state of Louisiana is jeopardized by any occurrence, natural or manmade, that interrupts the delivery of gas and electrical services;

WHEREAS, 49 C.F.R. 350.201 et seq., of the Federal Motor Carrier Safety Regulations, requires each state to assume responsibility for improving motor carrier safety and adopting and enforcing safety laws and regulations that are compatible with new federal hours of service regulations as soon as practical, but no later than June 27, 2006, as a condition for Commercial Motor Carrier Safety Assistance Program funding;

WHEREAS, transportation performed by state, federal and local governments is exempt from the new federal hours of service regulations by 49 C.F.R. 390.3(f)(2); and

WHEREAS, application of the new federal hours of service regulations to the drivers of gas and/or electric utility service vehicles engaged solely in intrastate commerce within the state of Louisiana, may impair the ability of gas and/or electric utilities from expeditiously restoring services by prohibiting drivers from working extended hours while assisting in the restoration of gas and/or electric utility services;

NOW THEREFORE, I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: Notwithstanding any provision of the Louisiana Administrative Code to the contrary, the amendments to the hours of service regulations promulgated on April 28, 2003, at 68 Federal Register 22456 by the U.S. Department of Transportation, effective June 27, 2003, (hereafter "federal Hours of Service Regulations") shall not be applicable to the drivers of gas and/or electric utility service vehicles as defined in 49 C.F.R. 395.2, which are engaged solely in intrastate commerce within the state of Louisiana and operated by gas and/or electric utilities regulated by the Louisiana Public Service Commission or the city of New Orleans (hereafter "Drivers of Utility Service Vehicles"), while this Order is in effect.

SECTION 2: Regulations on hours of service that were in effect and applicable to Drivers of Utility Service Vehicles on June 26, 2003, shall apply to Drivers of Utility Service Vehicles while this Order is in effect.

SECTION 3: Any rule and/or regulation promulgated by the Department of Public Safety and Corrections after this Order is issued, which adopts the federal Hours of Service Regulations, shall not be applicable to Drivers of Utility Service Vehicles while this Order is in effect.

SECTION 4: If federal law and/or regulations are amended to exempt Drivers of Utility Service Vehicles from the federal Hours of Service Regulations, the exemption shall be effective immediately in this state for the duration of the federal exemption.

SECTION 5:

A. 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.

B. This Order shall be immediately terminated upon a finding by or notification from the U.S. Department of Transportation that the application of Sections 1 and/or 3 of this Order will result in the loss of federal Motor Carrier Safety Assistance Program funding.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 30th day of December, 2003.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0401#017

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

Commercial Feed? Fees (LAC 7:XVII.121)

In accordance with the Administrative Procedure Act R.S. 49:953 and R.S. 3:1312, the Commissioner of Agriculture and Forestry, at the request of the Fertilizer Commission, is exercising the emergency provisions of the Administrative Procedure Act in implementing the following rules and regulations pertaining to references to the inspection fee since this fee is prescribed in the law. The amounts of the proposed fees for company and label registration are indicated in the attached copies of the rules. These fees are based on the costs associated with registration, inspection, testing, regulating, and administering the Commercial Feed Law.

For the last three years the Feed Commission budget has ended in a deficit. The department has used other funds to make up for each year's deficit. The department cannot continue to find funds from other areas to make up this continuing deficit.

Louisiana is experiencing an unprecedented shortfall in state finances. The legislature has cut the department's budget; therefore, using other department funds to cover the deficit of the Feed Commission is not a continuing option. The department must use the emergency adoption provisions to insure that programs that begin in January will have adequate funding for the entire fiscal year and beyond. Adoption of the rule changes will take place according to the Administrative Procedure Act. However, this process takes up to six months to complete and would cause additional deficits to continue and the possibility of work reductions that could cause an imminent peril to the health and safety of Louisiana citizens.

This Rule becomes effective upon signature, December 17, 2003, and will remain in effect until the Rule becomes effective through the normal Administrative Procedure Act process. The Louisiana Department of Agriculture and Forestry (LDAF) will begin collecting the fees on or after January 1, 2004.

Title 7

AGRICULTURE AND ANIMALS

Part XVII. Feed Commission

Chapter 1. Commercial Feeds

Subchapter A. Official Feed Rules and Regulations

§121. Fees

A. Each application for registration with the commission shall be accompanied by a registration fee of \$40.

B. Each registrant filing a label with the commission shall pay to the commission a labeling fee of \$10 per label for one to 50 products, \$8 per label for 51 to 200 products, \$6 per label for 201 or more products.

C. Registration shall expire on the last day of June of each year. An additional \$50 late fee will be charged for renewal registrations filed after the last day of June. A late fee will not be charged on initial registrations or registrations of new products filed after the last day of June.

D. If a registrant had no sales in a given quarter, he must still file a tonnage report and pay a minimum tonnage fee of \$10 for that quarter. A registrant shall keep all records necessary to accurately indicate the tonnage and kind of commercial feed sold and shall permit the commissioner or his authorized representative to examine these records and to verify the statement of tonnage. Tonnage reports shall be made on forms supplied by the commissioner and suitable for providing the necessary tonnage and statistical information. The tonnage reports and inspection fees shall be due and payable on the first day of October, the first day of January, the first day of April and the first day of July. If the report is not filed and payment made within 30 days after the date due, a penalty of 25 percent of the amount due shall be assessed against the registrant. If payment is not made within 30 days after the due date, the amount of fees due, plus the penalty, shall constitute a debt and become the basis of a judgment against the registrant. All information as to the amount of feed sold and business practices of the registrant obtained from tonnage reports or from inspection of records and books shall remain confidential and shall not be revealed by the commissioner or his employees to the public or to any other person.

E. The inspection fee shall be collected only once on each lot of ingredients. To achieve this end, the following provisions shall apply:

1. no fee shall be paid on a commercial feed if a previous manufacturer has paid the fee;

2. no fee shall be paid on customer-formula feeds of the inspection fee has been paid on the commercial feeds, which are used as ingredients therein;

3. no fee shall be paid on commercial feeds, which are used as ingredients for the manufacture of registered commercial feeds. If the fee has already been paid, credit shall be given for that payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1901 and 3:1892.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:223 (March 1985), amended LR 11:944 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 30:

Bob Odom
Commissioner

0312#001

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

Sale of Fertilizer? Tonnage Reports; Inspection Fees
(LAC 7:XI.115)

In accordance with the Administrative Procedure Act R.S. 49:953 and R.S. 3:1312, the Commissioner of Agriculture and Forestry, at the request of the Fertilizer Commission, is exercising the emergency provisions of the Administrative Procedure Act in implementing the following rules and regulations governing fee costs associated with registration, inspection, testing, regulating, and administering the Fertilizer Law.

For the last three years the Fertilizer Commission budget has ended in a deficit. The department has used other funds to make up for each years deficit. The department cannot continue to find funds from other areas to make up this continuing deficit.

Louisiana is experiencing an unprecedented shortfall in state finances. The legislature has cut the department's budget; therefore, using other department funds to cover the deficit of the Fertilizer Commission is not a continuing option. The department must use the emergency adoption provisions to insure that programs that begin in January will have adequate funding for the entire fiscal year and beyond. Adoption of the rule changes will take place according to the Administrative Procedure Act. However, this process takes up to six months to complete and would cause additional deficits to continue and the possibility of work reductions that could cause an imminent peril to the health and safety of Louisiana citizens.

This Rule becomes effective upon signature, December 17, 2003, and will remain in effect until the rule becomes effective through the normal Administrative Procedure Act process. The Louisiana Department of Agriculture and Forestry (LDAF) will begin collecting the fees for all examinations requested or signed up for by individuals on or after January 1, 2004.

Title 7

AGRICULTURE AND ANIMALS

Part XI. Fertilizer Commission

Chapter 1. Sale of Fertilizers

§115. Tonnage Reports; Inspection Fees

A. All registrants must file a report of the tonnage and grade of product sold, on forms to be provided by the Fertilizer Commission of the Louisiana Department of Agriculture and Forestry, on the first day of July, the first day of October, the first day of January, and the first day of April of each year.

B. All registrants must grant the Fertilizer Commission of the Department of Agriculture and Forestry the right to examine their records for verification of the tonnage reports filed as required by §115.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1312.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Fertilizer Commission, LR 7:164 (April 1981), amended LR 12:495 (August 1986), amended by the Department of

Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 30:

Bob Odom
Commissioner

0312#002

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs
(LAC 28:IV.911, 1111, 2105)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend the Rules of the Scholarship/Grant programs (R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1.1-3042.8, R.S. 17:3048.1, R.S. 56:797.D(2)).

This Emergency Rule is necessary to implement changes to the Scholarship/Grant programs to allow the Louisiana Office of Student Financial Assistance and state educational institutions to effectively administer these programs. A delay in promulgating Rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. LASFAC has determined that this Emergency Rule is necessary in order to prevent imminent financial peril to the welfare of the affected students.

This declaration of emergency is effective December 17, 2003, and shall remain in effect for the maximum period allowed under the Administrative Procedure

Title 28

EDUCATION

Part IV. Student Financial Assistance? Higher Education Scholarship and Grant Programs

Chapter 9. TOPS Teacher Award

§911. Discharge of Obligation

A. - C.7. ...

D. Cancellation

1. The obligation to repay any remaining unpaid balance of the TOPS Teacher Award shall be canceled in the event either of the following occurs:

a. upon submission to LASFAC of a sworn affidavit from a qualified physician that the recipient is precluded from gainful employment because of a complete and permanent medical disability or condition; or

b. upon submission to LASFAC of a death certificate or other evidence conclusive under state law, that the recipient is deceased.

2. The obligation to repay any remaining unpaid balance of the TOPS Teacher Award may be canceled in the event the remaining unpaid balance is \$25.00 or less.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3041.10-3041.15, R.S. 17:3042.1-3042.8 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1650 (December 1997), repromulgated LR 24:638 (April 1998), amended LR 24:1907 (October 1998), amended LR 26:69 (January 2000), LR 26:1603

(August 2000), repromulgated LR 27:1858 (November 2001), amended LR 28:774 (April 2002), LR 29:1972 (October 2003), LR 30:

Chapter 11. Rockefeller State Wildlife Scholarship

§1111. Discharge of Obligation

A. - C.5.b. ...

D. Cancellation. The obligation to repay all or part of Rockefeller State Wildlife Scholarship Program funds shall be canceled in the event either of the following occurs:

a. upon submission to LASFAC of a sworn affidavit from a qualified physician that the recipient is precluded from completing the educational program and/or from gainful employment because of a complete and permanent medical disability or condition;

b. upon submission to LASFAC of a death certificate, or other evidence conclusive under state law, that the recipient is deceased.

2. The obligation to repay all or part of Rockefeller State Wildlife Scholarship Program funds may be canceled in the event the remaining unpaid balance is \$25.00 or less.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3041.10-3041.15, R.S. 17:3042.1-3042.8, R.S. 17:3048.1 and R.S. 56:797.D(2).

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:640 (April 1998), amended LR 24:1909 (October 1998), repromulgated LR 27:1860 (November 2001), amended LR 28:775 (April 2002), LR 29:1972 (October 2003), LR 30:

Chapter 21. Miscellaneous Provisions and Exceptions

§2105. Repayment Obligation, Deferment, Cancellation and Reduced Payments

A. - F. ...

G Cancellation of Repayment Obligation. Upon submission of applicable proof, loans may be canceled for the following reasons:

1. death of the recipient; or

2. complete and permanent disability of the recipient which precludes the recipient from gainful employment; or

3. upon a determination by LASFAC that the remaining unpaid balance is \$25.00 or less.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3041.10-3041.15, R.S. 17:3042.1-3042.8, R.S. 17:3048.1 and R.S. 56:797.D(2).

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:649 (April 1998), amended LR 24:1918 (October 1998), LR 26:1603 (August 2000), repromulgated LR 27:1868 (November 2001), amended LR 28:775 (April 2002), LR 28:2331 (November 2002), LR 29:1972 (October 2003), LR 30:

George Badge Eldredge
General Counsel

0401#006

DECLARATION OF EMERGENCY

Department of Environmental Quality Office of Environmental Assessment Permits Division

New or Revised Emissions Estimation Methodologies
(LAC 33:III.501)(AQ240E)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), which allows the Department of Environmental Quality to use emergency procedures to establish rules, and under the authority of R.S. 30:2011, the secretary of the department hereby declares that an emergency action is necessary to implement rules concerning the use of new or revised emissions estimation methodologies for annual compliance certifications required by LAC 33:III.507.H.

This rule revision clarifies requirements set forth in LAC 33:III.919, concerning emission inventory, and LAC 33:III.507.H, concerning annual compliance certifications. On December 20, 2003, the department promulgated final Rule AQ220 to clarify and update the requirements for emissions inventory. These changes were made, in part, to correlate LAC 33:III.919 with the recently promulgated Consolidated Emissions Reporting Rule (67 FR 39602-39616, No. 111, 6/10/02). LAC 33:III.919.C was also modified to clarify that emissions reported in the emissions inventory shall be calculated using the best available information.

The department realizes that the Clean Air Act (42 U.S.C. §7430) requires EPA to periodically review AP-42 factors and that such emission factors may change upwards or downwards due to receipt of improved data.

The failure to adopt this rule on an emergency basis (i.e., without the delays for public notice and comment) would result in imminent peril to the public welfare. The promulgation of final Rule AQ220 clarifies the requirement that permittees use the latest version of any AP-42 factor used to calculate emissions reported on an Annual Emission Inventory. For some facilities, this will result in a change in the calculation of emissions from levels that were previously in compliance with permit limits to levels that exceed those permit limits. Those facilities that have been reporting emissions in compliance with their permits may now be reporting emissions that exceed permit limits, even though their actual emissions have not changed. As a result, these facilities face potential enforcement actions, including substantial civil penalties. Some such facilities may elect to reduce or cease operations, which would have severe economic consequences for the firms involved, as well as their employees, suppliers, and customers. Adding LAC 33:III.501.C.11 allows the department to review changes in emission factors on a case by case basis prior to any actions taken by the department.

This Emergency Rule is effective on December 24, 2003, and shall remain in effect for a maximum of 120 days or until a final rule is promulgated, whichever occurs first. For more information concerning AQ240E you may contact the Regulation Development Section at (225) 219-3550.

**Title 33
ENVIRONMENTAL QUALITY**

Part III. Air

Chapter 5. Permit Procedures

§ 501. Scope and Applicability

A. - C.10. ...

11. Emissions estimation methodologies set forth in the Compilation of Air Pollution Emission Factors (AP-42) and other department-approved estimation methodologies may be promulgated or revised. Emissions increases due solely to a change in AP-42 factors do not constitute violations of the air permit. Changes in emission factors other than AP-42 factors will be evaluated by the department on a case-by-case basis for appropriate action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:613 (July 1990), LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:1281 (November 1994), LR 20:1375 (December 1994), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:997 (May 2002), amended by the Office of Environmental Assessment, Permits Division, LR 30:

L. Hall Bohlinger
Secretary

0401#007

DECLARATION OF EMERGENCY

**Office of the Governor
Office of Financial Institutions**

Capital Companies Tax Credit Program
(LAC 10:XV:313)

Under the authority of the Louisiana Administrative Procedures Act, R.S. 49:950 et seq., and particularly R.S.49:953(B) relative to emergency rulemaking, and in accordance with R.S. 51:1929 of the Capital Companies Tax Credit Program, R.S. 51:1921 et seq., I, John D. Travis, Commissioner of Financial Institutions hereby adopt this Emergency Rule to provide for certain requirements for continuance of certification and decertification of certified Louisiana capital companies ("CAPCO's") until the notice of intent (LAC 10:XV.303-313 and 317-320), which was published in the August 20, 2003 Louisiana Register, becomes final.

Prior to the finalization of the aforementioned notice of intent, a situation has arisen regarding a request by a certified Louisiana capital company (CAPCO) for the decertification of a pool of certified capital. A portion of this pool contains investments which have not been held for one year. In the proposed Rule, §313.C will require that those

pools of certified capital which are decertified, which contain investments which have not been held for a year, must be held for a year. If the investments are sold prior to a year, the CAPCO can be involuntarily decertified and tax credits associated with the certified capital can be recaptured. An alternative is allowed whereby a letter of credit can be issued equal to the amount of the investments not held for a year.

Currently, there is a request from a CAPCO, which is regulated by the Office of Financial Institutions, for decertification of a pool of certified capital which has not been held for a year. The CAPCO is willing to offer the letter of credit required by §313.C of the proposed Rule, which section has not become effective yet. This declaration of emergency is intended to make the above referenced section effective immediately, so that CAPCO's holding pools of certified capital for less than one year may avail themselves of this provision of the proposed Rule, and be enabled to provide the letter of credit to this office, thereby ensuring that the investments will be held for the minimum one-year period required by the proposed Rule, which will become final on January 20, 2004.

Therefore, in accordance with R.S.49:953(B) and the provisions of R.S.49:1929(3), I hereby adopt this Declaration of Emergency. Accordingly, this Emergency Rule shall become effective on December 18, 2003 and shall remain effective for a maximum of 120 days, or until the final Rule is promulgated, whichever occurs first.

Title 10

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

Part XV. Other Regulated Entities

Chapter 3. Capital Companies Tax Credit Program

§313. Requirements for Continuance of Certification and Decertification

A. ...

1. The numerator for the investment pool shall be:

a. one hundred percent of the sum of all qualified investments made on or after the investment date of the investment pool that are held or intended to be held for a minimum of one year; and

b. ...

2. For purposes of the calculation of the numerator:

a. no qualified investment may be counted more than once;

b. The calculation of the amount of time an investment is held will begin at the time of the investment of cash. Therefore, for multiple funding situations, only those cash investments that have been or are intended to be held for a minimum of one year are eligible for full credit as a qualified investment. All other advances will receive 50 percent credit.

A.3. - B. ...

C.1. Upon voluntary decertification, any investments which received 100 percent treatment and were counted as part of Subparagraph A.1.a above may not be sold for a minimum of one year from the date of funding provided that this requirement shall not apply to:

a. a sale that is executed in connection with a sale of control of a qualified Louisiana business; or

b. the sale of any investment that is publicly traded.

2. At the time of voluntary decertification, the CAPCO may deliver to the office a letter of credit in form and substance, and issued by a financial institution, acceptable to the office. The letter of credit

- a. shall be payable to the office as beneficiary;
- b. shall be in a face amount equal to the aggregate value of investments required to be held following voluntary decertification in accordance with Paragraph C.1 above;
- c. shall provide that the letter of credit is forfeitable in full if the CAPCO fails to comply with the requirements of Paragraph C.1 above; and
- d. may provide for reduction of the face amount of the letter of credit as the holding periods of the investments which are required to be held pursuant to Paragraph C.1 above exceed one year, provided that the face amount of the letter of credit may never be less than the aggregate value of investments counted as part of Subparagraph A.1.a above which have not yet been held by the CAPCO a minimum of one year.

3. If the CAPCO provides a letter of credit in accordance with Paragraph C.2 above, the forfeiture of the letter of credit shall constitute an assessment against the CAPCO as the sole remedy for the failure of the CAPCO to comply with the requirements of Paragraph C.1 above; otherwise, the failure to comply with Paragraph C.1 above shall be considered a violation of R.S. 51:1926(H)(3).

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1926, 1929 and 1933.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 18:251 (March 1992), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:154 (February 1994), LR 23:1134 (September 1997), LR 30:

John D. Travis
Commissioner

0401#004

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Early and Periodic Screening, Diagnosis and Treatment? Dental Program? Reimbursement (LAC 50:XV.6903)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XV.6903 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 Administrative Procedure Act, R.S. 49:953(B)(1) 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.

The Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996

(HIPAA, Title II) requires national standards for electronic health care transactions and national identifiers for providers, health plans, and employers (*Federal Register*, Volume 65, Number 160). This includes standardized procedure codes and definitions. The Department of Health and Hospitals, Bureau of Health Services Financing is required to implement these codes and definitions or face monetary sanctions. In compliance with HIPAA requirements, the bureau clarified the descriptions for two Early and Periodic Screening, Diagnosis and Treatment (EPSDT) dental procedure codes and adjusted the reimbursement rates to conform with the HIPAA compliant procedure code descriptions (*Louisiana Register*, Volume 29, Number 2).

This Emergency Rule is promulgated to continue the provisions of the February 21, 2003 Emergency Rule. This action is being taken to avoid federal sanctions by complying with the mandates of the Health Insurance Portability and Accountability Act.

Effective for dates of services on or after February 19, 2004, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing clarifies the procedure descriptions and adjusts the reimbursement fees for the following Early and Periodic Screening, Diagnosis and Treatment dental procedure codes.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening,

Diagnosis, and Treatment

Chapter 69. Dental

§6903. Reimbursement

A. Reimbursement Fees are adjusted for certain designated procedure codes to the following rates.

Procedure Code	Procedure	Rate
*** [See Prior Text in 00120 - 02931]		
02950	Core Buildup, including any pins	\$55
02954	Prefabricated Post and Core in addition to crown	\$75
*** [See Prior Text in 03220 - 07210]		

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He 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.

David W. Hood
Secretary

0401#067

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Early Periodic Screening, Diagnosis and Treatment
KidMed Services
(LAC 50:XV.6705)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby adopts LAC 50:XV.6705 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 Administrative Procedure Act, R.S. 49:953(B)(1) 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.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides reimbursement for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) KidMed Services under the Medicaid Program. The administrative simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) requires national standards for electronic health care transactions and national identifiers for providers, health plans, and employers (*Federal Register*, Volume 65, Number 160). This includes standardized procedure codes and definitions. The Department is required to implement these codes and definitions or face monetary sanctions. In compliance with HIPAA requirements, the bureau amended current Rules to clarify the billing procedures for KidMed services in order to conform to HIPAA compliant standardized procedure codes. The bureau also amended the reimbursement rates to equalize fees for all providers of EPSDT consultation services (*Louisiana Register*, Volume 29, Number 29). This Emergency Rule is being promulgated to continue the provisions of the October 1, 2003 Emergency Rule.

This action is being taken to avoid federal sanctions by complying with the mandates of the Health Insurance Portability and Accountability Act.

Emergency Rule

Effective January 30, 2004, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends current Rules to clarify the billing procedures for KidMed services in order to conform to HIPAA compliant standardized procedure codes and also amends the reimbursement rates to equalize fees for all providers of EPSDT consultation services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment

Chapter 67. KIDMED

§6705. Reimbursement

A. ...

B. Reimbursement for follow-up medical screening services is set for the following procedures.

Description	Rate
Consult EPSDT -New Dx by Nurse	\$13.71
Consult EPSDT -New Dx by Nutrition	\$13.71
Consult EPSDT -New Dx by Social Worker	\$13.71
Consult EPSDT -Scm Dx by Nurse	\$13.71
Consult EPSDT -Scm Dx by Nutrition	\$13.71
Consult EPSDT -Scm Dx by Social Worker	\$13.71

C. Effective with Health Insurance Portability and Accountability Act of 1996 (HIPAA) implementation (October 1, 2003), EPSDT consultation claims billed by KIDMED and physician providers will be assigned to new type of service 21 and reimbursement is set at \$13.71.

D. Timely Filing. KIDMED medical screening claims for Medicaid beneficiaries between the ages of four months and 20 years must be received by Louisiana KIDMED within 60 calendar days of the date of service in order to be processed and the provider reimbursed by Medicaid of Louisiana. Claims not received by Louisiana KIDMED within this time limit may be denied.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:175 (February 2003), amended LR 30:

Interested persons may submit written comments to Ben A. Bearden at Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He 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.

David W. Hood
Secretary

0401#069

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Inpatient Psychiatric Services
Public State-Owned or Operated Hospitals
Reimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule 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 Administrative Procedure Act, R.S. 49:953(B)(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule which established the prospective reimbursement methodology for inpatient psychiatric hospital services provided in either a free-standing psychiatric hospital or distinct part psychiatric unit of an acute care general hospital (*Louisiana Register*, Volume 19, Number 6). This Rule was

subsequently amended to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates for inpatient psychiatric services in those years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 5).

The bureau rebased the reimbursement rates paid to public state owned or operated hospitals for inpatient psychiatric hospital services to the 50th percentile of costs per day for services based on cost reports ending in state fiscal year 2002 (*Louisiana Register*, Volume 29, Number 10). This Emergency Rule is being promulgated to continue the provisions of the October 20, 2003 Emergency Rule. This action is being taken to protect the health and welfare of Medicaid recipients by encouraging the continued participation of hospitals that furnish psychiatric services in the Medicaid Program.

Emergency Rule

Effective for dates of service February 18, 2004, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement for inpatient psychiatric hospital services provided in a state owned or operated free-standing psychiatric hospital or distinct part psychiatric unit to a per diem rate based on the 50th percentile facility for costs as reported on the cost report for the year ending between July 1, 2001 and June 30, 2002. The costs utilized to determine the 50th percentile facility will include all free-standing psychiatric hospitals and distinct part psychiatric units providing services to Medicaid recipients in the state. Costs will be trended to the midpoint of the rate year using the Medicare PPS Market Basket Index. The application of inflationary adjustments in subsequent years shall be contingent on the appropriation of funds by the Legislature.

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

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

David W. Hood
Secretary

0401#074

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Mental Health Rehabilitation Services
Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 2003-2004 General Appropriation Act which states: "The

Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This Emergency Rule is in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides reimbursement for mental health rehabilitation services under the Medicaid Program. Reimbursement for these services is a prospective, negotiated and non-capitated rate based on the delivery of services as specified in the service agreement and the service package required for the adult and child/youth populations. As a result of a budgetary shortfall, the bureau reduced all established reimbursement rates for mental health rehabilitation services. The reimbursement shall be 99.2 percent of the rates (a 0.8 percent reduction) in effect on September 30, 2003 (*Louisiana Register*, Volume 29, Number 9). This Emergency Rule is being promulgated to continue the provisions of the October 1, 2003 Emergency Rule. This action is necessary in order to avoid a budget deficit in the medical assistance programs.

Emergency Rule

Effective January 30, 2004, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces all established reimbursement rates for mental health rehabilitation services. The reimbursement shall be 99.2 percent of the rates (0.8 percent reduction) in effect on September 30, 2003.

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

Interested persons may submit written comments to Ben A. Bearden at Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He 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.

David W. Hood
Secretary

0401#070

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Personal Care Services? Long Term
(LAC 50:XV.12903, 12905, and 12909)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XV.12903, 12905, and 12909 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 Administrative Procedure Act, R.S. 49:953(B)(1) 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.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted a Rule to establish the provisions governing coverage of personal care services as an optional service under the Medicaid State Plan (*Louisiana Register*, Volume 29, Number 6). The bureau amended the June 20, 2003 Rule to clarify covered services, revise the recipient qualifications and define the term "legally responsible relative" (*Louisiana Register*, Volume 29, Number 9) This Emergency Rule is being promulgated to continue the provisions of the October 1, 2003 Emergency Rule.

This action is being taken to promote the health and welfare of Medicaid recipients by ensuring that services can address the needs of the targeted population.

Effective January 30, 2004 or upon approval of the Centers for Medicare and Medicaid Services, which ever is later, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the June 20, 2003 Rule governing personal care services to clarify covered services, revise the recipient qualifications and define the term "legally responsible relative."

Title 50

PUBLIC HEALTH? MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 9. Personal Care Services

Chapter 129. Long Term

§12903. Covered Services

A. Personal care services are defined as those services that provide assistance with the distinct tasks associated with the performance of the activities of daily living (ADL) and the instrumental activities of daily living (IADL). Assistance may be either the actual performance of the personal care task for the individual or supervision and prompting so the individual performs the task by him/herself. ADLs are those personal, functional activities required by an individual for continued well-being, health and safety. ADLs include tasks such as:

1. eating;
2. bathing;
3. dressing;
4. grooming;
5. transferring (getting in/out of the tub, from a bed to a chair);
6. reminding the recipient to take medication;
7. ambulation; and
8. toileting.

B. - C. ...

D. Constant or intermittent supervision and/or sitter services are not a component of personal care services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:0000 (January 2004).

§12905. Recipient Qualifications

A. Personal care services shall be available to recipients who are 65 years of age or older, or 21 years of age or older and disabled. Disabled is defined as meeting the eligibility criteria established by the Social Security Administration (SSA) for disability benefits.

B. Personal care services for elderly or disabled recipients must meet medical necessity criteria as determined by the Bureau of Health Services Financing (BHSF) and must be prior authorized by BHSF or its designee. Personal care services are medically necessary if the recipient:

1. meets the medical standards for admission to a nursing facility, including all Preadmission Screening and Annual Resident Review (PASARR) requirements; and

2. is able, either independently or through a responsible representative, to participate in his/her care and self-direct services provided by the personal care services worker; and

3. faces a substantial possibility of deterioration in mental or physical condition or functioning if either home and community-based services or nursing facility services are not provided in less than 120 days. This criterion is considered met if:

a. the recipient is in a nursing facility and could be discharged if community-based services were available;

b. is likely to require nursing facility admission within the next 120 days; or

c. has a primary caregiver who has a disability or is over the age of 70.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:0000 (January 2004).

§12909. Standards for Participation

A. - B.3. ...

4. ensure that the direct care staff is qualified to provide personal care services. Assure that all new staff satisfactorily completes an orientation and training program in the first 30 days of employment. A legally responsible relative is prohibited from being the paid personal care worker for a family member. Legally responsible relative is defined as the parent of a minor child, foster parent, curator, tutor, legal guardian or the recipient's spouse;

5. - 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 of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:0000 (January 2004).

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He 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.

David W. Hood
Secretary

0401#071

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Private Hospitals? Inpatient Services Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 2003-2004 General Appropriation Act, which states, "The secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953.B(1) et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule in June of 1994 which established the prospective reimbursement methodology for inpatient services provided in private (nonstate) acute care general hospitals (*Louisiana Register*, Volume 20, Number 6). The June 20, 1994 Rule was subsequently amended to establish a weighted average per diem for each hospital peer group (*Louisiana Register*, Volume 22, Number 1). This Rule was later amended to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates in those years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 5).

Section 11B of Act 14 of the 2003 Regular Session of the Louisiana Legislature directed the Commissioner of Administration to reduce discretionary state general fund (direct) appropriations contained in the Act by .8 percent across-the-board, or so much thereof more or less as may be necessary, to effect savings of \$17,300,000. Subsequently, the commissioner directed the department to reduce its discretionary expenditures by .8 percent for state fiscal year 2003-2004. In response to the budgetary shortfall, the bureau reduced the reimbursement paid to private (non-state) hospitals for inpatient services to 99.2 percent (a .8 percent reduction) of the per diem rates in effect on September 30, 2003. However, in order to generate the amount of savings necessary to comply with the directives of Act 14, the reimbursement paid in state fiscal year 2003-2004 to private (non-state) hospitals for inpatient services shall be 98.75 percent (a 1.25 percent reduction) of the per diem rates in effect on September 30, 2003. Small rural hospitals as defined by the Rural Hospital Preservation Act (R.S. 40:1300.143) are excluded from this reimbursement reduction. Also, inpatient services provided to fragile newborns or critically ill children in either a Level III

Regional Neonatal Intensive Care Unit or a Level I Pediatric Intensive Care Unit, which units have been recognized by the department on or before January 1, 2003, shall be excluded from this reimbursement reduction (*Louisiana Register*, Volume 29, Number 9). This Emergency Rule is being promulgated to continue the provisions of the October 1, 2003 Emergency Rule. This action is being taken in order to avoid a budget deficit in the medical assistance programs. Taking the reduction in per diem rates in state fiscal year 2003-2004 into consideration, the department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that private (nonstate) inpatient hospital services under the state plan are available at least to the extent that they are available to the general population in the state.

Emergency Rule

Effective for dates of service January 30, 2004, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement paid for inpatient services rendered in private (nonstate) acute hospitals, including long term hospitals. The reimbursement paid for inpatient services to private (non-state) hospitals with a Medicaid inpatient days utilization rate of less than 25 percent shall be as follows: in state fiscal year 2003-2004 only, 98.75 percent (a 1.25 percent reduction) of the per diem rates in effect on September 30, 2003 and for subsequent years, a 99.2 percent (a .8 percent reduction) of the per diem rates in effect on September 30, 2003 for private hospitals.

The Medicaid inpatient days utilization rate shall be calculated based on the filed cost report for the period ending in state fiscal year 2002 and received by the Department prior to April 30, 2003. Only Medicaid covered days for inpatient hospital services, which include newborn days and distinct part psychiatric units, are included in this calculation. Inpatient stays covered by Medicare Part A can not be included in the determination of the Medicaid inpatient days utilization rate. Small rural hospitals as defined by the Rural Hospital Preservation Act (R.S. 40:1300.143) shall be excluded from this reimbursement reduction. Also, inpatient services provided to fragile newborns or critically ill children in either a Level III Regional Neonatal Intensive Care Unit or a Level I Pediatric Intensive Care Unit, which units have been recognized by the department on or before January 1, 2003, shall be excluded from this reimbursement reduction.

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

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He 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.

David W. Hood
Secretary

0401#072

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Private Intermediate Care Facilities for the Mentally Retarded? Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 2003-2004 General Appropriation Act, which states, "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to, pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) 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.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule on October 20, 1989 which established the reimbursement methodology for private intermediate care facilities for the mentally retarded (ICFs-MR) (*Louisiana Register, Volume 15, Number 10*). This Rule was subsequently amended to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates in those years when the rates are not rebased (*Louisiana Register, Volume 25, Number 6*).

Section 11B of Act 14 of the 2003 Regular Session of the Louisiana Legislature directed the Commissioner of Administration to reduce discretionary state general fund (direct) appropriations contained in the Act by .8 percent across-the-board, or so much thereof more or less as may be necessary, to effect savings of \$17,300,000. Subsequently, the Commissioner directed the Department to reduce its discretionary expenditures by .8 percent for state fiscal year 2003-2004. In response to this budgetary shortfall, the bureau reduced the reimbursement paid to private (non-state) intermediate care facilities for the mentally retarded to 99.2 percent (a .8 percent reduction) of the per diem rates in effect on September 30, 2003. However, in order to generate the amount of savings necessary to comply with the directives of Act 14, the reimbursement paid in state fiscal year 2003-2004 to private (non-state) intermediate care facilities for the mentally retarded shall be 98.8 percent (a 1.2 percent reduction) of the per diem rates in effect on September 30, 2003 (*Louisiana Register, Volume 29, Number 9*). This Emergency Rule is being promulgated to continue the provisions of the October 1, 2003 Emergency Rule. This action is being taken in order to avoid a budget deficit in the medical assistance programs.

Emergency Rule

Effective for dates of service on or after January 30, 2004, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement paid to private intermediate care facilities for the mentally retarded. In state fiscal year 2003-2004 only, the reimbursement shall be 98.8 percent (a 1.2 percent reduction) of the per diem rates in effect on September 30, 2003 and for subsequent years, 99.2 percent (a .8 percent reduction) of the per diem rates in effect on September 30, 2003.

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

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He 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.

David W. Hood
Secretary

0401#073

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Private Nursing Facilities? Reimbursement Reduction (LAC 50:VII.1306)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby adopts LAC 50:VII.1306 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 2003-2004 General Appropriation Act which states: "The secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." 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.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule establishing a system of prospective payment for nursing facilities, based on recipient care needs that incorporates acuity measurements as determined under the Resource Utilization Group III (RUG III) resident classification methodology (*Louisiana Register, Volume 28, Number 6*). This system established a facility specific

reimbursement for services rendered to Medicaid nursing facility residents. It also provided for enhanced reimbursement for Medicaid residents who require skilled nursing services for an infectious disease and technology dependent care. Section 11B of Act 14 of the 2003 Regular Session of the Louisiana Legislature directed the Commissioner of Administration to reduce discretionary state general fund (direct) appropriations contained in the Act by .8 percent across-the-board, or so much thereof more or less as may be necessary, to effect savings of \$17,300,000. Subsequently, the Commissioner directed the Department to reduce its discretionary expenditures by .8 percent for state fiscal year 2003-2004. In response to this budgetary shortfall, the bureau promulgated an emergency rule that reduced each private nursing facility's per diem rate to .825 percent (a reduction of \$0.67) of the per diem in effect on September 30, 2003 (*Louisiana Register*, Volume 29, Number 9). The bureau subsequently determined that it was necessary to clarify the provisions contained in the October 1, 2003 Emergency Rule and published a public process notice of its intent to promulgate another Emergency Rule. In response to comments received regarding the public notice, the bureau has decided to reduce each private nursing facility's case mix adjusted per diem rate by \$0.67.

This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will be revenue neutral for state fiscal year 2003-2004.

Title 50

PUBLIC HEALTH? MEDICAL ASSISTANCE

Part VII. Long Term Care Services

Subpart I. Nursing Facilities

Chapter 13. Reimbursement

§1306. Reimbursement Adjustment

A. Effective for dates of service on or after January 1, 2004, for state fiscal year 2003-2004 only, each private nursing facility's per diem case mix adjusted rate shall be reduced by \$0.67.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

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

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

David W. Hood
Secretary

0401#005

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Professional Services Program? Anesthesia Services
HIPAA Implementation Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 2003-2004 General Appropriation Act which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." 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 Administrative Procedure Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides coverage and reimbursement for anesthesia services under the Medicaid Program. In September 1992, the bureau adopted a Rule establishing the reimbursement methodology for anesthesia services (*Louisiana Register*, Volume 18, Number 9). The September 1992 Rule was subsequently amended in April 1997 to clarify the policy governing anesthesia services and to establish policy governing surgery services and reimbursement for designated physician procedure codes (*Louisiana Register*, Volume 23, Number 4).

The Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA, Title II) requires national standards for electronic health care transactions and national identifiers for providers, health plans, and employers (*Federal Register*, Volume 65, Number 160). This includes standardized procedure codes and definitions. The department is required to implement these codes and definitions or face monetary sanctions.

Section 11B of Act 14 of the 2003 Regular Session of the Louisiana Legislature directed the Commissioner of Administration to reduce discretionary state general fund (direct) appropriations contained in the Act by .8 percent across-the-board, or so much thereof more or less as may be necessary, to effect savings of \$17,300,000. The Commissioner of Administration approved this reduction on September 9, 2003. Subsequently, the commissioner directed the department to reduce its discretionary expenditures by .8 percent for state fiscal year 2003-2004.

In compliance with HIPAA requirements, the bureau has amended the September 1992 and April 1997 Rules governing the billing procedures for anesthesia services. In compliance with Act 14 of the 2003 Regular Session of the Louisiana Legislature, the bureau also reduced the reimbursement rates for anesthesia services to 100 percent of the 2003 Region 99 Medicare payable (*Louisiana Register*, Volume 29, Number 9). This Emergency Rule is being promulgated to continue provisions of the October 1, 2003 Emergency Rule.

This action is being taken to avoid federal sanctions by complying with the mandates of the Health Insurance Portability and Accountability Act and to avoid a budget deficit in the medical assistance programs.

Emergency Rule

Effective January 30, 2004, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the September 20, 1992 and April 20, 1997 Rules governing the billing and reimbursement of anesthesia services.

A. Billing. Physicians' Current Procedural Terminology (CPT) procedure codes in the Anesthesia section of the CPT and standard Health Care Financing Administration Common Procedure Codes (HCPCS) modifiers shall be used to bill for anesthesia, including maternity-related and pediatric anesthesia.

B. Reimbursement. The reimbursement rates for anesthesia procedures are based on 100 percent of the 2003 Region 99 Medicare payable.

1. Reimbursement for maternity-related anesthesia services shall continue to be a flat fee except for the reimbursement for general anesthesia for a vaginal delivery. This service shall continue to be reimbursed according to base units and time units.

2. Reimbursement for conscious sedation. The CPT conscious sedation codes will be used to bill for children up to the age of 13 years when a medically controlled state of depressed consciousness is the preferred method of sedation and the procedure can not be accomplished safely and/or effectively without it. Reimbursement for conscious sedation shall be at a flat rate.

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

David W. Hood
Secretary

0401#066

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

X-Ray Portage Fees (LAC 50:XIX.4335)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby

adopts LAC 50:XIX.3 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) 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.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides coverage and reimbursement for x-ray services under the Medicaid Program. Reimbursement for these services is a flat fee established by the bureau.

The Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA, Title II) requires national standards for electronic health care transactions and national identifiers for providers, health plans, and employers (*Federal Register*, Volume 65, Number 160). This includes standardized procedure codes and definitions. The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is required to implement these codes and definitions or face monetary sanctions. In compliance with HIPAA requirements, the bureau clarified the billing procedures for specific xray services to conform with the HIPAA compliant descriptions (*Louisiana Register*, Volume 29, Number 9). This Emergency Rule is being promulgated to continue the provisions of the October 1, 2003 Emergency Rule. This action is being taken to avoid federal sanctions by complying with the mandates of the Health Insurance Portability and Accountability Act.

Effective for dates of services on or after January 30, 2004, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following code and procedure description and adjusts the reimbursement for portable X-ray portage fees.

Title 50

PUBLIC HEALTH? MEDICAL ASSISTANCE

Part XIX. Other Services

Subpart 3. Laboratory and X-Ray

Chapter 43. Billing and Reimbursement

Subchapter B. Reimbursement

§4335. X-Ray Portage

A. Reimbursement shall be as follows for X-ray portage fees when more than one person receives services.

Procedure Code	Procedure	Rate
R0075	Transportation of portable Xray equipment and personnel to home or nursing home per trip to facility or location, more than one person seen, per patient.	\$17.50

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 of the Secretary, Bureau of Health Services Financing, LR 30:

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He 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.

David W. Hood
Secretary

00401#075

DECLARATION OF EMERGENCY

**Department of Social Services
Office of Family Support**

**Food Stamp Program? Time Limitations for Certain Aliens
(LAC 67:III.1932 and 1995)**

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend LAC 67:III, Subpart 3, effective January 29, 2004. This Rule shall remain in effect for a period of 120 days. This declaration is necessary to extend the original Emergency Rule of October 1, 2003, since it is effective for a maximum of 120 days and will expire before the final Rule takes effect. (The final Rule will be published in March 2004).

Pursuant to Public Law 107-171, the Food Stamp Reauthorization Act of 2002, the agency is amending §§1932 and 1995 to comply with mandates issued by the United States Department of Agriculture, Food and Nutrition Service. P.L. 107-171, also known as the 2002 Farm Bill, mandates restoration of food stamp eligibility to qualified aliens under the age of 18 regardless of date of entry into the United States and eliminates the deeming requirements for any alien under the age of 18 that count the income and resources of alien sponsors when determining Food Stamp eligibility and benefit amounts.

Emergency action in this matter is necessary as failure to promulgate the Rule in a timely manner could result in the imposition of sanctions or penalties by the USDA, Food and Nutrition Service, the governing authority of the Food Stamp Program in Louisiana.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter D. Citizenship and Alien Status

§1932. Time Limitations for Certain Aliens

A. - A.5. ...

B. The following qualified aliens are eligible for an unlimited period of time:

1. - 5. ...

6. effective October 1, 2003, individuals who are lawfully residing in the United States and are under 18 years of age;

7. ...

AUTHORITY NOTE: Promulgated in accordance with P. L. 104-193, P. L. 105-33, P. L. 105-185, and P.L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:711(April 1999), LR 29:606 (April 2003), LR 30:

Subchapter J. Determining Household Eligibility and Benefit Levels

§1995. Sponsored Aliens

A. The full amount of income and resources of an alien's sponsor and the sponsor's spouse are counted in determining the eligibility and allotment level of a sponsored alien until the alien becomes a citizen or has worked 40 qualifying quarters of Social Security coverage. These provisions do not apply to battered aliens, their children, or the alien parent of a battered child, or effective October 1, 2003, any alien under 18 years of age.

AUTHORITY NOTE: Promulgated in accordance with F.R. 47:55463 et seq. and 47:55903 et seq., 7 CFR 273.11, P.L. 104-193, P. L. 104-208, P. L. 105-33, and P. L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:130 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 23:83 (January 1997), LR 24:355 (February 1998), LR 30:

Gwendolyn P. Hamilton
Secretary

0401#059

DECLARATION OF EMERGENCY

**Department of Social Services
Office of Family Support**

**Strategies to Empower People (STEP) Program
(LAC 67:III.5729)**

Editor's Note: Section 5729 was repromulgated in the November 20, 2003 edition of the *Louisiana Register* to correct codification errors. This Emergency Rule renewal contains both the original Emergency Rule promulgated in October 20, 2003, and the repromulgated correction.

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt LAC 67:III, Subpart 16, Chapter 57, Strategies to Empower People (STEP) Program and to amend Subpart 2, Chapter 12, Family Independence Temporary Assistance Program (FITAP), Subpart 3, Chapter 19, Food Stamps, Subpart 12, Chapter 51, Child Care Assistance Program (CCAP), and Subpart 13, Chapter 53, Kinship Care Subsidy Program (KCSP) effective January 29, 2004. This Rule shall remain in effect for a period of 120 days. This declaration is necessary to extend the original Emergency Rule of October 1, 2003, since it is effective for a maximum of 120 days and will expire before the final Rule takes effect. (The final Rule will be published in March 2004).

In order to assist Louisiana families in becoming economically self-reliant so that their dependence on government benefits is minimized, the department will implement the STEP Program so that all work-eligible cash assistance recipients are actively engaged in activities designed to enable their transition from cash assistance to self-reliance. It is further intended that cash assistance recipients demonstrate active and diligent personal responsibility in achieving self-reliance through employment and increased workplace literacy.

The STEP program will replace the Family Independence Work Program (FIND Work). As a result of this implementation, changes are necessary to the FITAP, Food Stamp, CCAP and KCSP programs so that language concerning FIND Work can be replaced with language reflecting the STEP program as well as other changes necessitated by the implementation of STEP. The FIND Work Program will be repealed once the STEP Program is fully implemented and FIND Work participants have been transitioned into the STEP Program.

The authorization for emergency action is contained in Act 14 of the 2003 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 16. Strategies to Empower People (STEP) Program

Chapter 57. Strategies to Empower People (STEP) Program

Subchapter A. Application, Determination of Eligibility, and Furnishing Assistance

§1209. Notices of Adverse Actions

A. A notice of adverse action shall be sent at least 13 days prior to taking action to reduce or terminate benefits. In some circumstances advance notice is not required. A concurrent notice shall be sent to the client at the time of action in the following situations:

1 - 9. ...

10. Repealed.

11. - 17. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B. and R.S. 46:237; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2447 (December 1999), amended LR 26:349 (February 2000), LR 29:2565 (December 2002), LR 30:

§1213. Domestic Violence

A. The secretary shall waive, for as long as necessary, pursuant to a determination of good cause, any public assistance program requirement that will create obstacles for a victim of domestic violence to escape a domestic violence situation, including but not limited to, time limits on receipt of assistance; work, training, or educational requirements; limitations on TANF assistance to noncitizens; child support or paternity establishment cooperation requirements; residency requirements; and any other program requirements which will create obstacles for such victim to escape violence or penalize that victim for past, present, and potential for abuse. However, a victim of domestic violence shall develop a plan that specifies the necessary actions, goals, and services that may enable the victim to become free of a domestic violence situation. This plan shall be made part of the participant's Family Success Agreement.

B. - C.5. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.1.B; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2447 (December 1999), LR 30:

Subchapter B. Conditions of Eligibility

§1221. Age Limit

A. A dependent child must be:

1. under 18 years of age; or

2. 18 years of age, enrolled in a secondary school or its equivalent, and expected to graduate on or before his nineteenth birthday.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.2; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2448 (December 1999), LR 30:

§1231. Immunization

A. Failure to follow the schedule of immunizations as promulgated by the Louisiana Office of Public Health for any child under 18 years of age, without good cause, shall result in case closure.

1. The appropriate STEP sanction shall be imposed on a work-eligible family.

2. The case of a family that is not work-eligible shall be closed for at least one month and until the child is in compliance.

B. No person is required to comply with this provision if that person or his/her parent or guardian submits a written statement from a physician stating that the immunization procedure is contraindicated for medical reasons, or if the person or his/her parent or guardian objects to the procedure on religious grounds.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.4; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2451 (December 1999), LR 30:

§1237. School Attendance

A. Work-eligible FITAP recipients must meet the school attendance requirements outlined in LAC 67:III.Chapter 57.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.3; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2452 (December 1999), LR 30:

§1239. Assignment of Support Rights and Cooperation with Support Enforcement Services

A. - B.2.d. ...

3. Failure to cooperate in establishing paternity or obtaining child support will result in case closure. The appropriate STEP sanction shall be imposed on a work-eligible family. The case of a family that is not work-eligible shall be closed for at least one month and until the family cooperates.

B.4. - E. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2452 (December 1999), LR:30:

§1241. Sanctions for Refusal to Accept a Job

A. Refusal to accept a job will result in the appropriate sanction being imposed on a work-eligible family.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.1.B; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2452 (December 1999), amended LR 30:

§1243. Work Requirements

A. Recipients must meet the work requirements outlined in LAC 67:III.Chapter 57.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.7., 46:231.8 and 46:231.9; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2453 (December 1999), amended LR 30:

§1245. Parenting Skills Education

A. Recipients must meet the requirements for parenting skills education as outlined in LAC 67:III.Chapter 57.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.5; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2453 (December 1999), amended LR:30

§1247. Time Limits

A. The Office of Family Support shall deny FITAP cash benefits to families if the parent has received FITAP for at least 24 months, whether consecutive or not, during the prior 60-month period. Only months of FITAP receipt after the January 1, 1997 date of implementation count toward the 24-month limit.

B. The following situations represent exemptions from the 24-month time limit:

- 1. the household contains a permanently incapacitated or disabled individual; or
- 2. for months after June 1999, the household contains a recipient who received the earned income disregard.

C. An extension of the 24-month time limit may be granted in the following situations.

1. An individual has been actively seeking employment by engaging in appropriate job-seeking activities and required work activities as specified in the participant's Family Success Agreement (FSA) but is unable to find employment;

2. Factors relating to job availability are unfavorable.

3. An individual loses his job as a result of factors not related to his job performance.

4. An extension of benefits of up to one year will enable an individual to complete employment-related education or training, including workplace literacy, and is required as part of an FSA, where an individual has received an assessment that indicates such activities will likely result in long-term success in the workforce.

5. Other hardships have occurred which affect the individual's ability to obtain employment.

D. Eligibility for cash assistance under a program funded by Part IV of the Social Security Act is limited to a lifetime limit of 60 months. No cash assistance will be provided to a family that includes an adult who has received assistance for 60 months (whether or not consecutive) unless one of the following hardships exists (in households with two caretaker

relatives, both caretaker relatives must meet at least one of these criteria):

1. an individual has been actively seeking employment by engaging in appropriate job-seeking activities and required work activities as specified in the participant's Family Success Agreement (FSA) but is unable to find employment;

2. factors relating to job availability are unfavorable;

3. an individual loses his job as a result of factors not related to his job performance;

4. an extension of benefits of up to one year will enable an individual to complete employment-related education or training, including workplace literacy, and is required as part of an FSA, where an individual has received an assessment that indicates such activities will likely result in long-term success in the workforce;

5. other hardships have occurred which affect the individual's ability to obtain employment.

E. Any month for which such assistance was provided will be disregarded from the 24- and 60-month time limits with respect to the individual, if the individual was:

1. a minor child; and

2. not the head of a household or married to the head of a household.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.6. and R.S. 46:460.5(A)(3); Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2453 (December 1999), amended LR 26:349 (February 2000), LR 27:2263 (December 2001), LR 30:

§1249. Drug Screening, Testing, Education and Rehabilitation Program

A. - D. ...

E. Failure to Cooperate. Failure or refusal of a recipient to participate in drug screening, testing, or participation in the education and rehabilitation program, without good cause, will result in case closure.

1. The appropriate STEP sanction shall be imposed on a work-eligible family.

2. The case of a family that is not work-eligible shall remain closed for at least one month and until the client has complied.

F. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B., Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2453 (December 1999), amended LR:30

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter I. Income and Deductions

§1983. Income Deductions and Resource Limits

A. - A.2. ...

3. The maximum dependent care deduction is \$200 per month for each child under two years of age and \$175 for each other dependent.

a. A child care expense that is paid for or reimbursed by the STEP Program or the Child Care Assistance Program is not deductible except for that portion of the cost which exceeds the payment or reimbursement.

B. ...

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.9 (d)(2) and (d)(6), P.L. 104-193, P.L. 106-387 and P.L. 107-171; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:285 (May 1986), amended LR 12:423 (July 1986), LR 12:824 (December 1986), LR 13:181 (March 1987), LR 14:684 (October 1988), LR 15:14 (January 1989). Amended by the Department of Social Services, Office of Family Support, LR 19:303 (March 1993), LR 19:905 (July 1993), LR 20:780 (July 1994), LR 20:990 (September 1994), LR 21:186 (February 1995), LR 23:82 (January 1997), LR 27:867 (June 2001), LR 27:1934 (November 2001), LR 29:607 (April 2003), LR 30:

§1987. Categorical Eligibility for Certain Recipients

A. Households Considered Categorically Eligible

Households in which a member is a recipient of benefits from the FITAP, STEP, and/or Kinship Care Subsidy Programs, and households in which all members are recipients of SSI, shall be considered categorically eligible for food stamps.

A.2. - D. ...

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:28196 et seq., 7 CFR 271, 272, 273.10, and 274; F.R. 56:63612-63613, P.L. 104-193, 7 CFR 273.2(j)(2)(xi); Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:90 (February 1987), amended LR 12:755 (November 1986), amended by the Department of Social Services, Office of Family Support, LR 18:142 (February 1992), LR 18:686 (July 1992), LR 18:1267 (November 1992), LR 24:1783 (September 1998), LR 26:349 (February 2000), LR 27:867 (June 2001), LR 27:1934 (November 2001), LR 30:

Subpart 12. Child Care Assistance Program

Chapter 51. Child Care Assistance

§5103. Conditions of Eligibility

A. Family Independence Temporary Assistance Program (FITAP) recipients who are satisfactorily participating in the Strategies to Empower People (STEP) Program, as determined by the case worker, are categorically eligible. The program will pay 100 percent of the FITAP/STEP participant's child care costs, up to the maximum amounts listed in 5109.B. The following eligibility criteria must be met:

A.1. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 25:2444(December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 30:

§5105. Funding Availability

A. Louisiana's share of the national total of available funds for child care programs is based on factors determined by federal law and regulation. Funds are appropriated by Congress and allocated on an annual basis so that a limited amount of federal funding is available each year through the Child Care and Development Fund (CCDF). Therefore, a determination will be made of the number of children, or "slots," that the CCDF can pay for based on available funding.

1. The children of STEP participants shall be categorically eligible for child care benefits. The children of STEP participants whose FITAP eligibility is terminated due to earned income will be given priority status with slots available for them as long as other eligibility factors are met and funding is available.

2. - 2.a. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 26:2827 (December 2000), LR 30:

§5107. Child Care Providers

A. The head of household, or parent/caretaker relative in the case of a STEP participant, shall be free to select a child care provider of his/her choice including center-based child care (licensed Class A Day Care Centers and licensed Class A Head Start Centers which provide before-and-after school care and/or summer programs), registered Family Child Day Care Homes, in-home child care, and public and non-public BESE-regulated schools which operate kindergarten, pre-kindergarten, and/or before-and after school care programs.

B. - C. ...

D. Under no circumstance can the following be considered an eligible child care provider:

1. ...

2. the child's parent or guardian; or

3. parent/caretaker relative in the case of a STEP participant, regardless of whether that individual lives with the child (if the child's non-custodial parent is residing in the Family Child Day Care Home (FCDCH) in which the child receives care and is not working during the hours that care is needed, the FCDCH provider is ineligible to receive Child Care Assistance payments for that child);

D.3. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, Act 152, 2002 First Extraordinary Session, Act 13, 2002 Reg. Session and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2444(December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:349 (February 2002), LR 28:1491 (June 2002), LR 29:43 (January 2003), LR 29:189 (February 2003), LR 30:

§5111. Ineligible Payments

A. - B.2. ...

C. If an Intentional Program Violation is established, Fraud and Recovery will send a notice to the person to be disqualified and a copy of the notice to the parish office. The parish office will take action to disqualify for the appropriate situations:

1. - 2. ...

3. 24 months for the third violation and for any additional violations. EXCEPTION: The disqualification process will be waived for STEP participants and for participants in federally-or state-funded work or training programs.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:2830 (December 2000), LR 30:

Subpart 13. Kinship Care Subsidy Program (KCSP)
Chapter 53. Application, Eligibility, and Furnishing Assistance.

Subchapter B. Conditions of Eligibility

§5321. Age Limit

- A. A dependent child must be:
1. under 18 years of age; or
 2. 18 years of age, enrolled in a secondary school or its equivalent and expected to graduate on or before his nineteenth birthday.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B and R.S. 46:237; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:352 (February 2000), amended LR 30:

§5335. School Attendance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B and R.S. 46:237; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:354 (February 2000), repealed LR 30:

§5339. Parenting Skills Education

A. As a condition of eligibility for KCSP benefits any child under age 19 who is pregnant or the parent of a child under the age of one must attend a parenting skills education program. Failure to meet this requirement without good cause shall result in that minor's ineligibility. Ineligibility will continue until the child has complied.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237, Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:355 (February 2000), amended LR 30:

§5341. Drug Screening, Testing, Education and Rehabilitation Program

A. - C. ...

D. Failure to Cooperate. Failure or refusal of a recipient to participate in drug screening, testing, or participation in the education and rehabilitation program, without good cause, will result in ineligibility of the noncompliant individual. Cooperation is defined as participating in the component in which the recipient previously failed to cooperate. This includes drug screening, drug testing, or satisfactory participation for two weeks in an education and rehabilitation program.

E. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:355 (February 2000), amended LR 30:

Subpart 16. Strategies to Empower People (STEP) Program

Chapter 57. Strategies to Empower People (STEP) Program

Subchapter A. Designation and Authority of State Agency

§5701. General Authority

A. The Strategies to Empower People Program is established in accordance with state and federal laws effective October 1, 2003, to assist recipients of cash assistance to become self-sufficient by providing needed employment-related activities and support services.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

§5703. Program Administration

A. The STEP program will be administered by OFS State Office, Regional and Parish staff.

B. The Department of Social Services will coordinate with the Louisiana Workforce Commission, who will identify, direct, and coordinate the provision of employment services offered through the STEP program. These services will include but are not limited to:

1. job readiness, job preparation, and job search;
2. workplace literacy and related assessments; and
3. applicable skill-based training, employer-based training, and other employment activities designed to meet the needs of Louisiana employers with a preference towards demand occupations.

C. The Louisiana Workforce Commission shall coordinate the provision of services utilizing the Department of Labor, one-stop services centers, the Louisiana Community and Technical College system, and the Department of Education adult literacy and community-based organizations.

D. A grievance procedure is available for resolving displacement complaints by regular employees or their representatives relating to STEP participants. A grievance procedure is also available for resolving complaints by, or on behalf of, STEP participants in a work-related activity. This grievance procedure hears complaints relating to on-the-job working conditions and workers' compensation coverage.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

§5705. Definitions

Family Assessment? consists of an initial employability assessment and a comprehensive assessment.

1. Initial employability assessment is designed to determine the applicant's level of employability, immediate needs, and family circumstances during the application process.

2. Comprehensive assessment is conducted once the applicant is certified for eligibility and shall include workplace literacy, basic skills and educational attainment, interests and aptitude related to employment, barriers to

employment, need for education, supportive services such as child care and transportation, and other supportive services. Specialized assessments can occur for issues that arise after an initial assessment has been completed and could include substance abuse, domestic violence, mental health screening, or others as determined by the department.

Family Success Agreement (FSA)? the mutually developed contract between a Family Independence Temporary Assistance Program (FITAP) recipient, on behalf of their family, and the agency that sets forth mutual and time-bound responsibilities, expectations, activities, and goals designed to transition the family from receipt of FITAP to self-sufficiency.

Family Transition Assessment (FTA)? mutually developed plan between a FITAP recipient, on behalf of their family, and the agency, for those families nearing the end of their FITAP eligibility to identify the action plan necessary to enable a successful transition from receipt of FITAP to self-sufficiency.

Strategies to Empower People (STEP)? the program that provides education, employment, training and related services for families receiving FITAP assistance.

Temporary Exception? a limited time period in which the *work-eligible recipient* does not have to participate in an assigned work activity due to temporary incapacity or illness, unavailable child care, or a domestic violence situation.

Work-Eligible Family? a FITAP family (including cases which do not receive cash because their benefit would be less than \$10) which includes at least one adult under age 60 or a teen head of household who is not permanently disabled or incapacitated, or who is not caring for a family member who is permanently disabled or incapacitated as documented by a medical professional.

Work-Eligible Recipient? an adult under age 60 or a teen head of household who is included in a *work-eligible family* and who is not permanently disabled or incapacitated, or who is not caring for a family member who is permanently disabled or incapacitated, as documented by a medical professional.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

§5707. Domestic Violence

A. The secretary shall waive, for as long as necessary, pursuant to a determination of good cause, any public assistance program requirement that will create obstacles for a victim of domestic violence to escape a domestic violence situation, including but not limited to time limits on receipt of assistance, work, training or educational requirements, limitations on TANF requirements, residency requirements, and any other program requirements which will create obstacles for such victim to escape violence or penalize that victim for past, present, and potential for abuse. However, a victim of domestic violence shall develop a plan that specifies the necessary actions, goals, and services that may enable the victim to become free of a domestic violence situation. Such plan shall be made a component of the participant's Family Success Agreement.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

Subchapter B. Participation Requirements

§5709. School Attendance

A. Work-eligible FITAP recipients, in order to ensure appropriate child development, educational attainment, and school attendance for each minor child included in the assistance unit, shall agree in the Family Success Agreement (FSA) to:

1. actively participate in their child's education through parent-teacher conferences, homework assistance, or other activities; and
2. provide documentation to the department that they are ensuring school attendance and are engaged in the child's learning.

B. Work-eligible, minor parents who have not yet received a high school diploma or its equivalent shall attend school or related education classes designed to obtain a high school diploma or its equivalent. School attendance shall be the primary work activity for those minor parents who do not have a high school diploma or its equivalent.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

§5711. Parenting Skills Education

A. FITAP recipients who are pregnant or have a child under age one shall participate in parenting skills education. If the FITAP recipient is work-eligible, participation in parenting skills education shall be the primary work activity under the FSA. Applicable child care and transportation shall be provided to participants to enable their participation.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

§5713. Work Activities

A. Work-eligible recipients shall participate in appropriate work activities as agreed upon in the FSA. These activities may include but are not limited to:

1. subsidized or unsubsidized employment;
2. unpaid work experience;
3. on-the-job training;
4. job search;
5. job readiness;
6. vocational education;
7. attendance in secondary school for those individuals who have not graduated from high school;
8. participation in GED or basic skills training;
9. employment-related education;
10. job skills training;
11. community service; and
12. the provision of child care to an individual who is participating in community service.

B. Participants who are found not to possess basic workplace or basic literacy skills, as determined by an assessment, shall combine employment and job readiness and job search activities with activities designed to increase their basic and workplace literacy skills.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

§5715. Temporary Exceptions

A. A work-eligible applicant or recipient of cash assistance shall immediately participate in work activities for the minimum number of hours per week required by federal law unless one of the following exceptions applies. These temporary exceptions shall not exceed six months in a twelve-month period. The exceptions include:

1. temporary incapacity, illness or disability of household head as documented by a medical professional. The documentation shall include a description and reason for the incapacity, illness, or temporary disability, an indication of how long the condition is expected to persist, and a reasonable expectation of when the participant can return to a work activity. Incapacity, illness, or disability determined for a period of longer than six months shall be referred for eligibility to Supplemental Security Income assistance and to the Louisiana Rehabilitation Services;

2. inability to obtain appropriate child care; or

3. status as a victim of domestic violence based on evidence presented to the department which may include, but not limited to, information from law enforcement agencies or domestic violence providers. This exception shall only be granted if a participant develops a plan to address the domestic violence situation and incorporates this plan in the FSA.

B. During a period in which a participant receives a temporary exception to the work requirement, a revised FSA shall be developed to enable satisfactory progress toward meeting employment and educational activity requirements.

C. Participants who receive a temporary exception shall be informed that this time is counted against their time limits for receipt of cash assistance.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

§5717. Sanctions

A. Sanctions shall be used as a last resort to inform participants that they have not met the expectations set forth in the FSA. Participants shall be sanctioned for the following violations:

1. failure of the participant to provide documentation to the department that they are ensuring school attendance and are engaged with their child's learning;

2. failure of a work-eligible, minor parent with a child who has not yet received a high school diploma or its equivalent, to attend school or related education classes designed to obtain a high school diploma or its equivalent;

3. failure of a public assistance recipient who is pregnant or has a child under age one to attend parenting education and other training conducive to the unique needs of new parents;

4. failure of work-eligible families to meet the required employment and education activities for the minimum number of hours without good cause, as specified in the FSA; or

5. failure of work-eligible families to meet other requirements such as but not limited to immunization, cooperation with Support Enforcement Services, compliance

with substance abuse screening, testing, treatment, etc. as specified in the FSA.

B. If it is determined that a work-eligible family has failed to meet the required activities as specified in the FSA without good cause, that family shall be ineligible for FITAP benefits as follows:

1. first sanction? a minimum of one month or until compliance, whichever is longer;

2. second sanction? a minimum of two months or until compliance, whichever is longer;

3. third or subsequent sanction? a minimum of three months or until compliance, whichever is longer.

C. The following represent good cause for not complying with the requirements set forth in the FSA:

1. Appropriate child care or transportation is unavailable within a reasonable distance from the participant's home or worksite after efforts have been made, and assistance has been offered, to secure child care or transportation.

2. Situations related to domestic violence. Any participant that receives a good cause exception related to domestic violence shall complete a plan that specifies the necessary actions, goals, and services that may enable the victim to become free of the violence and incorporate this plan into their FSA.

3. Situations related to the treatment of a mental or physical illness, including substance abuse treatment, where there is verification that participation in required activities would impair a treatment plan of a mental health or medical professional. Any participant that receives a good cause exception related to mental or physical illness shall incorporate the completion of the identified treatment plan in the FSA.

4. Temporary, short-term illness, or the temporary care of a family member who is ill, as documented by a medical professional.

5. Temporary emergency crisis, such as homelessness, fire, accident, dislocation due to natural causes, hurricane, flood, or similar circumstances that can be substantiated.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

Subchapter C. STEP Program Process

§5719. Family Assessment

A. A Family Assessment shall be completed on all FITAP/STEP applicants in order to assist the worker in identifying family strengths, weaknesses, opportunities and barriers as well as determining programs that the applicants will need to become self-sufficient.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

§5721. Job Readiness

A. A work-eligible applicant for cash assistance shall participate in job readiness activities as part of the core services available under STEP, unless the applicant is required to participate in parenting skills education or is already participating in an approved employment or education activity. The applicant shall receive an initial employability assessment designed to determine their level

of employability, immediate needs, and family circumstances.

B. Job developers, through performance-based contracts, will provide job readiness services that shall include, but are not limited to:

1. workplace literacy assessment;
2. résumé development;
3. interview skills;
4. job search;
5. workplace standards and soft-skills development;
6. work ethics;
7. interest inventories related to job market and skills;
8. assistance with identification of available jobs and employers;
9. life skills development;
10. budget and financial management; and
11. client follow-up.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

§5723. Comprehensive Assessment

A. Once the applicant is certified for eligibility, a comprehensive assessment shall be conducted and include workplace literacy, basic skills and educational attainment, interests and aptitude related to employment, barriers to employment, need for education, supportive services such as child care and transportation, and other supportive services.

B. Specialized assessments can occur for issues that arise after an initial assessment has been completed and could include substance abuse, domestic violence, mental health screening, or others as determined by the department.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

§5725. Family Success Agreement (FSA)

A. Upon determination of eligibility and after completion of the comprehensive assessment, work-eligible participants shall enter into a contractual agreement, known as the Family Success Agreement (FSA), with the department. The FSA will specify:

1. the client's time-bound goals, responsibilities, and work activity participation; and
2. the department's obligation to provide necessary supportive services, assessments, notifications, information, and case management.

B. The FSA shall be updated at least every six months or as the client's needs, goals, barriers, and family circumstances change.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

§5727. Family Transition Assessment

A. The department shall complete a Family Transition Assessment (FTA) to assist participants with their transition from cash assistance. The plan will be completed with participants who:

1. have received three of the six months of earned income disregard; or
2. have received 18 months of FITAP assistance; or

3. when it is determined that the family is leaving FITAP, whichever occurs first.

B. The FTA shall include but is not limited to:

1. a plan for on-going success in the work force;
2. identification of short and long-term goals;
3. identification of potential barriers and an action plan to overcome these barriers; and
4. information regarding eligibility for supportive services, including but not limited to Medicaid benefits, Food Stamp benefits, Child Care, transportation, Louisiana Child Health Insurance Program, the earned income tax credit, and TANF-funded services.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

Subchapter C. STEP Program Process

§5729. Support Services

A. Clients may be provided support services that include but are not limited to:

1. a full range of case maintenance and case management services designed to lead to self-sufficiency;
2. transportation assistance;
3. Food Stamp benefits;
4. Medicaid benefits;
5. Child Care;
6. TANF-funded services;
7. other services necessary to accept or maintain employment; and
8. transitional benefits (post-FITAP support services).

a. These services may be provided to participants who are or become ineligible for cash assistance due to earned income. They include a transportation payment of \$120 per month and other supportive service payments not to exceed a combined total of \$200 per state fiscal year and used to cover certain costs deemed necessary for employment. The payments may begin with the first month of FITAP ineligibility and continue through the twelfth month of ineligibility or through the last month of employment, whichever comes first. The twelve months need not be consecutive.

B. Support services may be provided to:

1. persons participating in the Family Assessment;
2. persons referred by the Agency to other activities, such as drug counseling, prior to their participation in a work activity;
3. FITAP recipients participating in approved activities necessary to meet exemptions to the FITAP time limits.;
4. FITAP recipients to facilitate their attendance in the FITAP Drug Testing Program or Parenting Skills Program;
5. allow participation in educational activities for FITAP recipients who are exempt from STEP.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

Gwendolyn P. Hamilton
Secretary

0401#058

DECLARATION OF EMERGENCY

Department of Treasury Board of Trustees of the State Employees' Retirement System

Self-Directed Plan (LAC 58:I.Chapter 41)

Editor's Note: This Emergency Rule is being repromulgated to correct an error in codification. The original Emergency Rule may be viewed in its entirety on pages 2628-2630 of the December 20, 2003 edition of the *Louisiana Register*.

Under the authority of R.S. 11:515 and in accordance with R.S. 49:951 et seq., the Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") advertises its intent to enact LAC 58:I.4101 through 4131.

This emergency enactment is made necessary by the passage into law of Act 818 of the Regular Session of the Louisiana Legislature. That Act established the Self-Directed Plan ("SDP"), a new form of the Deferred Retirement Option Plan ("DROP") already administered by LASERS. Act 818 becomes effective January 01, 2004. These Rules are necessary to complete the implementation of the SDP.

This Rule shall become effective on January 01, 2004, and shall remain in effect for 120 days.

Title 58

RETIREMENT

Part I. State Employees' Retirement

Chapter 41. The Self-Directed Plan

§4101. SDP Provider

A. System shall procure a single provider, selected by a competitive process, for participants in the Self-Directed Plan ("SDP") to utilize in providing investment options for the deposits made during the accumulation period in the Deferred Retirement Option Plan ("DROP") or funds acquired through the Initial Benefit Option ("IBO").

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:

§4103. Persons Vesting for DROP Prior to January 01, 2004

A. Persons who became eligible for regular retirement prior to January 01, 2004 are eligible for participation in the SDP. Those persons may make an irrevocable election to transfer their DROP funds into the SDP. The DROP or IBO participants electing to transfer their funds into the SDP must transfer their entire DROP or IBO balance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:

§4105. Eligibility for Transfer of Funds into SDP

A. The only funds which may be transferred into the SDP are LASERS DROP or IBO funds. Transfers or rollovers from other sources shall not be allowed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:

§4107. Rollovers Out of SDP to Other Providers

A. At all times after becoming eligible to withdraw funds from the SDP, DROP participants may elect to rollover funds to eligible providers. Such rollovers shall be subject to applicable Federal laws and the terms of the SDP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:

§4109. Right to Recover Overpayments

A. In the event of overpayment of funds are made by LASERS, then LASERS retains the ability at all times to recall funds from member at provider or to reduce future benefits pursuant to R.S. 11:192 to recover any such overpayment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:

§4111. Time to Transfer Funds

A. LASERS shall forward the entire deposit balance of a participant to the third party administrator within five working days from the end of the DROP accumulation period. LASERS may supplement or otherwise correct balances forwarded in those instances where there are errors, missing documents or incomplete reports submitted by agencies reporting earnings for the participant.

B. For participants in the Initial Benefit Option ("IBO") or for those DROP participants whose accumulation period is less than six months, LASERS shall transfer 80 percent of the DROP/IBO balance within 45 days from the date of initial transfer into the SDP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:

§4113. Spousal Consent

A. LASERS may halt the processing of a participant's request to enter the SDP until any spousal consent form required by law or proof of divorce has been presented to the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:

§4115. Completion of Notification Form

A. All DROP participants shall complete and submit a form (#9-2 or #9-2a) to inform LASERS that they are ending the accumulation period. This form shall be submitted at least 30 days prior to that date. Failure to submit this form could result in delaying access to DROP funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:

§4117. Distributions

A. Distributions shall be in accordance with the provisions of Title 58, Part I, Chapter 27 of the Louisiana Administrative Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:

§4119. No In-Service Distribution

A. Distributions prior to the date of termination from employment with the state of Louisiana are strictly prohibited in accordance with applicable Internal Revenue Code Provisions. The selected provider shall not make a distribution without a verification of termination from LASERS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:

§4121. Civil Service Reinstatement

A. DROP participants who have been removed from state employment, then reinstated pursuant to a ruling by the Civil Service board, shall immediately notify LASERS in writing of their reinstatement, along with a projected date of retirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:

§4123. Beneficiary

A. Each participant shall initially designate a beneficiary or beneficiaries to receive any amounts which may be distributed in the event of the death of the participant prior to the complete distribution of benefits. A participant may change the designation of beneficiaries at any time by filing a written notice on a form approved by LASERS. If no such designation is in effect at the time of participant's death, or if the designated beneficiary does not survive the participant by 30 days, his beneficiary shall be his surviving spouse, if any, and then his estate

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:

§4125. Investment Options

A. LASERS shall in its sole discretion select certain investment options to be used to determine income to be accrued on deferrals. These investment options may include specified life insurance policies, annuity contracts, or investment media issued by an insurance company. In any event, it shall be the sole responsibility of LASERS to ensure that all investment options offered under the plan are appropriate and in compliance with any and all state laws pertaining to such investments.

B. In the absence of a written directive from the participant, the provider shall automatically invest the participant's DROP funds in its discretion in an appropriate interim investment until specific investment directions are received. Such instructions regarding the delegation of investment responsibility shall remain in force until revoked or amended in writing by the participant. LASERS shall not be responsible for the propriety of any directed investment.

C. LASERS may, from time to time, change the investment options under the plan. If LASERS eliminates a

certain investment option, all participants who had chosen that investment shall select another option. If no new option is selected by the participant, money remaining in the eliminated investment option shall be moved at the direction of LASERS. The participants shall have no right to require LASERS to select or retain any investment option. To the extent permitted by and subject to any rules or procedures adopted by the administrator, a participant may, from time to time, change his choice of investment option. Any change with respect to investment options made by LASERS or a participant, however, shall be subject to the terms and conditions (including any rules or procedural requirements) of the affected investment options and may affect only income to be accrued after that change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:

§4127. Participant Investment Direction

A. Participants shall have the option to direct the investment of their personal contributions and their share of any employer contributions among alternative investment options established as part of the overall SDP, unless otherwise specified by LASERS. A participant's right to direct the investment of any contribution shall apply only to making selections among the options made available under the SDP.

B. Each participant shall designate on the proper form or via website or telephone direction the investment that shall be used to determine the income to be accrued on amounts deposited. If the investment chosen by the participant experiences a gain, the participant's benefits under the SDP likewise shall reflect income for that period. If the investment chosen by a participant experiences a loss, or if charges are made under such investment, the participant's benefits under the SDP likewise shall reflect such loss or charge for that period.

C. Neither the state of Louisiana, LASERS, the administrator, nor any other person shall be liable for any losses incurred by virtue of following the participant's directions or with any reasonable administrative delay in implementing such directions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:

§4129. Distributions from the Plan

A. The payment of benefits in accordance with the terms of the plan may be made by the trustee, or by any custodian or other person so authorized by LASERS to make such distribution. Neither LASERS, the trustee nor any other person shall be liable with respect to any distribution from the plan made at the direction of the employer or a person authorized by the employer to give disbursement direction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:

§4131. Disclaimer

A. LASERS makes no endorsement, guarantee or any other representation and shall not be liable to the plan or to

any participant, beneficiary, or any other person with respect to:

1. the financial soundness, investment performance, fitness, or suitability (for meeting a participant's objectives, future obligations under the plan, or any other purpose) of any investment option in which amounts deferred under the plan are actually invested; or

2. the tax consequences of the plan to any participant, beneficiary or any other person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:

Robert L. Borden
Executive Director

0401#068

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2004 Commercial King Mackerel Season

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons and all rules and regulations pursuant thereto by Emergency Rule, and R.S. 56:6(25)(a) and 56:326.3 which provide that the Wildlife and Fisheries Commission may set seasons for saltwater finfish; the Wildlife and Fisheries Commission hereby sets the following season and trip limit for the commercial harvest of king mackerel in Louisiana state waters:

The commercial season for king mackerel in Louisiana state waters will open at 12:01 a.m., July 1, 2004 and remain open until the allotted portion of the commercial king mackerel quota for the Western Gulf of Mexico has been harvested or projected to be harvested.

The commission grants authority to the secretary of the Department of Wildlife and Fisheries to close the commercial king mackerel season in Louisiana state waters when he is informed by the National Marine Fisheries Service (NMFS) that the commercial king mackerel quota for the Western Gulf of Mexico has been harvested or is projected to be harvested, such closure order shall close the season until 12:01 a.m., July 1, 2005, which is the date expected to be set for the re-opening of the 2005 commercial king mackerel season in Federal waters.

The commission also authorizes the secretary to open an additional commercial king mackerel season in Louisiana state waters if he is informed that NMFS has opened an additional season and to close such season when he is informed that the commercial king mackerel quota for the western Gulf of Mexico has been filled, or is projected to be filled.

Nothing herein shall preclude the legal harvest of king mackerel by legally licensed recreational fishermen. Effective with any closure, no person shall commercially

harvest, transport, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell king mackerel, whether taken from within or without Louisiana territorial waters. Effective with the closure, no person shall possess king mackerel in excess of a daily bag limit, whether taken from within or without Louisiana territorial waters. Provided however that fish in excess of the daily bag limit which were legally taken prior to the closure may be purchased, possessed, transported, and sold by a licensed wholesale/retail dealer if appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6 are properly maintained. Those other than wholesale/retail dealers may purchase such fish in excess of the daily bag limit from wholesale/retail dealers for their own use or for sale by a restaurant as prepared fish.

Bill A. Busbice, Jr.
Chairman

0401#040

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2004 Commercial Red Snapper Season

The red snapper fishery in the Gulf of Mexico is cooperatively managed by the Louisiana Department of Wildlife and Fisheries (LDWF) and the National Marine Fisheries Service (NMFS) with advice from the Gulf of Mexico Fishery Management Council (Gulf Council). Regulations promulgated by NMFS are applicable in waters of the Exclusive Economic Zone (EEZ) of the U.S., generally three miles offshore. NMFS will provide rules for commercial harvest seasons for red snapper in the EEZ off of Louisiana. NMFS and the Gulf Council typically request consistent regulations in order to enhance the effectiveness and enforceability of regulations for EEZ waters.

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, and R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish; the Wildlife and Fisheries Commission hereby sets the following season for commercial harvest of red snapper in Louisiana state waters:

The season for the commercial fishery for red snapper in Louisiana state waters will open at 12 noon February 1, 2004. The commercial fishery for red snapper in Louisiana waters will close at 12 noon February 10, 2004, and thereafter open at 12 noon on the first of each month and close at 12 noon on the tenth of each month, for each month of 2004 until two-thirds of the 2004 commercial red snapper quota for the Gulf of Mexico has been harvested or projected to be harvested.

The commission grants authority to the Secretary of the Department of Wildlife and Fisheries to set the closing date for the commercial red snapper season in Louisiana state waters when he is informed by the Regional Administrator of NMFS that two-thirds of the commercial red snapper

quota for the Gulf of Mexico has been harvested or projected to be harvested, such closure order shall close the season until 12 noon October 1, 2004, which is the date expected to be set for the re-opening of the 2004 commercial red snapper season in Federal waters.

The season for the commercial fishery for red snapper in Louisiana state waters will re-open at 12 noon October 1, 2004. The commercial fishery for red snapper in Louisiana waters will close at 12 noon October 10, 2004, and thereafter open at 12 noon on the first of each month and close at 12 noon on the tenth of each month for each month of 2004, until the remainder of the 2004 commercial quota is harvested.

The commission grants authority to the Secretary to set the closing date for the commercial red snapper season in Louisiana state waters when he is informed by NMFS that the commercial red snapper quota for the Gulf of Mexico has been harvested or projected to be harvested; such closure order shall close the season until the date set for the opening of the year 2005 commercial red snapper season in Federal waters.

The commission grants authority to the Secretary to change the opening dates for the commercial red snapper season in Louisiana state waters if he is informed by NMFS that the season dates for the commercial harvest of red snapper in the federal waters of the Gulf of Mexico as set out herein have been modified, and that the NMFS requests that the season be modified in Louisiana state waters.

The secretary is also authorized to re-open and close the commercial red snapper season outside of the season framework established herein in Louisiana state waters if he is informed by NMFS that the season dates for the commercial harvest of red snapper in the Federal waters of the Gulf of Mexico have been modified to re-open and close and that NMFS requests the season be re-opened and closed in Louisiana state waters.

Nothing herein shall preclude the legal harvest of red snapper by legally licensed recreational fishermen. Effective with any commercial closure, no person shall commercially harvest, transport, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell red snapper, whether taken from within or without Louisiana territorial waters. Effective with the closure, no person shall possess red snapper in excess of a daily bag limit, whether taken from within or without Louisiana territorial waters. Provided however that fish in excess of the daily bag limit which were legally taken prior to the closure may be purchased, possessed, transported, and sold by a licensed wholesale/retail dealer if appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6 are properly maintained, and those other than wholesale/retail dealers may purchase such fish in excess of the daily bag limit from wholesale/retail dealers for their own use or for sale by a restaurant as prepared fish.

Bill A. Busbice, Jr.
Chairman

0401#039

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2004 Recreational Red Snapper Season

The red snapper fishery in the Gulf of Mexico is cooperatively managed by the Louisiana Department of Wildlife and Fisheries (LDWF), the Wildlife and Fisheries Commission (LWFC) and the National Marine Fisheries Service (NMFS) with advice from the Gulf of Mexico Fishery Management Council (Gulf Council). Regulations promulgated by NMFS are applicable in waters of the Exclusive Economic Zone (EEZ) of the U.S., which in Louisiana is generally three miles offshore. Rules were established by NMFS to close recreational harvest season in the EEZ off of Louisiana effective midnight October 31, 2003 until 12:01 a.m., April 21, 2004 by reducing the bag limit to zero, and NMFS requested that consistent regulations be established in Louisiana waters. NMFS typically requests consistent regulations in order to enhance the effectiveness and enforceability of regulations for EEZ waters.

In order to enact regulations in a timely manner so as to have compatible regulations in place in Louisiana waters for the 2004 recreational red snapper season, it is necessary that Emergency Rules be enacted.

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, and R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish; the Wildlife and Fisheries Commission hereby sets the following seasons for recreational harvest of red snapper in Louisiana state waters:

The season for the recreational fishery for red snapper in Louisiana state waters will remain closed until 12:01 a.m., April 21, 2004 by reducing the bag limit to zero for that time period. The season will open at 12:01 a.m., April 21, 2004 and continue until midnight October 31, 2004.

The Wildlife and Fisheries Commission authorizes the Secretary of the Department of Wildlife and Fisheries to close the recreational red snapper season when he is informed by the Regional Administrator of the National Marine Fisheries Service that the recreational red snapper quota for the Gulf of Mexico has been filled, or is projected to be filled.

The commission also hereby authorizes the secretary to modify the opening and closing of state dates if he is notified that the opening and closing of federal dates are other than those specified in this declaration of emergency and to open an additional recreational red snapper season in Louisiana state waters if he is later informed that NMFS has opened an additional recreational season and to close such season when he is informed that the recreational red snapper quota for the Gulf of Mexico has been filled, or is projected to be filled.

Effective with the recreational red snapper season closure, any person, except those who possess a Class 1 or Class 2 commercial red snapper license issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico Reef Fish and who are legally taking red snapper during an open commercial season, shall not possess any red snapper whether taken from within or without Louisiana territorial waters.

Bill A. Busbice, Jr.
Chairman

0401#044

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Public Oyster Seed Ground Addition? Lake Borgne (LAC 76:VII.513)

In accordance with emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and R.S. 49:957 which allows the Wildlife and Fisheries 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 Wildlife and Fisheries Commission does hereby declare and designate additional public oyster seed ground acreage on those water bottoms of Lake Borgne in St. Bernard Parish, more specifically described below, to be added to the Lake Borgne Public Oyster Seed Ground as described in Louisiana Administrative Code (LAC) 76:VII.513. The oyster harvest season in this additional area shall open one-half hour before sunrise January 12, 2004 and follow the remaining seasonal framework set forth by Commission action on August 6, 2003 for the Lake Borgne Public Oyster Seed Ground and shall close one-half hour after sunset on April 1, 2004.

Due to the declining availability of oyster resources on the Lake Borgne Public Oyster Seed Ground, the current oyster lease moratorium on the issuance of new oyster leases, and the availability of oyster resource located on un-leased water bottoms adjacent to the current Lake Borgne Public Oyster Seed Ground, the expansion of the Lake Borgne Public Oyster Seed Ground is needed to enhance the economic sustainability of the Louisiana oyster industry. The oyster resource in this area would be immediately placed under active state management for the long-term benefit of the resource and protection of the natural reefs. This would allow harvest of this resource providing immediate economic benefit to the oyster industry. Without the presence of the current oyster lease moratorium, this area would be open for leasing and, thus, the oyster resource would be available for harvest.

The secretary of the Department of Wildlife and Fisheries is authorized to take emergency action as necessary to close areas if oyster mortalities are occurring or where it is found

that there are excessive amounts of shell in seed oyster loads, or if enforcement problems are encountered.

All statutes, regulations, and policies pertaining to the use of public oyster grounds will be in force in the additional Lake Borgne Public Oyster Seed Grounds described in Paragraphs 2, 3, and 4 below with the exception of any additional mitigation requirements levied from time to time for construction, oil and gas exploration, or pipeline construction activities for the term of this Declaration of Emergency.

In addition, the X and Y coordinates (1927 datum) used to describe the existing Lake Borgne Public Oyster Seed Grounds shall be converted to Latitude and Longitude (1983 datum) so as to comply with R.S. 50:11.

This Declaration of Emergency will become effective January 8, 2004 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until revocation by the Commission and the Department.

Therefore, the Wildlife and Fisheries Commission does hereby declare the following water bottoms of Lake Borgne as described below as the Lake Borgne Public Oyster Seed Ground:

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 5. Oyster

§513. Public Oyster Seed Ground

Addition? Lake Borgne

A. The Lake Borgne Public Oyster Seed Ground is described as that portion of the state water bottoms:

1. Beginning at the most northerly point of Malheureux Point latitude 30° 04' 48.216" north, longitude 89° 29' 02.247" west on the southern shoreline of Lake Borgne; thence southwesterly a distance of 16.6 miles to the most easterly point of Proctor Point latitude 29° 56' 46.459" north, longitude 89° 42' 51.039" west on the southwestern shoreline of Lake Borgne; thence northerly a distance of 5.6 miles to the most easterly point of Alligator Point latitude 30° 01' 39.731" north, longitude 89° 43' 01.767" west on the northern shoreline of Lake Borgne; thence northeasterly along the northern shoreline of Lake Borgne a distance of 19.1 miles to the intersection with the western shoreline of the Pearl River latitude 30° 10' 39.633" north, longitude 89° 31' 53.828" west; thence northerly along the western shoreline of the Pearl River a distance of 0.25 miles to a point latitude 30° 10' 52.888" north, longitude 89° 31' 53.736" west on the western shoreline of the Pearl River; thence easterly a distance of 1.15 miles to the Pearl River Beacon No. 8 latitude 30° 11' 00.429" north, longitude 89° 31' 28.187" west; thence southeasterly a distance of 7.5 miles to the point of beginning.

2. Beginning at the southeastern corner of the existing Lake Borgne Public Oyster Seed Ground as described in Paragraph 1 above, which is the most easterly point of Proctor Point, at latitude 29° 56' 46.459" north, longitude 89° 42' 51.039" west; thence westerly along the shoreline of Lake Borgne to latitude 29° 55' 54.300" north, longitude 89° 47' 57.000" west; thence north to latitude 30° 00' 46.000" north, longitude 89° 47' 57.000" west; thence east to the

western boundary of the existing Lake Borgne Public Oyster Seed Ground at latitude 30° 00' 46.000" north, longitude 89° 42' 59.799" west; thence southerly along the western boundary of the existing Lake Borgne Public Oyster Seed Ground to the point of beginning.

3. Beginning at the southeastern corner of the existing Lake Borgne Public Oyster Seed Ground as described in Paragraph 1 above, which is the most easterly point of Proctor Point, at latitude 29° 56' 46.459" north, longitude 89° 42' 51.039" west; thence northeasterly along the southern boundary of the existing Lake Borgne Public Oyster Seed Ground to latitude 30° 01' 18.470" north, longitude 89° 35' 03.662" west; thence southwesterly to latitude 29° 53' 22.749" north, longitude 89° 42' 12.538" west; thence northwesterly to a point on the shoreline of Lake Borgne at latitude 29° 56' 12.711" north, longitude 89° 44' 11.750" west; thence northeasterly along the shoreline of Lake Borgne to the point of beginning.

4. Beginning at a point on the southern boundary of the existing Lake Borgne Public Oyster Seed Ground, as described in Paragraph 1 above, at latitude 30° 01' 25.814" north, longitude 89° 34' 51.025" west; thence northeasterly along the southern boundary of the existing Lake Borgne Public Oyster Seed Ground to latitude 30° 04' 01.816" north, longitude 89° 30' 22.277" west; thence southerly to latitude 30° 02' 25.177" north, longitude 89° 30' 22.277" west; thence southwesterly to latitude 30° 00' 26.497" north, longitude 89° 34' 05.521" west; thence northwesterly to the point of beginning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(12) and R.S. 56:434(A).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 30:

Bill A. Busbice, Jr.
Chairman

0401#038

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

State Outside Waters? Shrimping Closure

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall have the authority to open or close state outside waters to shrimping by zone each year as it deems appropriate, the Wildlife and Fisheries Commission hereby orders a closure to shrimping in that portion of state outside waters, south of the Inside/Outside Shrimp Line as described in R.S. 56:495, from the western shore of Freshwater Bayou Canal at longitude 92° 18' 33" W to the eastern shore of Belle Pass at latitude 29° 05' 07" N and longitude 90° 13' 30" W. This closure is effective at 6 a.m., Monday, January 12, 2004.

R.S. 56:498 provides that the possession count on saltwater white shrimp for each cargo lot shall average no more than 100 (whole specimens) count per pound except during the time period from October fifteenth through the third Monday in December. Current biological sampling conducted by the Department of Wildlife and Fisheries has indicated that white shrimp in this portion of state outside waters do not average 100 possession count and additional small white shrimp are expected to recruit to these waters. This action is being taken to protect these small white shrimp and provide them the opportunity to grow to a larger and more valuable size.

The Wildlife and Fisheries Commission authorizes the Secretary of the Department of Wildlife and Fisheries to close to shrimping, if necessary to protect small white shrimp, any part of remaining state outside waters, if biological and technical data indicate the need to do so, and to reopen any area closed to shrimping when the closure is no longer necessary; and hereby authorizes the Secretary of the Department of Wildlife and Fisheries to open and close special shrimp seasons in any portion of state inside waters where such a season would not detrimentally impact small brown shrimp.

Bill A. Busbice, Jr.
Chairman

0401#043

Rules

RULE

**Department of Economic Development
Office of the Secretary
and
Office of the Governor
Office of Financial Institutions**

Capital Companies Tax Credit Program (CAPCO)
(LAC 10:XV.303-313 and 317-320)

The Louisiana Department of Economic Development (herein referred to as DED) and the Office of Financial Institutions (herein referred to as OFI), pursuant to the authority of R.S. 51:1921 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby promulgates the following Rule to amend the Capital Companies Tax Credit Program. The proposed amendments are being promulgated to incorporate legislative changes and provide guidance with respect to changes in policy.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC

Part XV. Other Regulated Entities

Chapter 3. Capital Companies Tax Credit Program

§303. Definitions Provided by Rule

- A. - A. *Affiliate and/or Affiliated Company*.b.i. ...
- ii. when used with respect to a qualified Louisiana business, *affiliate* means a legal entity that directly, or indirectly, through one or more intermediaries, *controls*, is *controlled* by, or is under common control with, a qualified Louisiana business;
- c. for purposes of R.S. 22:1068(E)(2)(c), a *group of affiliates* shall mean a person and not less than all *affiliates* of such person;
- d. the test relating to being under common control with will not apply to investments closed prior to the effective date of this Rule or to any qualified Louisiana business in which the investing certified Louisiana capital company has invested in prior to the effective date of this Rule;
- e. Part ii of this Section shall not include as an affiliate those legal entities that are *controlled* by either an angel or institutional investor.

Allowable Organization Costs? repealed.

Angel Investor in a Qualified Louisiana Business? for purposes of excluding certain companies from being an affiliate of a qualified Louisiana business, an *angel investor* shall be defined as any investor that has provided early state funds to a business unless such investor is, the founder, or a family member of the founder, of the qualified Louisiana business.

Capitalization? for purposes of initial certification, pursuant to R.S. 51:1925(B):

a. *Generally Accepted Accounting Principles (GAAP) Capital?* common stock, preferred stock, general partnership interests, limited partnership interests, surplus and any other equivalent ownership interest, all of which shall be exchanged for cash; undivided profits or loss which shall be reduced by a fully-funded loan loss reserve; contingency or other capital reserves and minority interests; less all organization costs;

b. - c. ...

Change of Control? for purposes of LAC 10:XV.319A shall mean:

a. a change in beneficial ownership of 50 percent or more of the outstanding shares of the CAPCO or 50 percent or more of the combined voting power of the CAPCO; provided that any transfer to a person or entity who was a shareholder as of the later of the certification date for the CAPCO or the date of the CAPCO's last notification under LAC 10:XV.319A for whom the Office of Financial Institutions has received a current Biographical Affidavit and conducted a current background check shall be disregarded; or

b. individuals who constitute the voting power of the Board of Directors, Board of Managers or other governing board of the CAPCO as of the later of the CAPCO's certification date or the date of the CAPCO's last notification under LAC 10:XV.319A cease to comprise more than 50 percent of the voting power of such Board of Directors, Board of Managers, or other board; or

c. a change in the general partner or manager of the CAPCO or a *change of control* with respect to such general partner or manager; or

d. any merger or consolidation if a *change of control* has occurred based upon the surviving entity being considered to be a continuation of the CAPCO that was the party to the merger or consolidation transaction.

Control?

a. Solely for purposes of determining whether a qualified Louisiana business *controls*, is *controlled* by, or is under common *control* with another person, or if a person is an associate of a CAPCO, *control* means:

a.i. - b.ii. ...

Date Certified, Newly Certified or Designated as a Certified Louisiana Capital Company? the date that the commissioner notifies a CAPCO of its certification.

Date on Which an Investment Pool Transaction Closes? date that a CAPCO designates, and notifies the commissioner of such designated date, that it has received an investment of certified capital in an investment pool. For purposes of this definition, an investment pool transaction may not close prior to:

a. - b. ...

Headquartered in Louisiana? at least 80 percent of the total employees of such business shall be domiciled in the

state of Louisiana and that at least 80 percent of the payroll of such business be paid to such employees. In analyzing whether the business has a substantial portion of its assets located in Louisiana, Part a. of the definition of *Operates Primarily in Louisiana* shall be utilized in making the determination. The application of this definition shall only be made to investments made from pools of capital certified in 2002 or thereafter.

Institutional Investor? shall include venture capital companies, investment companies, mutual funds, brokerage companies, insurance companies, pension funds, investment banks, Small Business Investment Companies licensed by the U.S. Small Business Administration under the Small Business Investment Act of 1958, CAPCOs, BIDCOs, and any other corporation, limited liability company, or partnership with total assets in excess of \$5,000,000 formed for the purpose of making investment in multiple businesses. Examples:

a. A company founded by an individual seeks additional capital to continue product development. A high net worth individual or an *institutional investor* reviews the investment and elects to provide capital. Following this investment, the company is able to develop its product to a certain stage. Now, the company is in need of a larger investment to bring the product to market and a certified Louisiana capital company desires to invest. Under this scenario, neither the net worth nor the net income of the angel or *institutional investor* or any companies *controlled* by the angel or *institutional investor* would be combined with the qualified Louisiana business in determining if the limits found in R.S. 51:1923(13)(a) would be exceeded.

b. A high net worth individual controls one or more companies that are not considered qualified Louisiana businesses. This high net worth individual founds another company and provides the capital for startup and product development and now seeks funding by a certified Louisiana capital company. Under this scenario, the founder of the company seeking *investment* would not be considered an angel or *institutional investor*.

Investment?

a. - a.ii. ...

iii. notwithstanding the above, an *investment* shall also include debt instruments which are obligations of the investing insurance company to a certified Louisiana capital company. Such debt instruments shall be converted into cash at a rate of not less than 10 percent per year from the date of the *investment*;

iv. - iv.(a). ...

(b). invested in qualified *investments* made subsequent to the *investment* date of the *investment* pool; or

(c). a combination of §303.A.*Investment*.a.iv.(a) and (b).

b.i. an *Investment* furthers economic development within Louisiana. If the proceeds from an investment are used in a manner consistent with representations contained in the affidavit required to be obtained from the qualified Louisiana business prior to an investment in the business and the documented use of such proceeds promote Louisiana economic development. Proceeds shall be determined to promote Louisiana economic development if more than 50 percent of the proceeds derived from the investment are used

by the qualified Louisiana business for two or more of the following purposes:

(a). to hire significantly more Louisiana employees;

(b). to directly purchase or lease furniture, fixtures, land or equipment that will be used in the Louisiana operations of the business or to construct or expand production or operating facilities located in Louisiana. This does not include the purchase of these assets as part of a buyout of a company;

(c). to purchase inventory for resale from Louisiana-based operations or outlets;

(d). to capitalize a business in order for the business to secure future debt financing to support the Louisiana operations of the business;

(e). to increase or preserve working capital and/or cash flows for Louisiana operations of the business. However, except as allowed in Subclause (d) above, this does not include those *investments* whereby the proceeds of the *investment* will be utilized to refinance existing debt of the business;

(f). to preserve or expand Louisiana corporate headquarters operations. *Preserve* means a company that is in danger of failing or contemplating a move out-of-state;

(g). to support research and development or technological development within Louisiana;

(h). to fund start-up businesses that will operate primarily in Louisiana; or

(i). to provide for an additional economic benefit not otherwise described above. However, before this purpose may be used as a basis for a determination that the *investment* furthers economic development within Louisiana, the CAPCO shall request in writing and the commissioner shall issue a written response to the CAPCO that, based upon relevant facts and circumstances, the proposed *investment* will further Louisiana economic purposes and result in a significant net benefit to the state. The commissioner's letter opinion shall be issued within 30 days of the request by the CAPCO, and shall be part of the annual review required to be performed by the department and billed according to provisions contained in §307.D. However, upon written notification to the CAPCO, the 30-day period can be extended by the commissioner if he determines that the initial information submitted is insufficient or incomplete for such determination;

ii. an *investment* by a CAPCO in interim construction financing shall not be considered to further economic development within Louisiana, unless the same CAPCO also provides the debt funding that refinances the interim funding upon completion and the permanent financing is determined to further economic development within Louisiana;

iii. for purposes of (b)(i)(e) of this definition, an *investment* by a CAPCO to refinance interim debt of a qualified Louisiana business will be considered to further economic development within Louisiana if the commitment to fund the *investment* by the CAPCO occurs before the funding of the interim debt.

* * *

Operates Primarily in Louisiana? a business *operates primarily in Louisiana* if, at the time of the initial *investment*, the business is in good standing with the

Louisiana Secretary of State, if applicable, and meets one or more of the following:

a. - d. ...

NOTE: For *investments* made utilizing certified capital raised during 2002 or 2003, Subparagraph c is superseded by R.S. 51:1923(13)(a)(i) which requires that at least 80 percent of the total employees of such business shall be domiciled in the state of Louisiana and that at least 80 percent of the payroll of such business be paid to such employees. Therefore, in addition to meeting this new 80 percent test, in order for the business to be deemed to operate primarily in Louisiana, one or more of Subparagraphs a, b or d must be met.

* * *

Performs Substantially All of Its Production in Louisiana? business performs substantially all of its production in Louisiana if:

a. - b. ...

NOTE: For *investments* made utilizing certified capital raised during 2002 or 2003, R.S. 51:1923(13)(a)(i) adds a new requirement that at least 80 percent of the total employees of such business shall be domiciled in the state of Louisiana and that at least 80 percent of the payroll of such business be paid to such employees. Therefore, in addition to meeting this new 80 percent test, in order for the business to be deemed to perform substantially all of its production in Louisiana, this new 80 percent test must be met in addition to Subparagraphs a and b.

Permissible Investments? for purposes of R.S. 51:1926(B), cash deposited with a federally-insured financial institution; certificates of deposit in federally-insured financial institutions; investment securities that are obligations of the United States, its agencies or instrumentalities, or obligations that are guaranteed fully as to principal and interest by the United States; investment-grade instruments (rated in the top four rating categories by a nationally recognized rating organization); obligations of any state, municipality or of any political subdivision thereof; money market mutual funds or mutual funds that only invest in *permissible investments* of a kind and maturity permitted by this definition; or any other *investments* approved in advance and in writing by the commissioner. All *permissible investments* which are included in the calculation under Subsection a.(iv)(a) of the definition of *Investment* in LAC 10:XV.303 shall have a maturity of two years or less or the terms of the investment instrument shall provide that the principal is repayable to the CAPCO within 10 days following demand by the CAPCO in connection with funding a qualified investment. This limitation on the maturity of an investment shall only apply to *investments* made subsequent to the date of this Rule.

* * *

Total Certified Capital under Management for purposes of investment limits, pursuant to R.S. 51:1926(B):

a. *GAAP Capital?* common stock, preferred stock, general partnership interests, limited partnership interests, surplus and other equivalent ownership interests, all of which shall be exchanged for cash and is available for investment in qualified *investments*; undivided profits or loss which shall be reduced by a fully-funded loan loss reserve; contingency or other capital reserves and minority interests; reduced by all organization costs.

b. - c.i. ...

d. The portion of an investment that is guaranteed by the United States Small Business Administration or the United States Department of Agriculture's Business and Industry Guaranteed Loan Program shall be excluded from

the amount of the investment when determining the investment limit pursuant to R.S. 51:1926(B).

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 18:251 (March 1992), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:154 (February 1994), LR 23:1128 (September 1997), LR 25:1216 (July 1999), amended by the Department of Economic Development, Office of the Secretary and the Office of the Governor, Office of Financial Institutions, LR 30:33 (January 2004).

§305. Income and Premium Tax Credits

A. - B.6. ...

C.1. The total income tax credits granted pursuant to R.S. 51:1924.A in any calendar year shall not result in an additional reduction of total income tax revenues of greater than \$2,000,000 per year.

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

a. When aggregate requests for allocation by certified Louisiana capital company groups do not exceed \$5,714,285.71, all requests for allocation shall be approved by the department.

b. When aggregate requests for allocation exceed \$5,714,285.71, each certified Louisiana capital company group shall be entitled to receive an allocation to be calculated by dividing \$5,714,285.71 by the number of certified Louisiana capital company groups requesting an allocation. In the event that this allocation results in one or more certified Louisiana capital company groups receiving an allocation in excess of the amount which was requested, the excess shall be reallocated to the remaining certified Louisiana capital company groups on an equal basis until the entirety of the allocation has been fully distributed.

3. ...

4. Annually within 10 days of December first, the commissioner shall review all requests for allocation of income tax credits and notify the certified Louisiana capital companies of the amount of certified capital for which income tax credits are allowed to the investors in such company. During this 10 day period, each CAPCO or CAPCO group may allow for the substitution of one investor for another investor when the initial investor is unable or unwilling to complete the proposed investment.

5. In the event a certified Louisiana capital company or group does not receive an investment of certified capital

equaling the amount of the allocation made pursuant to Paragraph C.2.b of this Subsection within 10 days of its receipt of notice of such allocation it shall notify OFI within three days.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended LR 12:664 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 16:762 (September 1990), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:154 (February 1994), LR 23:1132 (September 1997), LR 25:1216 (July 1999), amended by the Department of Economic Development, Office of the Secretary and the Office of the Governor, Office of Financial Institutions, LR 30:35 (January 2004).

§307. Application Fees; Other Fees

A. ...

B. An application fee of \$5,000 shall be submitted with the application. Checks should be payable to the Office of Financial Institutions.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1925, 1927 and 1929.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 12:664 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:154 (February 1994), LR 23:1133 (September 1997), amended by the Department of Economic Development, Office of the Secretary and the Office of the Governor, Office of Financial Institutions, LR 30:36 (January 2004).

§309. Application Process

A. A company organized and existing under the laws of Louisiana, created for the purpose of making qualified investments, as required in R.S. 51:1921 et seq., shall make written application for certification to the commissioner on application forms provided by the office.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1925 and 1929.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended LR 12:664 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:154 (February 1994), LR 23:1133 (September 1997), amended by the Department of Economic Development, Office of the Secretary and the Office of the Governor, Office of Financial Institutions, LR 30:36 (January 2004).

§311. Conditions of Certification

A. - A.1. ...

2. At least 30 days prior to the sale or redemption of stock, partnership interests, other equivalent ownership interests or debentures constituting 10 percent or more of the then outstanding shares, partnership interests, other equivalent ownership interests or debentures, the CAPCO will provide a written notification to the office. Information, as determined by the commissioner, shall be submitted with the notification. If the commissioner does not object to the

notification within 30 days of the receipt, the notification shall be deemed approved.

3. - 8. ...

B.1. If a CAPCO contemplates any public or private securities offerings, prior to the certification of any tax benefits resulting from the certified capital raised through such offerings, the CAPCO shall have a securities attorney provide a written opinion that the company is in compliance with Louisiana securities laws, federal securities laws, and the securities laws of any other states where the offerings have closed. Copies of all offering materials to be used in investor solicitations must be submitted to the office at least 30 days prior to investor solicitation.

2. If a CAPCO seeks to certify capital pursuant to §303.A. *Investment*, the CAPCO shall submit to the commissioner documentation showing the proposed structure in sufficient detail to allow this office to determine that the proposed structure complies with all applicable laws and regulations. This information shall be submitted to the commissioner no later than 30 days prior to a request for certification of capital.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1925 and 1929.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 20:154 (February 1994), amended, LR 23:1134 (September 1997), amended by the Department of Economic Development, Office of the Secretary and the Office of the Governor, Office of Financial Institutions, LR 30:36 (January 2004).

§313. Requirements for Continuance of Certification and Decertification

A ...

1. The numerator for the investment pool shall be:

a. 100 percent of the sum of all qualified investments made on or after the investment date of the investment pool that are held for a minimum of one year; and

b. ...

2. For purposes of the calculation of the numerator:

a. no qualified investment may be counted more than once;

b. the date the investment of cash is made determines whether the one-year date is achieved. For multiple fundings, each funding must be held for one year to receive 100 percent treatment. The calculation of the amount of time an investment is held will begin at the time of the investment of cash. Therefore, for multiple funding situations, only those cash investments that have been or are intended to be held for a minimum of one year are eligible for full credit as a qualified investment. All other advances will receive 50 percent credit.

A.3. - B. ...

C.1. Upon voluntary decertification, any investments which received 100 percent treatment and were counted as part of A.1.a above may not be sold for a minimum of one year from the date of funding provided that this requirement shall not apply to:

a. a sale that is executed in connection with a sale of control of a qualified Louisiana business; or

b. the sale of any investment that is publicly traded.

2. At the time of voluntary decertification, the CAPCO may deliver to the Office a letter of credit in form

and substance, and issued by a financial institution, acceptable to the Office. The letter of credit:

- a. shall be payable to the Office as beneficiary;
- b. shall be in a face amount equal to the aggregate value of investments required to be held following voluntary decertification in accordance with C.1 above;
- c. shall provide that the letter of credit is forfeitable in full if the CAPCO fails to comply with the requirements of C.1 above; and
- d. may provide for reduction of the face amount of the letter of credit as the holding periods of the investments which are required to be held pursuant to C.1 above exceed one year, provided that the face amount of the letter of credit may never be less than the aggregate value of investments counted as part of A.1.a above which have not yet been held by the CAPCO a minimum of one year.

3. If the CAPCO provides a letter of credit in accordance with C.2 above, the forfeiture of the letter of credit shall constitute an assessment against the CAPCO as the sole remedy for the failure of the CAPCO to comply with the requirements of C.1 above; otherwise, the failure to comply with C.1 above shall be considered a violation of R.S. 51:1926(H)(3).

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1926, 1929 and 1933.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 18:251 (March 1992), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:154 (February 1994), LR 23:1134 (September 1997), amended by the Department of Economic Development, Office of the Secretary and the Office of the Governor, Office of Financial Institutions, LR 30:36 (January 2004).

§317. CAPCO Report and Record Requirements

A. Reporting Requirements. Pursuant to R.S. 51:1926(F)(2), CAPCOs are required to submit to the commissioner reports of selected information for each qualified investment made in the previous calendar year. Senate Concurrent Resolution Number 40 of the 1996 Regular Session also requires that the department determine the economic development impact of the CAPCO Program on the state. In order to provide such a report to the Senate, economic information for each company in which a CAPCO has invested shall be obtained and reported to the commissioner by each CAPCO. Such reports shall be submitted on forms provided or approved by OFI.

B. ...

C.1. Except as provided in this Paragraph 2 of this Subsection C, no information contained in the report of examination may be disclosed to investors or shareholders.

2. The report of examination is the property of the Office of Financial Institutions and is furnished to the CAPCO for use by management and the board of directors/managers of the CAPCO and its parent entities. Therefore, the release of any information contained in the report of examination is considered a violation of R.S. 51:1934.

D. All CAPCOS shall prepare quarterly financial statements which shall include a balance sheet, an income statement, and a statement of cash flows.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1926 and 1929.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 18:251 (March 1992), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:154 (February 1994), LR 23:1135 (September 1997), amended by the Department of Economic Development, Office of the Secretary and the Office of the Governor, Office of Financial Institutions, LR 30:37 (January 2004)

§319. Change of Control

A. In the event of a change of control of a certified Louisiana capital company, at least 30 days prior to the effective date, the CAPCO shall provide written notification to the commissioner of the proposed transaction. Unless additional information is required, the commissioner shall review the information submitted and shall issue either an approval or denial of the change of control within 30 days of the receipt of the notification.

B. Information to be included in the notification shall include:

1. a completed biographical and financial statement on each new owner;
2. a copy of the proposed business plan of the new owners covering a three year period;
3. a discussion of the previous experience the proposed owner has in the field of venture capital;
4. a credit report on each new owner;
5. a listing of any changes to the board of directors and/or of the CAPCO;
6. a copy of any legal documents or agreements relating to the transfer, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1926 and 1929.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary and the Office of the Governor, Office of Financial Institutions, LR 30:37 (January 2004).

§320. Investment in Approved Funds

A. Any certified Louisiana capital company that has capital certified pursuant to R.S. 51:1924 for the calendar years 1999 or 2000, and which qualifies for credits pursuant to R.S. 22:1068(E) shall invest an amount, as determined by the secretary, into the following investments:

A.1. - B. ...

C. The capital management fund referred to in Paragraph A.1 shall be managed by a qualified individual or individuals or entity that is managed by a qualified individual or individuals and governed by a board consisting of one representative from each certified Louisiana capital company that has invested in the management fund as required by this Section and the secretary or his designee, who shall act in an advisory capacity only, with the right to attend meetings but with no voting privileges. The governing board of the capital management fund will develop policies for the administration and operation of the capital management fund. Certified Louisiana capital companies investing in such capital management fund, shall share in the profits and losses of such fund in accordance with the documents providing for the creation and organization of the fund. The fund shall submit reports to the secretary, semi-

annually within 30 days of June 30 and December 31. The report shall include information on all investments made by the fund and a copy of the most recent financial statements of the fund and shall be submitted on a form provided by the secretary.

D. - F. ...

G. If a certified Louisiana capital company which is required to invest funds by this Section is also a certified Louisiana capital company described in Paragraph A.2 above, it shall not be required to reinvest part of its certified capital into another certified Louisiana capital company pursuant to the requirements of Paragraph A.2; however, it must still make the investment required by Paragraph A.2.

H. - J. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1935.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 27:675 (May 2001), amended LR 28:989 (May 2002), amended by the Department of Economic Development, Office of the Secretary and the Office of the Governor, Office of Financial Institutions, LR 30:37 (January 2004).

Don Hutchinson
Secretary, DED
and
John D. Travis
Commissioner, OFI

0401#088

RULE

Office of the Governor Board of Examiners for New Orleans and Baton Rouge Steamship Pilots

Enhanced Drug and Alcohol Policy (LAC 46:LXX.Chapter 63)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots for the Mississippi River and/or Board of Review (hereinafter "board") has adopted Rules regarding enhancement of current drug and alcohol policies, together with other violations and penalties associated therewith.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXX. River Pilots

Subpart 7. Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots

Chapter 63. Enhanced Drug and Alcohol Policy

§6301. Purpose and Policy

A. Due to the safety sensitive nature of the duties performed by NOBRA pilots, the board will maintain and enforce a policy of no tolerance for the violation of its policies, rules and regulations as to those river pilots who pursuant to R.S. 34:1041 et seq. have the duty to pilot sea-going vessels up and down the Mississippi River generally from mile 88 AHP to mile 304 AHP (Latitude 31). These rules and regulations are enacted to accomplish those purposes required by the legislature and to protect the public

by ensuring available, safe and competent pilotage of vessels on the waterways under the jurisdiction of this board.

B. Further, the Louisiana Legislature formed this board for the additional purpose of establishing rules, regulations and requirements for all NOBRA pilots to establish standards for recommendation by the board to the Governor of the State of Louisiana for such disciplinary matters who may have violated same.

C. The purposes of these rules and regulations are as follows:

1. to enhance general standards of conduct of pilots herein; and
2. for the board to recommend to the Office of the Governor such sanctions as are permitted herein; and
3. to enhance certain minimum standards of conduct relative to alcohol and substance abuse; and
4. to enhance a set of rules and regulations for the proper and safe pilotage of sea-going vessels upon the waterways under the jurisdiction of this board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:38 (January 2004).

§6303. Application

A. The board hereby adopts the following enhanced rules and regulations relating to a drug and alcohol abuse policy applicable to all state licensed NOBRA Pilots pursuant to the provisions of R.S. 34:1041 et seq., together with all apprentices and candidates. These rules and regulations are not intended to replace those rules and regulations in existence. Current rules and regulations are not superceded nor replaced. What follows is intended only to enhance and strengthen the existing rules and regulations. Any conflict is to be construed and resolved in the stricter sense and implementation. With that end, all current rules and regulations are adopted herein in extenso.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:38 (January 2004).

§6305. Statement of Findings

A. This board has always had a strong commitment and policy to establish programs promoting the highest standards of pilot health, safety and welfare. Consistent with the spirit and intent of this on-going commitment, the board herewith re-establishes and re-enforces these policies. The board's stated goals will continue to be one of establishing and maintaining a work environment that is free from the effects of alcohol and drug use and abuse. The board's stated goals will continue to be one of establishing and maintaining a work environment that is free from any incident or occasion that may result in any loss, adverse effect or harm to the state's or general public's safety, health and welfare.

B. While the board has no intention of intruding into the private lives of NOBRA pilots, apprentices or candidates, the board does expect that these persons report for work in a fit condition to perform their respective duties. The board recognizes that off-the-job incidents, as well as on-the-job incidents, and involvement with alcohol and drugs can have an impact on the work place and on a river pilot's ability to accomplish the board's goals herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:38 (January 2004).

§6307. Authority

A. As mandated by R.S. 34:1041, these rules and regulations are issued in accordance with the Administrative Procedure Act under R.S. 49:950 et seq., for the purpose of adopting rules, regulations and requirements of oversight for NOBRA pilots, apprentices and candidates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:39 (January 2004).

§6309. Definitions

A. As used in this Chapter, the following terms as used in these rules and regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings.

Administrative Procedure Act? (APA) the Louisiana Administrative Procedure Act under R.S. 49:950 et seq.

Alcoholic Beverage/Alcohol? any fluid, or solid capable of being converted into fluid, suitable for human consumption, which contains ethanol; any substance that may otherwise impair or affect the ability of a pilot to function in any way whatsoever.

Applicant/Candidate? any person who seeks or is seeking a pilot commission issued herein; also may be used interchangeably with "pilot."

Application? the written application supplied by the Board of Examiners to an applicant who desires to become a river pilot as per law and/or for the New Orleans-Baton Rouge Pilot Association.

Apprentice? any person enrolled and/or participating in the orientation program as established by this board; also may be used interchangeably with "pilot."

Association? New Orleans-Baton Rouge Steamship Pilot Association.

Board of Examiners or Board of Review? the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River and/or Board of Review, established in R.S. 34:1041 et seq.

Candidate? any person enrolled and/or participating in the orientation program as established by this board; also may be used interchangeably with "pilot."

Drug? any and all controlled dangerous substances as defined in R.S. 40:961(7). Drugs which are illegal under federal, state, or local laws include but are not limited to, marijuana, heroin, hashish, cocaine, hallucinogens, and depressants and stimulants not prescribed for current personal treatment by an accredited or licensed physician.

Gender? the use of "his" or "her" or any reference to masculinity or femininity are to be used interchangeably.

NOBRA Pilot or Pilot? a Mississippi River pilot under the jurisdiction of this Commission, as designated in R.S. 34:1041; any person as recommended by the board to the Office of the Governor and commissioned thereafter as per law; hereinafter "pilot."

Prescription Medication? any medication distributed by or with the authorization of a licensed physician as defined in R.S. 40:961 (30).

VTC? Vessel Traffic Center, or any other similarly related United States Coast Guard or governmental facility, institution, or program whatsoever.

Waterways? the Mississippi River generally between mile 88 AHP and Mile 304 AHP (Latitude 31).

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:39 (January 2004).

§6311. Severability

A. If any provision of these rules and regulations is held to be invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end, provisions of these rules and regulations are declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:39 (January 2004).

§6313. Effective Date

A. These rules and regulations shall be in full force and effective ninety days after final publication in the *Louisiana Register* or as per law, whichever is earlier.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:39 (January 2004).

§6315. Violations of the Policy

A. Any pilot in violation of these policies, rules or regulations may be referred to the Office of the Governor for reprimand, fine, suspension and/or pilot commission revocation, unless otherwise provided for in this board's rules and regulations.

B. Any pilot in violation of this policy may be reprimanded, fined, evaluated, and treated for drug use and have his or her pilot commission suspended or revoked as provided by R.S. 34:1041 et seq.

C. A pilot shall be suspended from performing the duties of a pilot pending a hearing pursuant to R.S. 34:1041 et seq. and Revised Statute Title 49 upon the following:

1. tests positive for any drug;
2. uses any drug in violation of these rules and regulations;
3. refuses to submit to reasonable scientific testing for drugs and/or fails to cooperate fully with the testing procedures and/or in any way attempts to alter the test results;
4. tests positive for alcohol;
5. refuses to submit to a blood alcohol test and/or fails to cooperate fully with the testing procedure and/or in any way attempts to alter the test results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:39 (January 2004).

§6317. Standards of Safe Pilotage, Grounds for Recommendation to the Governor

A. Subject to the authority of the Office of the Governor, as per law, this board shall be exclusively and unilaterally be vested with the power and authority to recommend to the

Office of the Governor of Louisiana revocation and/or suspension of all rights and privileges of river pilotage for appointment as a NOBRA Pilot, apprentice, and/or candidate for any violation of the board's drug and alcohol rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:39 (January 2004).

§6319. Effect of Positive Tests/ Disciplinary Action

A. Any NOBRA pilot, apprentice or candidate with alcohol or a prohibited drug detected in his system will have an opportunity to explain any medical condition which may have had an effect on the test result. However, passive inhalation or atmospheric contamination are not acceptable explanations for confirmed positive drug tests.

B. Any positive drug screen or positive alcohol test shall be reported to the U.S. Coast Guard and may place the pilot's license in jeopardy. Any NOBRA pilot testing positive for alcohol or a prohibited drug, or residual thereof, shall be removed from duty, pursuant to §6111.L of the commission's rules, pending a hearing pursuant to R.S. 34:1042. Any NOBRA pilot who presents a positive alcohol test or drug screen shall be subject to disciplinary action by the Board of Examiners/Board of Review, including the recommendation of revocation or suspension of his commission by the governor, reprimand or treatment/rehabilitation. The proper disciplinary action shall be determined by the Board of Examiners/Board of Review on a case by case basis. Any pilot who is required to undergo evaluation and/or treatment for drug use and/or alcohol abuse shall do so at his own personal expense. In addition, the evaluation and treatment facility must be pre-approved by the Board of Examiners/Board of Review.

C. Refusing a drug screen and/or alcohol test, or any attempts at alteration or substitution of samples is considered a violation of these rules. Any NOBRA pilot who refuses to submit to a drug screen and/or alcohol test, fails to cooperate fully with the testing procedures, or in any way tries to alter the test results, shall be removed from duty as a pilot pursuant to §6111.L of the commission's rules, pending a hearing pursuant to R.S. 34:1042. Furthermore, any refusal to submit to a drug screen and/or alcohol test, failure to cooperate fully with the testing procedures, or any attempt to alter the test results shall be considered by the Board of Examiners/Board of Review as a positive test result. In addition, avoiding the directions of the Board of Examiners/Board of Review after an accident/incident which mandatorily requires a drug/alcohol screen will be considered a refusal to test and will subject the offending pilot to disciplinary action by the Board of Examiners/Board of Review.

D. In addition, if the master of a vessel refuses a pilot's services due to the alleged impairment of the pilot, the pilot shall immediately contact a member of the Board of Examiners/Board of Review to receive instructions regarding testing. The pilot shall then immediately proceed to a testing facility selected and pre-designated by the Board of Examiners/Board of Review. Failure to proceed to the testing facility in the time allowed by the Board of Examiners/Board of Review, which shall be determined at

the time, but shall not exceed three hours, shall be considered a refusal to test and will subject the offending pilot to disciplinary action by the Board of Examiners/Board of Review.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilot, LR 30:40 (January 2004).

§6321. Prohibitions and Requirements of the Policy

A. It shall be assumed that a NOBRA pilot, under any influence of alcohol or drugs or who uses alcohol or drugs on the job, has the potential for interfering with his own safety, as well as that of the vessel he is piloting and other vessels in the area, together with danger to related property and personnel. Consistent with existing board practices, such conditions shall be immediate cause for disciplinary action.

B. The board will cooperate fully with appropriate law enforcement agencies by reporting information with respect to the violation of laws regarding illegal substances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:40 (January 2004).

§6323. Drug and Alcohol Testing

A. All current NOBRA pilots, applicants and/or apprentices shall be subject to testing for the presence of alcohol and the presence of marijuana, opiates, cocaine, amphetamines, and phencyclidine, together with any and all other substances as may be tested as ordered by the board.

B. Types of Testing

1. All pilots shall submit to all reasonable scientific testing for drugs and alcohol when directed by the board. All procedures conducted in connection with such testing shall comply with NOBRA rules and regulations as of this date, and as those that may be amended from time to time.

2. A pilot shall be required to submit a breath test and/or blood test and/or urine test and/or hair specimen test for the presence of drugs and/or alcohol under the following non-exclusive circumstances:

a. prior to recommendation for appointment, as a part of the physical exam required by law and these rules and regulations;

b. after recommendation, whenever the pilot is required by the board to undergo a physical examination;

c. upon written complaint investigated by this board;

d. when and if any commissioner invokes the provision of any of its rules and regulations, including but not limited to §6111.L;

e. when subject to the random drug or alcohol testing policy as created by the NOBRA Association;

f. when subject to the random drug or alcohol testing policy as created by this board;

g. when the pilot is reasonably suspected of using drugs in violation of this policy;

h. when the pilot is determined to be directly involved in a marine casualty or accident;

i. when there exists reasonable suspicion that a pilot is performing duties while under the influence of alcohol or drugs.

C. The board may designate a testing agency to perform any scientific test(s) necessary to detect the presence of alcohol and/or drugs or their metabolites in a pilot's system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:40 (January 2004).

§6325. Test Results

A. Any pilot, whose test is confirmed as positive, shall have the right of reasonable immediate access to drug tests records. Any and all pilot requests shall be in writing and delivered to the board without delay.

B. The results of the drug testing conducted pursuant to this policy and all information, interviews, reports, statements and memoranda relating to the drug testing shall, as per law, be confidential and disclosed only to this board and the pilot tested, except that:

1. the board may report the results to the Office of the Governor; and

2. in the event that the board determines that a hearing is required pursuant to R.S. 34:1041 et seq., there shall be no requirement of confidentiality in connection with such hearing or release of such medical records or test results, all as per law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:41 (January 2004).

Henry G. Shows
Chairman

0401#031

RULE

Office of the Governor Real Estate Commission

Transactions (LAC 46:LXVII.3905)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Real Estate Commission has amended LAC 46:LXVII.Real Estate, Chapter 39, Section 3905. The amendment adds language that will provide more definitive instructions for carrying out the requirements of Chapter 39, Section 3905.A.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXVII. Real Estate

Subpart 1. Real Estate

Chapter 39. Presentation of Offers and Counter Offers

§3905. Transactions

A. ...

B. It shall be the responsibility of each of the designated agents to make reasonable efforts to contact and notify the designated agent of the other party of the existence of an offer or counter offer.

C.1. It shall be the responsibility of the designated agent who transmits or delivers the written offer or counter offer to document the date, time of day, place, and method of delivery.

2. Such documentation as to the date, time of day, place and method of transmission or delivery of the written offer or counter offer may include, but will not be limited to, annotation by the delivering designated agent, a dated and timed facsimile transmission receipt or a dated and timed electronic mail receipt.

3. Such documentation shall be retained pursuant to 37:1449.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:48 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 29:1087 (July 2003), LR 30:41 (January 2004).

Julius C. Willie
Executive Director

0401#050

RULE

Department of Health and Hospitals Board of Medical Examiners

Acupuncturists' and Acupuncturists' Assistants' Fees
(LAC 46:XLV.185 and 187)

The Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:1270, R.S. 37:1281, R.S. 37:1356-1360, and the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., has amended its rules prescribing the fees payable by acupuncturists and acupuncturists' assistants for the issuance and annual renewal of certification issued by the board. LAC 46:XLV, Subpart 1, Chapter 1, Subchapter H, §§185 and 187. This Rule is set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 1. General

Chapter 1. Fees and Costs

Subchapter H. Acupuncturists' and Acupuncturists' Assistants Fees

§185. Certification

A. For processing an application for certification as an acupuncturist or as an acupuncturist assistant, a fee of \$200 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:1360.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:41 (January 2004).

§187. Annual Renewal

A. For processing an application for annual renewal of an acupuncturist's or acupuncturist assistant's certification, a fee of \$100 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:1360.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:41 (January 2004).

John B. Bobear, M.D.
Executive Director

0401#019

RULE

Department of Health and Hospitals Board of Medical Examiners

Athletic Trainers' Fees

(LAC 46:XLV.159, 161, 163, 165, 3107, 3129 and 3157)

The Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:3301-3312, R.S. 37:1270, R.S. 37:1281, and the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., has amended its existing rules prescribing the fees payable for initial certification, annual renewal and temporary permits issued by the board for athletic trainers, LAC 46:XLV, Subpart 1, Chapter 1, Subchapter F, §§159, 161, 163, 165 and Subpart 2, Chapter 31, Subchapters B, §3107, D, §3129 and G, §3157. The rules and amendments are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 1. General

Chapter 1. Fees and Costs

Subchapter F. Athletic Trainers Fees

§159. Scope of Subchapter

A. The rules of this Subchapter prescribe the fees and costs applicable to the certification of athletic trainers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:42 (January 2004).

§161. Certification, Permits, and Examination

A. For processing applications for certification as an athletic trainer, a fee of \$125 shall be payable to the board.

B. For issuing a temporary permit, a fee of \$50 shall be payable to the board.

C. For registration for and taking of the certification examination administered by the board, an applicant shall pay the fee that is charged by the entity developing the examination.

D. When an applicant is required by these rules to take the examination administered by the board, the fee prescribed by §161.C shall be added to the applicable application processing fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR

10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:42 (January 2004).

§163. Annual Renewal

A. For processing an application for annual renewal of an athletic trainer's certification, a fee of \$100 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:42 (January 2004).

§165. Reinstatement of License

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), repealed by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:42 (January 2004).

Subpart 2. Licensure and Certification

Chapter 31. Athletic Trainers

Subchapter B. Requirements and Qualifications for Certification

§3107. Requirements for Certification

A. - A.4. ...

5. satisfy the applicable fees as prescribed by Chapter 1 of these rules;

A.6. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:522 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:42 (January 2004).

Subchapter D. Application

§3129. Application Procedure

A. - G. ...

H. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:524 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:938 (May 1998), LR 30:42 (January 2004).

Subchapter G. Certificate Issuance, Termination, Renewal, Reinstatement

§3157. Renewal of Certificate

A. Every certificate issued by the board under this Subchapter shall be renewed annually on or before its date of expiration by submitting to the board an application for renewal, upon forms supplied by the board, together with evidence of the qualifications requisite to renewal as specified in §3159 and the applicable renewal fee prescribed in Chapter 1 of these rules.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:526 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:42 (January 2004).

John B. Bobear, M.D.
Executive Director

0401#020

RULE

Department of Health and Hospitals Board of Medical Examiners

Clinical Exercise Physiologists
(LAC 46:XLV.221, 223, 225, 3713, and 3743)

The Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:3421-3433, R.S. 37:1270, R.S. 37:1281, and the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., has adopted Rules and amended its existing Rules prescribing the fees payable by clinical exercise physiologists for the issuance and renewal of a license by the board, LAC 46:XLV, Subpart 1, Chapter 1, Subchapter L, §§221, 223, 225, and Subpart 2, Chapter 37, Subchapters C, §3713 and E, §3743. The Rules are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 1. General

Chapter 1. Fees and Costs

Subchapter L. Clinical Exercise Physiologists Fees

§221. Scope of Subchapter

A. The Rules of this Subchapter prescribe the fees and costs applicable to the licensing of clinical exercise physiologists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433, R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:43 (January 2004).

§223. Licenses and Permits

A. For processing an application for a license as a clinical exercise physiologist, a fee of \$150 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433, R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:43 (January 2004).

§225. Annual Renewal

A. For processing an application for annual renewal of a license as a clinical exercise physiologist, a fee of \$100 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433, R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:43 (January 2004).

Subpart 2. Licensure and Certification Chapter 37. Clinical Exercise Physiologists

Subchapter C. Application

§3713. Application Procedure

A. - F. ...

G. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:406 (April 1997), amended LR 30:43 (January 2004).

Subchapter E. License Issuance, Expiration, Renewal and Termination

§3743. Renewal of License

A. Every license issued by the board under this Chapter shall be renewed annually on or before its date of expiration by submitting to the board an application for renewal, upon forms supplied by the board, together with a renewal fee as prescribed by Chapter 1 of these rules and documentation of satisfaction of the continuing professional education requirements prescribed by Subchapter G of these rules.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433, R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:409 (April 1997), amended 24:1498 (August 1998), LR 30:43 (January 2004).

John B. Bobear, M.D.
Executive Director

0401#021

RULE

Department of Health and Hospitals Board of Medical Examiners

Midwives' Fees
(LAC 46:XLV.203, 205, 2313 and 2345)

The Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:3240-3257, R.S. 37:1270, R.S. 37:1281, and the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., has amended its Rules prescribing the fees payable by midwives for the issuance and renewal of a license by the board. LAC 46:XLV, Subpart 1, Chapter 1, Subchapter J, §§203, 205 and Subpart 2, Chapter 23, Subchapters C, §2313 and F, §2345. The Rules are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 1. General

Chapter 1. Fees and Costs

Subchapter J. Midwives' Fees

§203. Licenses and Permits

A. For processing an application for a midwifery license, a fee of \$200 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3240-3257, R.S. 37:1270, R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:43 (January 2004).

§205. Renewal

A. For processing an application for biannual renewal of a midwifery license, a fee of \$100 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3240-3257, R.S. 37:1270, R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:44 (January 2004).

Subpart 2. Licensure and Certification

Chapter 23. Licensed Midwives

Subchapter C. Application

§2313. Application Procedure

A. - F. ...

G. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these Rules.

H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3240-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:514 (August 1986), amended 17:779 (August 1991), LR 30:44 (January 2004).

Subchapter F. License Issuance, Termination, Renewal, Reinstatement

§2345. Renewal of License

A. Every license issued by the board under this Chapter shall be renewed biannually on or before its date of expiration by submitting to the board an application for renewal, upon forms supplied by the board, together with the renewal fee prescribed in Chapter 1 of these Rules.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3240-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended 17:779 (August 1991), LR 30:44 (January 2004).

John B. Bobear, M.D.
Executive Director

0401#022

RULE

Department of Health and Hospitals Board of Medical Examiners

Occupational Therapists', Occupational Therapy Assistants' Fees (LAC 46:XLV.173, 175, 1913 and 1947)

The Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:3001-3014, R.S. 37:1270, R.S. 37:1281, and the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., has amended its Rules prescribing the fees payable for the issuance of initial license and annual license renewal

by occupational therapists and occupational therapy assistants, as well as that applicable to temporary permits issued by the board. LAC 46:XLV, Subpart 1, Chapter 1, Subchapter G, §§173, 175 and Subpart 2, Chapter 19, Subchapters C, §1913 and F, §1947. The Rules are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 1. General

Chapter 1. Fees and Costs

Subchapter G. Occupational Therapists and

Occupational Therapy Assistants Fees

§173. Licenses and Permits

A. For processing an application for an occupational therapist's license a fee of \$150 shall be payable to the board.

B. For processing an application for an occupational therapy assistant's license a fee of \$100 shall be payable to the board.

C. For issuing a temporary permit, a fee of \$50 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014, R.S. 37:1270, R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:44 (January 2004).

§175. Annual Renewal

A. For processing an application for annual renewal of an occupational therapist's license, a fee of \$100 shall be payable to the board.

B. For processing an application for annual renewal of an occupational therapy assistant's license a fee of \$75 shall be payable to the board.

C. If the application for renewal is received beyond the deadline designated by the board, a late renewal fee of \$35 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014, R.S. 37:1270, R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:44 (January 2004).

Subpart 2. Licensure and Certification

Chapter 19. Occupational Therapists and

Occupational Therapy Assistants

Subchapter C. Application

§1913. Application Procedure

A. - G. ...

H. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these Rules.

I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:44 (January 2004).

Subchapter F. License Issuance, Termination, Renewal and Reinstatement

§1947. Renewal of License

A. Every license issued by the board under this Subchapter shall be renewed annually on or before its date of expiration by submitting to the board an application for renewal, upon forms supplied by the board, together with the renewal fee prescribed in Chapter 1 of these Rules and documentation of satisfaction of the continuing professional education requirements prescribed by Subchapter H of these Rules.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1003 (September 1994), LR 24:1499 (August 1998), LR 30:45 (January 2004).

John B. Bobear, M.D.
Executive Director

0401#023

RULE

**Department of Health and Hospitals
Board of Medical Examiners**

Physicians' Fees
(LAC 46:XLV.125, 127 and 131)

The Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:1270 and R.S. 37:1281, and the provisions of the Administrative Procedure Act, R.S. 49:953, has amended its Rules prescribing the fees payable by physicians for initial issuance and renewal of medical licensure, as well as those applicable to a graduate education temporary permit, visiting physician permit, short-term residency permit, institutional or temporary permit and intern registration. The Rule amendments are set forth below.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLV. Medical Professions

Subpart 1. General

Chapter 1. Fees and Costs

Subchapter C. Physicians' and Surgeons' Fees

§125. Licenses, Permits, and Examination

A. For processing applications for licensure of the type indicated, the following fees shall be payable to the board.

- 1. Standard application? \$250
- 2. Reciprocity application? \$350

B. For processing applications for permits of the type indicated, the following fees shall be payable to the board.

- 1. Graduate medical education temporary permit? \$200
- 2. Visiting physician permit? \$100
- 3. Short-term residency permit? \$100
- 4. Other institutional or temporary permits? \$100

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:906 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:603 (June 1991), LR 21:467 (May 1995), LR 21:1238 (November 1995), LR 30:45 (January 2004).

§127. Postgraduate Education Registration

A. For processing an application for and issuance of a certificate of registration pursuant to Subchapter J of Chapter 3 of these Rules, a fee of \$50 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 21:1238 (November 1995), LR 30:45 (January 2004).

§131. Annual Renewal

A. For processing a licensee's annual renewal of license under §417 of these Rules, a fee of \$300 shall be payable to the board.

B. For processing a permit holder's annual renewal of a graduate medical education temporary permit, a fee of \$100 shall be payable to the board.

C. For processing renewal of an institutional or other temporary permit, a fee of \$100 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 21:1238 (November 1995), LR 30:45 (January 2004).

John B. Bobear, M.D.
Executive Director

0401#024

RULE

**Department of Health and Hospitals
Board of Medical Examiners**

Podiatrists' Fees
(LAC 46:XLV.139, 141 and 143)

The Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:1270, R.S. 37:1281, R.S. 37:613, R.S. 37:618, R.S. 37:621-622, and the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., has amended its Rules prescribing the fees payable for initial issuance and renewal of podiatric licensure, as well as those applicable to temporary permits, and issuance of an intern registration. LAC 46:XLV, Subpart 1, Chapter 1, Subchapter D, §§139-143. The Rules are set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part XLV. Medical Professions
Subpart 1. General

Chapter 1. Fees and Costs
Subchapter D. Podiatrists Fees

§139. Licenses, Permits, and Examination

A. For processing an application for licensure as a podiatrist, a fee of \$300 shall be payable to the board.

B. For issuing a temporary permit, a fee of \$100 shall be payable to the board.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281, R.S. 37:613, R.S. 618, R.S. 621-622.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:46 (January 2004).

§141. Annual Renewal

A. For processing a podiatrist's annual renewal of license, a fee of \$200 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281, R.S. 37:613, R.S. 618, R.S. 621-622.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:46 (January 2004).

§143. Podiatric Postgraduate Education Registration

A. For processing an application for and issuance of a certificate of registration pursuant to Subchapter K of Chapter 13 of these Rules, a fee of \$50 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281, R.S. 37:613, R.S. 618, R.S. 621-622.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:46 (January 2004).

John B. Bobear, M.D.
Executive Director

0401#025

RULE

Department of Health and Hospitals
Board of Medical Examiners

Registered Respiratory Therapists' and
Certified Respiratory Therapists' Fees
(LAC 46:XLV.193, 195, and 197)

The Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:3351-3361, R.S. 37:1270, R.S. 37:1281, and the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., has amended Rules prescribing the fees payable by registered respiratory therapists and certified respiratory therapists for the issuance of an initial license, annual license renewal, and a temporary license by the board. LAC 46:XLV, Subpart 1, Chapter 1, Subchapter I, §§193, 195 and 197. The Rules are set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part XLV. Medical Professions
Subpart 1. General

Chapter 1. Fees and Costs

Subchapter I. Respiratory Therapists and Respiratory Therapy Technicians

§193. Scope of Subchapter

A. The rules of this Subchapter prescribe the fees and costs applicable to the licensing of registered respiratory therapists and certified respiratory therapists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3351-3361, R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:46 (January 2004).

§195. Licenses

A. For processing an application for licensing a registered respiratory therapist, a fee of \$150 shall be payable to the board.

B. For processing an application for licensing a certified respiratory therapist, a fee of \$100 shall be payable to the board.

C. For processing a temporary license, a fee of \$50 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3351-3361, R.S. 37:1270, R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:46 (January 2004).

§197. Annual Renewal

A. For processing an application for annual renewal of a registered respiratory therapist's license, a fee of \$100 shall be payable to the board.

B. For processing an application for annual renewal of a certified respiratory therapist's license a fee of \$75 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3351-3361, R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:46 (January 2004).

John B. Bobear, M.D.
Executive Director

0401#026

RULE

Department of Health and Hospitals
Office of the Secretary

Admissions Criteria for Inpatient Facilities
(LAC 48:I.Chapter 16)

Under the authority of Act 1249 of the 2003 Regular Session of the Louisiana Legislature, the Louisiana Department of Health and Hospitals has adopted the following Rule governing admissions criteria for inpatient

facilities operated by the Department of Health and Hospitals. Each office within the Department of Health and Hospitals that operates inpatient facilities, i.e., Office of the Secretary, Office for Addictive Disorders, Office for Citizens with Developmental Disabilities, and Office of Mental Health, has established admissions criteria included in this Rule.

Title 48

PUBLIC HEALTH? GENERAL

Part I. General Administration

Subpart 1. General

Chapter 16. Admissions Criteria for Inpatient Facilities

§1601. Purpose and Scope

A. In accordance with the requirements of Act 1249 of the 2003 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals adopts admission criteria for inpatient facilities operated by the Department of Health and Hospitals. Admission criteria are specific to each DHH Office that operates inpatient facilities as indicated in this Rule. In accordance with R.S. 28:20(B) no person shall be admitted voluntarily, involuntarily, by court order, or by commitment to a department facility unless the person meets the criteria set forth in this Rule and Act 1249.

AUTHORITY NOTE: Promulgated in accordance with RS. 28:20 and R.S. 28:311(11).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 30:47 (January 2004).

§1603. Definitions

Adult? anyone age 18 and over.

Axis I Diagnosis? a reporting group in the Diagnostic and Statistical Manual for all the various mental disorders or conditions in the Classification except for Personality Disorders and Mental Retardation.

Child? anyone under age 18.

DSM? the Diagnostic and Statistical Manual that has a multi-axial system that includes an assessment on several axes, each of which refers to a different domain of information that may help the clinician plan treatment and predict outcomes.

Level of Functioning Scale? assessment tool that passes defined standards for use as an evaluative tool and is thereby provided for professional use to define the degree to which an individual is capable of accomplishing various skills associated with managing activities of daily living.

Mental Retardation? significantly sub-average general intellectual functioning existing concurrently with deficits in adaptive behavior, and manifested during the developmental period.

OAD? the Office for Addictive Disorders in the Department of Health and Hospitals.

OMH? the Office of Mental Health in the Department of Health and Hospitals.

Related Condition? a severe chronic disability that meets all the following criteria:

1. it is attributable to:
 - a. cerebral palsy or epilepsy; or
 - b. any other condition, other than mental illness, found to be closely related to mental retardation because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of mentally

retarded persons, and requires treatment or services similar to those required for these persons;

2. it is manifested before the person reached age 22;
3. it is likely to continue indefinitely; and
4. it results in substantial functional limitations in three or more of the following areas of major life activity:
 - a. self-care;
 - b. understanding and use of language;
 - c. learning;
 - d. mobility;
 - e. self-direction; or
 - f. capacity for independent living.

Single Point of Entry (SPOE)? that process by which an individual is screened by an agent within an Office of Mental Health (OMH) service area who is responsible for certifying that the individual meets the criteria for admission to an OMH inpatient facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:20 and R.S. 28:311(11).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 30:47 (January 2004).

§1605. Inpatient Facilities Operated by the Office of the Secretary

A. The following admission requirements apply to New Orleans Home and Rehabilitation Center and Villa Feliciana Medical Complex, both of which are long term care facilities operated by the Office of the Secretary.

B. Initial Requirements for Admission Consideration

1. The person has a medical condition(s) that require the supervision and treatment in a facility that provides 24-hour nursing care.

2. Pre-admission screening procedures for the Medicaid program must be followed to ensure appropriateness of admission.

C. Facilities Admission Criteria:

1. the person's medical/rehabilitation needs can be met within the resources and staffing available at the facilities;

2. the admission does not exceed the capacity, the services and/or population for which the facility is budgeted and operated; and

3. a means of financing the cost of care for each person admitted is available.

D. Exclusions

1. Persons who are dangerous to self and others, or who are charged with a crime, and who require the availability of a secure and locked area in order to ensure the safety and well being of other residents and employees of the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:20 and R.S. 28:311(11).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 30:47 (January 2004).

§1607. Inpatient Mental Health Facilities Operated by the Office of Mental Health

A. In order to be admitted a person must qualify as a candidate for services in an inpatient setting as indicated on a published Level of Functioning Scale or other instrument identified by the Office of Mental Health as clinically appropriate. Such Level of Functioning Scale must be based on scientifically accepted practice standards and must demonstrate adequate psychometric properties of validity

and reliability. The person must also meet the standard for inpatient care as specified in the Office of Mental Health Single Point of Entry (SPOE) Admissions Criteria, which is specified in the following.

B. Adult Admission Criteria. At least one criterion from Severity of Illness must be met and all of the Intensity of Service Criteria must be met.

1. Severity of Illness Criteria (Must meet one or more of a, b, or c)

a. Patient presents as a danger to self as evidenced by:

i. a suicide attempt within the past 72 hours; or
ii. documentation that the patient has a current suicide plan, specific suicide intent, or recurring suicidal ideation; or
iii. documentation of self-mutilative behavior occurring within the past 72 hours.

b. Patient presents as a danger to others due to a DSM Axis I diagnosis as evidenced by any of the following:

i. dangerously aggressive behavior during the past seven days due to a DSM Axis I diagnosis; or
ii. threats to kill or seriously injure another person with the means to carry out the threat and the threatening behavior is due to a DSM Axis I diagnosis; or
iii. documentation that the patient has a current homicide plan, specific homicidal intent, or recurrent homicidal ideation and this is due to a DSM Axis I diagnosis.

c. Patient is gravely disabled and unable to care for self due to a DSM Axis I diagnosis as evidenced by:

i. documentation of a serious impairment in function (as compared to others of the same age) in one or more major life roles (school, job, family, interpersonal relations, self-care, etc.) due to a DSM Axis I diagnosis; and
ii. patient presents with acute onset or acute exacerbation of hallucinations, delusions, or illusions of such magnitude that the patient's well being is threatened; or
iii. an inability of the patient to comply with prescribed psychiatric and/or medical health regimens as evidenced by the following:

(a). patient has a history of de-compensation without psychotropic medications and patient refuses to use these medications as an outpatient; or

(b). patient is at risk of health or life due to non-compliance with medical regimens (e.g., insulin-dependent diabetes, etc.) and patient refuses these medical regimens as an outpatient.

2. Intensity of Service Criteria

a. Treatment of the patient's psychiatric condition requires services on an inpatient hospital basis. These services include, but are not limited to:

i. suicide precautions, unit restrictions, and continual observation and limiting of behavior to protect self or others;

ii. active intervention by a psychiatric team to prevent assaultive behavior;

iii. 24 hour observation and medication stabilization necessitated by patient behaviors that indicate a therapeutic level of medication has not been reached; and

iv. services provided in the hospital can reasonably be expected to improve the patient's condition or

prevent further regression so that the services will no longer be needed by the patient; and

v. services in the community do not meet, and/or do not exist to meet the treatment needs of the patient, or the patient has been unresponsive to treatment at a less intensive level of care.

C. Children's Admission Criteria. At least one criterion from Severity of Illness must be met, and all of the Intensity of Service Criteria must be met.

1. Severity of illness criteria must meet one or more of Subparagraph a, b, or c:

a. the child is a danger to self (Clauses i, ii, iii or iv must exist to meet this criterion):

i. the child has made an attempt to take his/her own life in the last 24 hours. Details of the attempt must be documented; or

ii. the child has demonstrated self-mutilative behavior within the past 24-hours. Details of behavior must be documented; or

iii. the child has a clear plan to seriously harm him/herself, overt suicidal intent, recurrent suicide thoughts, and lethal means available to follow the plan. This information can be from the child or a reliable source. Details of the plan must be documented; or

iv. due to a DSM Axis I diagnosis, the child is in serious danger of dying or sustaining grave bodily injury to him/her self; and

v. it is the judgment of a mental health professional that the child is at significant risk of making a suicide attempt or due to a DSM Axis I diagnosis, is in serious danger of dying or sustaining grave bodily injury to him/herself without immediate inpatient intervention;

b. the child is a danger to others or property due to a DSM Axis I diagnosis as indicated by: (Clauses i, ii, or iii and iv must exist and include the specific DSM criteria that justify this diagnosis):

i. the child has actually engaged in behavior harmful or potentially harmful to others or caused serious damage to property, which would pose a serious threat of injury, or harm to others within the last 24 hours. Description of the behavior and extent of injury or damage must be documented, as well as the time the behavior occurred relative to present; or

ii. the child has made threats to kill or seriously injure others or seriously damage property, which would pose a threat of injury or harm to others, and has effective means to carry out the threats. Details of the threats must be documented; or

iii. a mental health professional has information from the child or a reliable source that the child has a current plan, specific intent, or recurrent thoughts to seriously harm others or property. Details must be documented; and

iv. it is the judgment of a mental health professional that the child is at a significant risk of making a homicide attempt or engaging in other seriously aggressive behavior without immediate inpatient intervention;

c. the child is gravely disabled due to a DSM Axis I diagnosis as indicated by (Clauses i, and either ii, iii or iv must exist and include the specific DSM criteria that justify this diagnosis):

i. the child has serious impairment of functioning compared to others of the same age in one or more major life roles (school, family, interpersonal relations, self-care, etc.) Specific descriptions of the following must be documented:

(a). deficits in control, cognition or judgment;
(b). circumstances resulting from those deficits in self-care, personal safety, social/family functioning, academic or occupational performance;

(c). prognostic indicators which predict the effectiveness of acute treatment; and

ii. severe thought disorganization or clinical deterioration or the acute onset of psychosis has rendered the child unmanageable and unable to cooperate in non-hospital treatment; or

iii. there is a need for medication therapy or complex diagnostic testing where the child's level of functioning precludes cooperation with treatment in an outpatient or non-hospital based regimen, and may require close supervision of medication and/or forced administration of medication; or

iv. a medical condition co-exists with DSM Axis I diagnosis which, if not monitored/treated appropriately, places the child's life or well being at serious risk.

2. Intensity of Service Criteria

a. Treatment of the patient's psychiatric condition requires services on an inpatient hospital basis. These services include, but are not limited to:

i. suicide precautions, unit restrictions, and continual observation and limiting of behavior to protect self or others;

ii. active intervention by a psychiatric team to prevent assaultive behavior;

iii. 24 hour observation and medication stabilization necessitated by patient behaviors that indicate a therapeutic level of medication has not been reached; and

iv. services provided in the hospital can reasonably be expected to improve the patient's condition or prevent further regression so that the services will no longer be needed by the patient; and

v. services in the community do not meet, and/or do not exist to meet the treatment needs of the patient, or the patient has been unresponsive to treatment at a less intensive level of care.

D. Exclusionary Criteria-Adult. If one or more of the following is met, admission is denied.

1. Patient has a major medical or surgical illness or injury that would prevent active participation in a psychiatric treatment program (patients must be medically stable).

2. Patient has criminal charges pending and does not have a DSM Axis I diagnosis.

3. Patient has anti-social behaviors that are a danger to others and those anti-social behaviors are characterological rather than due to a DSM Axis I diagnosis.

4. Patient has a DSM Axis II diagnosis of mental retardation without an accompanying DSM Axis I diagnosis.

5. Patient has a Substance Abuse Disorder as defined in DSM and does not otherwise meet the severity of illness and intensity of service criteria.

E. Exclusionary Criteria-Children. If one or more of the following is met, admission is denied.

1. The child has a major medical or surgical illness or injury that prevents active participation in a psychiatric treatment program.

2. The child has criminal charges pending and does not otherwise meet severity of illness and intensity of service criteria.

3. The child has anti-social behaviors that are a danger to others and does not have a DSM Axis I diagnosis.

4. The child has a DSM Axis II diagnosis of mental retardation and does not otherwise meet severity of illness and intensity of service criteria.

5. The child lacks a place to live and/or family supports and does not otherwise meet severity of illness and intensity of service criteria.

6. The child has been suspended or expelled from school and does not otherwise meet severity of illness and intensity of service criteria.

7. The child has a substance abuse disorder as defined in DSM and does not otherwise meet the severity of illness and intensity of service criteria.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:20 and R.S. 28:311(11).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 30:47 (January 2004).

§1609. Intermediate Care Facilities/Mental Retardation (ICF/MR) Facilities Operated by the Office of Mental Health

A. Referral for persons not currently residents of an ICF/MR facility should come through the State Office for Citizens with Developmental Disabilities (OCDD) Regional Office System responsible for serving the individual but referrals from other community sources or the individual's family will also be considered. Persons seeking admission or for whom admission is sought to an ICF/MR facility must meet the following admissions criteria:

1. age 18 years or above;

2. DSM diagnosis of Mental Retardation and/or Developmental Disability;

3. DSM diagnosis of mental illness;

4. can reasonably be expected to benefit from Community Home (CH) active treatment program;

5. must demonstrate compatibility with the physical, cognitive, social and behavioral development exhibited by the individuals in the home where the applicant is to reside and also in the day program as indicated by a published Level of Functioning Scale or other instrument identified by the Office of Mental Health (OMH) as clinically appropriate. Such Level of Functioning Scale must be based on scientifically accepted practice standards and must demonstrate adequate psychometric properties of validity and reliability;

6. must be certifiable for SSI and Medicaid Services;

7. must demonstrate ability to control self and not present a danger to self or others as evidenced by a lack of suicide attempts, suicide plans or self-injurious behaviors within the last three months, and a lack of aggressive behaviors or threatening behaviors towards others within the last three months; and

8. must volunteer for admission and agree to follow rules and actively participate in the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:20 and R.S. 28:311(11).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 30:49 (January 2004).

§1611. The Office for Citizens with Developmental Disabilities (OCDD)

A. The following admission requirements apply to the developmental centers and community- homes operated by the OCDD.

1. Initial Requirements for Admission Consideration

a. The person must meet the criteria for participation in the Mental Retardation/Developmental Disabilities (MR/DD) Services System in Louisiana's MR/DD law. The person's generic service plan (Plan of Support) must contain a recommendation for admission to an Intermediate Care Facility for the Mentally Retarded. The plan must also document the team (which includes the individual and/or family) consideration of what meets the individual's needs, and no more, and the most natural living option available, consistent with an individual's community peers.

2. Residential Facilities Admission Criteria

a. The person has mental retardation or a related condition and has additional complex medical or behavioral needs; and

b. the person's programmatic and supervisory needs as established in the person's Individual Program Plan (IPP) can be met within the resources and staffing available at the developmental center or community home; and

c. the person's age and sex as well as physical, cognitive, social and behavioral development are compatible with the individuals currently residing within the developmental center or community home wherein the vacancy exists; and

d. the admission does not exceed the capacity, the services and/or population for which the facility is licensed.

3. Exclusions:

a. persons who cannot benefit from active treatment services in an Intermediate Care Facility for the Mentally Retarded (ICF-MR);

b. persons who have a primary diagnosis of mental illness;

c. persons who are dangerous to self or others, or are charged with a crime, and who require the availability of a secure and locked area in order to ensure the safety and well being of other residents and employees of the developmental center or community home.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:20 and R.S. 28:311(11).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 30:50 (January 2004).

§1613. Inpatient Substance Abuse Treatment Programs Operated by the Office for Addictive Disorders

A. Admissions

1. Admission to primary treatment centers will be from a statewide population.

2. Any client exhibiting major medical symptoms or major psychiatric symptoms, indicating immediate need, will be referred for services of an acute care hospital or acute psychiatric unit. Once stabilized, OAD will evaluate for admission to an inpatient treatment program.

B. Eligibility Criteria

1. The client must have been screened by a single point of entry, which includes:

a. OAD Outpatient or Detoxification Programs or other programs approved by the accepting facility;

b. have a primary diagnosis of no less than alcohol abuse, drug abuse, or compulsive gambling;

c. have a recent history of uncontrollable alcohol or drug use or compulsive gambling and have been unable to remain drug-free through outpatient intervention; or

d. have been unable to access outpatient services due to unavailability related to distance and transportation; and

2. the client shall be involved in an intensive outpatient substance abuse treatment program while awaiting placement in an inpatient facility. If intensive treatment is not available at the referring clinic, the client should be evaluated and provided the maximum level of services available while awaiting admission;

3. the patient who is appropriately admitted to an inpatient program meets specifications in two of the six dimensions, at least one of which is in Dimension 1,2, or 3.

a. Dimension 1: Acute Intoxication and/or Withdrawal. The patient has no signs or symptoms of withdrawal, or his or her withdrawal needs can be safely managed in a inpatient program setting.

b. Dimension 2: Biomedical Conditions and Complications. The patient's status in Dimension 2 is characterized by one of the following.

i. The interaction of the patient's biomedical condition and continued alcohol or other drug use places the patient in imminent danger of serious damage to physical health or concomitant biomedical conditions (such as pregnancy with vaginal bleeding or ruptured membranes).

ii. A current biomedical condition requires 24-hour nursing and medical monitoring or active treatment, but not the full resources of an acute care hospital. The patient who has a biomedical problem that requires a degree of staff attention (such as monitoring of medications or assistance with mobility) that is not available on other inpatient programs is in need of Biomedical enhanced services.

c. Dimension 3: Emotional, Behavioral, or Cognitive Conditions and Complications. Problems in Dimension 3 are not necessary for admission to an inpatient program. However, if any of the Dimension 3 conditions are present, the patient must be admitted to a Dual Diagnosis Enhanced program (depending on his or her level of function, stability, and degree of impairment).

i. The patient's psychiatric condition is unstable. Depression and/or other emotional, behavioral, or cognitive symptoms (which may include compulsive behaviors, suicidal or homicidal ideation with a recent history of attempts but no specific plan, or hallucinations and delusions without acute risk to self or others) are interfering with abstinence, recovery, and stability to such a degree that the patient needs a structured 24-hour, medically monitored (but not medically managed) environment to address recovery efforts; or

ii. the patient exhibits stress behaviors associated with recent or threatened losses in work, family, or social domains, to a degree that his or her ability to manage the

activities of daily living are significantly impaired. The patient thus requires a secure, medically monitored environment in which to address self-care problems (such as those associated with eating, weight loss, sleeplessness or personal hygiene) and to focus on his or her substance abuse or mental health problems; or

iii. the patient has significant functional deficits that require active psychiatric monitoring. They may include-but are not limited to- problems with activities of daily living, problems with self-care, lethality or dangerousness, and problems with social functioning. These deficits may be complicated by problems in Dimensions 2 through 6; or

iv. the patient is at moderate risk of behaviors endangering self, others, or property, and is in imminent danger of relapse (with dangerous emotional, behavioral, or cognitive consequences) without 24-hour support and structure of an inpatient program; or

v. the patient is actively intoxicated, with resulting violent or disruptive behavior that poses imminent danger to self or others; or

vi. the patient has a thought disorder or cognitive limitations that require stabilization but not medical management.

d. Dimension 4: Readiness to Change. The patient's status in Dimension 4 is characterized by one of the following:

i. despite experiencing serious consequences or effects of the addictive disorder or mental health problem, the patient does not accept or relate the addictive disorder to the severity of these problems; or

ii. the patient is in need of intensive motivation strategies, activities, and processes available only in a 24-hour structured, medically monitored setting; or

iii. the patient needs ongoing 24-hour psychiatric monitoring to assure persistence with the treatment regimen and to deal with issues such as ambivalence about compliance with psychiatric medications.

e. Dimension 5: Relapse, Continued Use, or Continued Problem Potential. The patient's status in Dimension 5 is characterized by one of the following:

i. the patient is experiencing acute psychiatric or substance use crisis, marked by intensification of symptoms of his or her addictive or mental disorder (such as difficulty postponing immediate gratification, drug-seeking behavior, or increasing severity of anxiety or depressive symptoms). This situation poses an imminent danger of harm to self or others in the absence of 24-hour monitoring and structured support; or

ii. the patient is experiencing an escalation of relapse behaviors and/or reemergence of acute symptoms. This situation poses an imminent danger of harm to self or others in the absence of the type of 24-hour monitoring and structured support found in a medically monitored setting; or

iii. the modality of treatment or protocols to address relapse (such as aversion therapy and similar behavioral therapy techniques) require that the patient receive care in an inpatient program.

f. Dimension 6: Recovery Environment. The patient's status in Dimension 6 is characterized by one of the following:

i. the patient requires continuous medical monitoring while addressing his or her substance use and/or psychiatric problems because his or her current living situation is characterized by a high risk of initiation or repetition of physical, sexual, or emotional abuse, or substance abuse so endemic that the patient is assessed as being unable to achieve or maintain recovery at a less intensive level of care. For example, because of mania (which is treated with mood stabilizing medications), the patient believes he or she is able to control the people in his or her environment who pose the risk; or

ii. family members or significant others living with the patient are not supportive of his or her recovery goals and are actively sabotaging treatment. This situation requires structured treatment services and relief from the home environment in order for the patient to focus on recovery; or

iii. the patient is unable to cope, for even limited periods of time, outside of 24-hour care. The patient needs staff monitoring to learn to cope with Dimension 6 problems before he or she can be transferred safely to a less intensive setting.

C. Incarcerated Individuals

1. Persons referred for inpatient care who are incarcerated at the time of referral must meet the above criteria and be eligible for full release from incarceration within 15 days after the planned admission to an inpatient unit, or otherwise be able to participate in any and all follow-up recovery programs which would be recommended within a continuum of care treatment plan, including aftercare, half-way house, and self-help support groups.

2. Persons being detained in criminal justice programs who are awaiting arraignment, trial or post-trial sentencing must meet the above criteria and have an agreement from the District Attorney, prosecuting attorney, or trial judge.

a. This agreement must be binding on the client and provide the client with assurance of ability to participate in continuum of care as recommended by the treatment team, unless the client violates any judicial agreement, or condition placed upon him and in effect during the term of recommended treatment.

3. Clients are not to be admitted who are subject to return to incarceration during the period of recommended treatment, including after-care, absent a new violation, infraction of probation or condition of suspension, or charge being filed.

D. Special Populations

1. Treatment facilities shall make arrangements for the temporary employment of staff/equipment/specialized services which may be reasonably needed in order for the program to adequately serve persons with special needs or physical disabilities, specifically, but not limited to, the hearing and speech impaired.

a. Specialized service arrangements will be within reason and only when similar services are not available through an alternate resource for which the client is eligible and/or entitled. Funding for the specialized service must have prior approval of the Assistant Secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:20 and R.S. 28:311(11).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 30:50 (January 2004).

David W. Hood
Secretary

0401#065

RULE

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Mental Health Rehabilitation Program Sanctions

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, promulgates the following Rule 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 Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amends the July 20, 1998 Rule to revise provisions governing the grounds and levels of sanctions and the notice and appeal procedures for Mental Health Rehabilitation (MHR) agencies. The following provisions supersede, amend, and replace Subsections II.G and X of the July 20, 1998 Rule.

I. ...

II. Provider Participation

A. - F.4.e. ...

G. Grounds for Sanctions

1. The following are grounds for the sanctioning of a Mental Health Rehabilitation (MHR) agency:
 - a. failure to comply with any and all certification, administrative or operational requirements at all times;
 - b. failure to provide the full range of services specified in the service agreement;
 - c. failure to uphold patient rights when violations may or could result in harm or injury;
 - d. failure to notify proper authorities of all suspected cases of neglect, criminal activity, or mental or physical abuse which could potentially cause, or actually causes harm to the patient;
 - e. failure to maintain adequate qualified staff to provide necessary services;
 - f. failure to adequately document that services that were billed were actually performed;
 - g. failure of subcontractors to meet all required standards;
 - h. failure to allow entry to the MHR agency or subcontracted agency or access to any requested records during any survey or failure to fully cooperate with a survey or investigation by DHH or its designee;
 - i. failure to comply with all reporting requirements in a timely manner;
 - j. failure to provide documentation, upon request from DHH, that verifies compliance with any or all requirements as set forth in this Rule;
 - k. failure to comply with any or all federal or state regulations or laws applicable to either the Mental Health Rehabilitation Program or the Medical Assistance Program;

- l. failure to protect consumers from harmful actions of agency employees; including, but not limited to health and safety, coercion, threat, intimidation, solicitation and harassment;

- m. failure to remain fully operational at all times for any reason other than a disaster;

- n. if in a one-year period, the frequency, pattern or nature of valid complaints filed against a MHR agency are substantiated;

- o. an owner or agency staff knowingly, or with reason to know, makes a false statement of a material fact in the:

- i. application for enrollment;

- ii. data forms;

- iii. clinical record;

- iv. any matter under investigation by the department; or

- v. certification/recertification process;

- p. if an agency uses false, fraudulent or misleading advertising;

- q. if any MHR agency fails to disclose a conviction for a criminal offense by a person who has ownership or controlling interest in the provider agency, or by a person who is an agent or managing employee of the MHR agency; or

- r. if a preponderance of the evidence indicates failure to provide optimum care in accordance with current standards of practice; or

- s. if there is reasonable evidence of bribery, solicitation or harassment by any MHR agency staff or subcontractor to use the services of any particular facility.

H. Sanctions

1. The following sanctions may be applied to any MHR agency, independently, consecutively and/or collectively. These sanctions may be imposed in addition to those sanctions cited in the Surveillance and Utilization Systems (SURS) Rule, LAC 50:I.Chapter 41 (*Louisiana Register, Volume 29, Number 4*).

- a. The MHR agency may be given a written notice of deficiencies with the opportunity to submit a written plan of correction within 10 days from receipt of the letter to the Office of Mental Health. The Office of Mental Health has 30 working days from the receipt of the corrective action plan to review this plan and accept, deny or require additional modifications and will notify the provider in writing of its determination. Validation of the implementation of the corrective action plan may include an onsite visit whenever necessary to assure correction of deficiencies. If the agency fails to submit a corrective action plan within 10 days from the receipt of the letter, the department will move to terminate the provider.

- b. The MHR agency's staff may be required to complete education and training in MHR policy and billing procedures as well as training relevant to providing quality MHR services.

- c. Payments for services rendered may be suspended or withheld until compliance is verified by DHH.

- d. The MHR agency may be required to void service logs which would result in recoupment of previous payments.

- e. The MHR agency may be terminated from participation in the Medicaid Program.

f. The agency may be terminated as a MHR provider and all authorizations may be canceled. Terminated agencies, including all of their owners, officers, or directors may not reapply for certification as a MHR provider for a period of up to five years. The provider shall cooperate with DHH in assisting the recipient in continuing MHR services with another provider.

g. The agency shall be denied the ability to admit new clients during the appeals process.

h. New requests for authorization may be suspended.

i. The MHR agency's current clients shall be moved to another MHR agency if DHH determines that the health and safety of that agency's clients is being compromised. Clients will have freedom of choice regarding the selection of service providers.

III. - VIII. ...

IX. Notice and Appeal Procedure

A. An applicant or certificant aggrieved by any action taken by the department pursuant to II(C), II(E) or II(G) may appeal such action by submitting a written request for appeal to the secretary of the department. The request for appeal must be received by the secretary within 30 days after the receipt of the written notification of the department's action and must specify, in detail, the reasons for the appeal and the reasons why the applicant or certificant feels aggrieved by the department's action. All appeals filed pursuant to this Rule shall not be suspensive. Sanctions shall take effect immediately upon notice by the Department of Health and Hospitals. The appeal rights contained in this Rule are the sole MHR appeal rights within the department.

David W. Hood
Secretary

0401#084

RULE

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

**Non-Emergency Medical Transportation Services
Reimbursement Increase**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule 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.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement for the following designated procedures for non-emergency medical transportation services by 20 percent of the rate in effect on July 31, 2003. Non-emergency medical transportation provided by friends and family is not included in this reimbursement increase.

- Profit-Local Trip
- Capitated Regular-Urban
- Capitated Regular-Rural

- Enhanced Capitated->5 Trips Per Week
- Capitated Remote-Rural
- Capitated Wheelchair-Rural
- Capitated Wheelchair-Urban
- Local Profit-Wheelchair
- Local Nonprofit-Wheelchair
- Nonprofit-Local Trip

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

David W. Hood
Secretary

0401#085

RULE

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

**Public Nursing Facilities? Reimbursement Methodology
(LAC 50:VII.1309)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule 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.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions contained in the August 20, 2002 Rule governing the reimbursement methodology for public nursing facilities.

Title 50

PUBLIC HEALTH? MEDICAL ASSISTANCE

Part VII. Long Term Care Services

Subpart 1. Nursing Facilities

Chapter 13. Reimbursement

§1309. State-Owned or Operated and Nonstate

Government-Owned or Operated Facilities

A. Nonstate government-owned or operated nursing facilities will be paid a prospective reimbursement rate. Each facility will receive a Medicaid base rate calculated in accordance with other sections of this Rule. Nonstate government-owned or operated nursing facilities may also receive a supplemental Medicaid payment on a quarterly basis. The aggregate supplemental payments for these facilities, calculated on a quarterly basis, will be the state's best estimate of what nonstate government-owned or operated facilities would be paid under Medicare's prospective payment system for skilled nursing facilities less the aggregate Medicaid base payments for these facilities. The acuity measurements used in the supplemental Medicaid payment calculations will be the acuity of each facility's Medicaid residents, as determined under Medicare's 44 RUG classification methodology. Adjustments to the aggregate supplemental Medicaid payments will be made to account for differences in coverage between the Medicare and Medicaid programs.

B. State-owned or operated nursing facilities will be paid a prospective reimbursement rate. The payment rate for each of these facilities will be the nursing facility's allowable cost from the most recent filed Medicaid cost report trended forward to the midpoint of the rate year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, 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 28:1476 (June 2002), repromulgated LR 28:1793 (August 2002), amended LR 30:53 (January 2004).

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

David W. Hood
Secretary

0401#087

RULE

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Psychiatric Residential Treatment Facilities Licensure
(LAC 48:I.Chapter 90)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 48:I.Chapter 90 as authorized by R.S. 40:2181-2191. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

PUBLIC HEALTH? GENERAL

Part I. General Administration

Subpart 3. Licensing

Chapter 90. Psychiatric Residential Treatment Facilities (under 21)

Subchapter A. General Provisions

§9001. Purpose

A. The purpose of this Chapter 90 is to provide for the development, establishment and enforcement of statewide standards for the care of residents in Psychiatric Residential Treatment Facilities (PRTFs) participating in the Louisiana Medicaid Program, to ensure maintenance of these standards, and to regulate conditions in these facilities through a program of licensure which shall promote safe and adequate treatment of residents of PRTFs participating in the Louisiana Medicaid Program.

B. In addition to requirements stated herein, all licensed PRTFs shall comply with applicable local, state, and federal laws and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:54 (January 2004).

§9003. Definitions

A. The following defines selected terminology used in connection with this Chapter 90.

Abuse? any one of the following acts which seriously endangers the physical, mental or emotional health of the resident:

a. infliction, attempted infliction, or, as a result of inadequate supervision, the allowance of the infliction or attempted infliction of physical or mental injury upon the resident;

b. exploitation or overwork of a resident;

c. involvement of the resident in sexual activity constituting a crime under the laws of this state.

Accreditation? official notification given the provider of compliance to standards established by either:

a. the Joint Commission on *Accreditation* of Healthcare Organizations;

b. the Commission on *Accreditation* of Rehabilitation Facilities;

c. the Council on *Accreditation* of Services for Families and Resident; or

d. any other comparable nationally recognized accrediting organization.

Administrator? (see *chief executive officer*)

Behavior Management? techniques, measures, interventions and procedures applied in a systematic fashion to promote positive behavioral or functional change fostering the resident's self-control, and to prevent or interrupt a resident's behavior which threatens harm to the resident or others.

Cessation of Business? when a PRTF participating in the Louisiana Medicaid Program stops providing services to the community.

Change of Ownership (CHOW)? the sale or transfer whether by purchase, lease, gift or otherwise of a PRTF by a person/corporation of controlling interest that results in a change of ownership or control of 30 percent or greater of either the voting rights or assets of a PRTF or that results in the acquiring person/corporation holding a 50 percent or greater interest in the ownership or control of the PRTF.

Chief Executive Officer (CEO) or Administrator? the person responsible for the on-site, daily implementation and supervision of the overall facility's operation commensurate with the authority conferred by the governing body.

Clinical Director? the person who has responsibility for the psychiatric aspects of the program and who has to provide full-time coverage on an on-site or on-call basis.

CMS? the Centers for Medicare and Medicaid Services, Department of Health and Human Services.

Core Mental Health Disciplines? academic training programs in psychiatry, psychology, social work and psychiatric nursing.

Department? the Department of Health and Hospitals.

Discipline? the ongoing practice of helping residents develop inner control so they can manage their own behavior in an appropriate and acceptable manner.

Documentation—written evidence or proof, including signatures of appropriate staff and date, must be maintained on site and available for review.

DSS? the Department of Social Services.

Emergency Safety Intervention? the use of restraint or seclusion as an immediate response to an emergency safety situation.

Emergency Safety Situation? unanticipated resident behavior that places the resident or others at serious threat of violence or injury if no intervention occurs and that calls for an *emergency safety intervention*.

Governing Body? the board of trustees, owner or person(s) designated by the owner with ultimate authority and responsibility (both moral and legal) for the management, control, conduct, and functioning of the PRTF.

Group (or Unit)? refers to the residents who share a common space and relate to one primary staff person (who may be assisted by others) on a consistent or daily basis.

HSS? the Department of Health and Hospitals, Health Standards Section.

License? the legal authority to operate as a PRTF participating as a Louisiana Medicaid Program.

Licensed Mental Health Professional (LMHP)? an individual who meets one of the following education and experience requirements:

a. a physician duly licensed to practice medicine in the state of Louisiana and has completed an accredited training program in psychiatry; or

b. a psychologist licensed as a practicing psychologist under the provisions of R.S. 28:2351-2370; or

c. a social worker who holds a master's degree in social work from an accredited school of social work and is a licensed clinical social worker under the provisions of R.S. 37:2701-2718, as amended; or

d. a nurse licensed as a registered nurse in the state of Louisiana by the Board of Nursing; and

i. is a graduate of an accredited master's level program in psychiatric mental health nursing with two years of post-masters supervised experience in the delivery of mental health services; or

ii. has a master's degree in nursing or a mental health-related field with two years of supervised post masters experience in the delivery of mental health services;

e. a licensed professional counselor who is licensed as such under the provision of R.S. 37:1101-1115 and has at least two years post master's supervised experience delivering services in the mental health-related field.

Mechanical Restraint? any device attached or adjacent to the resident's body that he or she cannot easily remove that restricts freedom of movement or normal access to his or her body.

Mental Health Professional (MHP)? an individual who is supervised by a LMHP and meets the following criteria as documented by the provider:

a. has a Master of Social Work degree; or

b. has a Master of Arts degree, Master of Science degree or a Master of Education degree in a mental health-related field; and

i. has a minimum of 15 hours of graduate level course work and/or practicum in applied intervention strategies/methods designed to address behavioral, emotional and/or mental problems. These hours may have been obtained as a part of, or in addition to, the master's degree.

Mental Health-Related Field? academic training programs based on the principles, teachings, research and body of scientific knowledge of the *core mental health disciplines*. To qualify as a related field, there must be substantial evidence that the academic program has a

curriculum content in which at least 70 percent of the required courses for graduation are based on the knowledge base of the *core mental health disciplines*. Programs which may qualify include, but are not limited to, sociology, criminal justice, nursing, marriage and family counseling, rehabilitation counseling, psychological counseling and other professional counseling.

Mental Health Service Delivery Experience? *mental health service delivery experience* at the professional or paraprofessional level delivered in an organized mental health or psychiatric rehabilitation setting such as a psychiatric hospital, day treatment or mental health case management program or community mental health center.

Mental Health Specialist (MHS)? a person who delivers direct care services under the direct supervision of a LMHP or MHP and who meets one or more of the following five criteria as documented by the provider:

a. has a Bachelor of Arts degree in a *mental health-related field*; or

b. has a Bachelor of Science degree in a *mental health-related field*; or

c. has a bachelor's degree and is a college student pursuing a graduate degree in a *mental health-related field* and has completed at least two courses in that identified field; or

d. has a high school degree or a GED and has four years experience providing direct services in a mental health, physical health, social services, education or correctional setting.

Minor? a *minor* as defined under state law and, for the purpose of this Chapter, includes a resident who has been declared legally incompetent by the applicable state court.

New Construction? any of the following started after January 1, 2004:

a. new buildings to be used as a PRTF;

b. additions to existing buildings to be used as a PRTF;

c. conversions of existing buildings or portions thereof for use as a PRTF;

d. alterations other than minor alterations to an existing PRTF.

OCS? the Department of Social Services, Office of Community Services.

OSFM? the Office of State Fire Marshal.

OYD? the Department of Public Safety and Corrections, Office of Youth Development.

Personal Restraint? the application of physical force, without the use of any device, for the purpose of restraining the free movement of a resident's body. The term *personal restraint* does not include briefly holding without undue force a resident in order to calm or comfort him/her, or holding a resident's hand to safely escort a resident from one area to another.

Psychiatric Residential Treatment Facility (PRTF)? a facility other than a hospital, that provides psychiatric services, as described in 42 CFR Part 441 Subpart D, to individuals under age 21, in a residential setting.

Restraint? a *personal restraint*, *mechanical restraint*, or drug used as a *restraint* as defined in this §9003.

Seclusion? the involuntary confinement of a resident alone in a room or an area from which the resident is physically prevented from leaving.

Serious Injury? any significant impairment of the physical condition of the resident as determined by qualified medical personnel. This includes, but is not limited to, burns, lacerations, bone fractures, substantial hematoma, and injuries to internal organs, whether self-inflicted or inflicted by someone else.

Staff? those individuals with responsibility for managing a resident's health or participating in an *emergency safety intervention* and who are employed by the facility on a full-time, part-time or contract basis.

Time Out? the restriction of a resident for a period of time to a designated area from which the resident is not physically prevented from leaving, for the purpose of providing the resident an opportunity to regain self-control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:54 (January 2004).

Subchapter B. Licensing

§9013. Licensing Process

A. Initial Licensing. The Department of Health and Hospitals (DHH) is the only authority for PRTFs participating in the Louisiana Medicaid Program in the State of Louisiana.

1. Any person, organization or corporation desiring to operate a PRTF shall make application to DHH on forms prescribed by the department. Such forms may be obtained from:

Hospital Program Manager
Department of Health and Hospitals
Health Standards Section (HSS)
P.O. Box 3767, Baton Rouge, LA 70821

2. An initial applicant shall as a condition of licensing:

a. submit a completed initial PRTF packet and other required documents, including attestation in writing, that the facility is in compliance with CMS's standards governing the use of restraint and seclusion, as contained in this Chapter 90. This attestation must be signed by the facility administrator;

b. submit the required nonrefundable licensing fees by certified check or money order. No application will be reviewed until payment of the application fee. Except for good cause shown, the applicant must complete all requirements of the application process within 90 days of initial submission of the application material. Upon 10 days prior notice, any incomplete or inactive applications shall be closed. A new application will be accepted only when accompanied by a nonrefundable application fee.

3. When the required documentation for licensing is approved and the building is approved for occupancy by the OFSM, a survey of the facility by representatives of HSS shall be conducted at the department's discretion to determine if the facility meets the standards set forth in this Chapter 90.

4. No new PRTF, except one that is accredited and is licensed by DSS as a controlled intensive care facility or unit, shall accept residents until the PRTF has written approval and/or a license issued by HSS.

5. No licensed bed shall be placed in a room that does not meet all resident room licensing criteria and which has not been previously approved by HSS.

B. Issuance of License

1. The agency shall have authority to issue two licenses as described below.

a. Full License-issued only to those PRTFs that are in substantial compliance with these licensure regulations governing PRTFs. The license shall be issued by the department for a period of not more than 12 months for the premises named in the application, as determined by the department.

b. If a PRTF is not in substantial compliance with these licensure regulations, the department may issue a provisional license up to a period of six months if there is no immediate and serious threat to the health and safety of residents.

2. The PRTF license is not assignable or transferable and shall be immediately void if a PRTF ceases to operate or if its ownership changes.

C. Licensing Renewal. Licenses must be renewed at least annually. A PRTF seeking renewal of its license shall:

1. complete all forms and return them to the department at least 15 days prior to the expiration date of their current license;

2. submit the annual fees or the amounts so specified by state law. All fees shall be submitted by certified check or money order and are nonrefundable. All state-owned facilities are exempt from fees;

3. the renewal packet shall be sent by the department to the PRTF 45 days prior to the expiration of their license. The packet shall contain all forms required for renewal of the license;

4. the PRTF shall accept only that number of residents for which it is licensed unless prior written approval has been secured from the department.

D. Display of License. The current license shall be displayed in a conspicuous place in the PRTF at all times.

E. Increases in Capacity

1. The PRTF will notify the department in writing 14 days prior to an increase in capacity.

2. The PRTF will complete the required paperwork and submit the appropriate documents.

3. A fee of \$25 plus \$5 per licensed unit being added or the amounts so specified by state law in the future shall be submitted to the department. This fee shall be paid by a certified check or money order.

4. At the discretion of the department, signed and dated attestations in compliance with these standards may be accepted in lieu of an on-site survey.

5. Written approval of the increase in capacity must be obtained before residents can be admitted to these additions.

F. Decrease in Capacity

1. The PRTF will notify the department in writing 14 days prior to the decrease in capacity.

2. The PRTF will complete the required paperwork and submit the appropriate documents.

3. A fee of \$25 or the amounts so specified by state law in the future shall be submitted to the department. This fee shall be paid by a certified check or money order.

G. Individual licenses shall not be required for separate buildings and services located on the same or adjoining grounds or attached to the main PRTF if they are operated as an integrated service of the PRTF.

H. Duplicate and Replacement Licenses. A \$5 processing fee, or the amount so specified by state law in the future, shall be submitted by the PRTF for issuing a duplicate facility license with no changes.

I. When changes to the license, such as a name change, address change or bed reduction are requested in writing by the PRTF, a fee of \$25 or the amounts so specified by state law in the future, shall be submitted.

J. Facility within a Facility

1. If more than one health care provider occupies the same building, premises, or physical location:

a. all treatment facilities and administrative offices of one health care provider shall be clearly separated from any treatment facilities or administrative offices of any other health care provider located in and/or on the same building, premises or physical location by a clearly delineated and cognizable boundary;

b. treatment facilities shall include, but not be limited to, recipient beds, wings and operating rooms;

c. administrative offices shall include, but not be limited to, record rooms and personnel offices;

d. there shall be clearly identifiable and distinguishable signage;

e. if more than one health care provider occupies the same building, premises or physical location, each such health care provider shall have its own entrance. The separate entrance shall have appropriate signage and shall be clearly identifiable as belonging to one health care provider. Nothing prohibits a health care provider occupying the same building, premises or physical location as another health care provider from utilizing the entrance, hallway, stairs, elevators or escalators of another health care provider to provide access to its separate entrance;

f. staff of the PRTF within a hospital shall not be co-mingled with the staff of the host hospital for the delivery of services within any given shift.

K. Change of Ownership

1. Examples of Actions Which Constitute a Change of Ownership

a. Unincorporated Sole Proprietorship. Transfer of title and property to another party constitutes a change of ownership.

b. Corporation. The merger of the provider corporation into another corporation, or the consolidation of two or more corporations, resulting in the creation of a new corporation constitutes a change of ownership. Transfer of corporate stock or the merger of another corporation into the provider corporation does not constitute a change of ownership.

c. Partnership. In the case of a partnership, the removal, addition or substitution of a partner, unless the partners expressly agree otherwise, as permitted by applicable state law, constitutes a change of ownership.

d. Leasing. The lease of all or part of the provider facility constitutes a change of ownership of the leased portion.

2. No later than 15 days after the effective date of the CHOW, the prospective owner(s) or provider representative shall submit to the department a completed application for PRTF licensing, and the bill of sale.

L. Fire Protection. All PRTFs shall comply with the Rules, established fire protection standards and enforcement policies as promulgated by the Office of State Fire Marshal, including handicapped accessibility requirements. It shall be the primary responsibility of the Office of State Fire Marshal to determine if applicants are complying with those requirements. No license shall be issued or renewed without the applicant furnishing a valid inspection report from the Office of State Fire Marshal stating that the applicant is complying with their provisions.

1. Prior to new construction, additions, conversions or major alterations, PRTFs shall submit construction documents (see Subsection N, Plan Review) to the OSFM for review. All PRTFs shall submit in writing to the OSFM request for an occupancy review for Life Safety Code. This submission is to request the occupancy type they are requesting. PRTFs requesting to be reviewed and approved as a residential board and care facility by OFSM shall not have exit doors and doors of egress locked. PRTFs that are reviewed and approved as limited care facilities may be permitted to have locked doors after an appeal with OFSM.

M. Sanitation and Resident Safety. The PRTF shall comply with the Rules, Sanitary Code and enforcement policies as promulgated by the Office of Public Health (OPH). It shall be the primary responsibility of the OPH to determine if applicants are complying with those requirements. No initial license shall be issued without the applicant furnishing a certificate from OPH stating that the applicant is complying with their provisions. A provisional license may be issued to the applicant if OPH issues the applicant a conditional certificate.

N. Plan Review. Construction documents (plans and specifications) are required to be submitted and approved by both the OFSM and the Department of Health and Hospitals as part of the licensing procedure and prior to obtaining a license.

1. Submission Plans

a. Submittal Requirements

i. One set of the final construction documents shall be submitted to the OFSM for approval. The Fire Marshal's approval letter and final inspection shall be sent to the DHH Division of Engineering and Architectural Services.

ii. One set of the final construction documents shall be submitted to DHH Division of Engineering and Architectural Services along with the appropriate review fee and a "plan review application form" for approval.

b. Applicable Projects. Construction documents require approval for the following type of projects:

i. new construction;

ii. new hospitals;

iii. changes in service(s)/hospital type;

iv. major alterations.

c. Design Criteria. The project shall be designed in accordance with the following criteria:

i. the current edition of *NFPA 101-Life Safety Code*;

ii. the latest adopted edition of the *International Building Code*;

iii. the *American with Disabilities Act? Accessibility Guidelines for Buildings and Facilities (ADAAG)*, current edition;

iii. the current Louisiana Department of Health and Hospitals' *Licensure Standards for Psychiatric Residential Treatment Facilities*;

iv. The latest adopted edition of the *Louisiana State Plumbing Code*.

d. Construction Document Preparation

i. Construction documents submitted to DHH shall be prepared only by a Louisiana licensed architect or licensed engineer as governed by the licensing laws of the state for the type of work to be performed.

ii. Construction documents submitted shall be of an architectural or engineering nature and thoroughly illustrate the project that is accurately drawn, dimensioned, and contain noted plans, details, schedules and specifications. At a minimum the following shall be submitted:

- (a). site plans;
- (b). floor plan(s). These shall include architectural, mechanical, plumbing, electrical, fire protection, and if required by code, sprinkler and fire alarm plans;
- (c). building elevations;
- (d). room finish, door, and window schedules;
- (e). details pertaining to ADA requirements;
- (f). specifications for materials;
- (g). an additional set of basic preliminary type,

legible site plan and floor plans in either 8-1/2 x 11; 8-1/2 x 14 or 11 x 17 format. (These are for use by DHH in doing the final inspection of the facility and should include legible names).

2. Waivers

a. The secretary of the DHH may, within his/her sole discretion, grant waivers to building and construction guidelines. The facility must submit a waiver request in writing to the Division of Engineering and Architectural Services. The facility must demonstrate how patient safety and quality of care offered is not comprised by the waiver. The facility must demonstrate their ability to completely fulfill all other requirements of service. DHH will make a written determination of the requests. Waivers are not transferable in an ownership change and are subject to review or revocation upon any change in circumstances related to the waiver.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:56 (January 2004).

§9015. Psychiatric Residential Treatment Facility Closure

A. A cessation of business is deemed to be effective with the date on which the PRTF stopped providing services to the community as a Louisiana Medicaid Program.

1. The PRTF must notify the department in writing 30 days prior to the effective date of closure.

2. The PRTF shall submit a written plan for the disposition of resident's clinical records for approval by the department. The plan shall include the following:

a. provisions that comply with state laws on storage, maintenance, access and confidentiality of the closed PRTF's resident medical records;

b. an appointed custodian who shall provide physical and environmental security that protects the records against fire, water, intrusion, unauthorized access, loss and destruction;

c. public notice on access in the newspaper, with the largest circulation, in close proximity of the closing PRTF, at least 15 days before the effective date of closure;

d. the effective date of closure.

3. The PRTF must return the original license to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:58 (January 2004).

§9017. Denial, Revocation or Non-Renewal of License and Appeal Procedure

A. When a facility is unable or unwilling to comply with requirements or has failed to adequately protect the health and safety of residents, the department can deny the application, revoke the license, or refuse to renew the license.

B. The department may deny an application for a license, or refuse to renew a license or revoke a license for any of the following reasons:

1. failure to be in substantial compliance with the PRTF licensure regulations;

2. failure to provide therapeutic residential intervention services essential to the care of emotionally disturbed residents;

3. failure to uphold patient rights whereby violations may result in harm or injury;

4. failure of agency to protect patients/persons in the community from harmful actions of the agency employees; including, but not limited to health and safety, coercion, threat, intimidation and harassment;

5. failure to notify proper authorities of all suspected cases of neglect, criminal activity, or mental or physical abuse which could potentially cause harm to the patient;

6. failure to maintain staff adequate to provide necessary services to current active residents;

7. failure to employ qualified personnel;

8. failure to remain fully operational at any time for any reason other than a disaster;

9. failure to submit fees including but not limited to annual fee, renewal fee, provisional follow-up fee, or change of agency address or name, or any fines assessed by DHH;

10. failure to allow entry to the PRTF or access to any requested records during any survey;

11. failure to protect patients from unsafe skilled and/or unskilled care by any person employed by the agency;

12. failure of the agency to correct violations after being issued a provisional license;

13. agency staff or owner has knowingly, or with reason to know, made a false statement of a material fact in:

a. application for licensure;

b. data forms;

c. clinical record;

- d. matters under investigation by the department;
- e. information submitted for reimbursement from any payment source;
- f. the use of false, fraudulent or misleading advertising;
- g. that the agency staff misrepresented or was fraudulent in conducting agency business;
- h. convictions of a felony by an owner, administrator, or clinical director as shown by a certified copy of the record of the court of conviction of the above individual; or if the applicant is a firm or corporation, of any of its members or officers;

14. failure to comply with all reporting requirements in a timely manner; and

15. at the initial licensure survey, an agency has more than five violations of any minimum standards or if the violations are determined to be of such a serious nature that they may cause or have the potential to cause actual harm.

C. If an agency's license, whether full or provisional, is revoked, or denied renewal, and the applicant or licensee does not request an administrative reconsideration of the violation(s) which support the department's actions and/or does not appeal such action, the facility must cease operation on the effective date of the action.

D. Notice and Appeal Procedure. The applicant or licensee shall receive 30 days notice in writing of the decision and the grounds for such proposed action.

E. Administrative Reconsideration. The applicant or licensee may request an administrative reconsideration of the violation(s) which support the department's actions. This reconsideration shall be conducted by a designated official(s) of the department who did not participate in the initial decision to impose the actions taken. Reconsideration shall be made solely on the basis of documents before the official and shall include the survey report and statement of violations and all documentation the agency submits to the department at the time of the agency's request for reconsideration. Correction of a violation shall not be a basis for reconsideration. This is not a formal hearing. Oral presentations can be made by the department's spokesperson(s) and the agency's spokesperson(s). This process is not in lieu of the appeals process and does not extend the time limits for filing an administrative appeal. The designated official shall have authority only to affirm the decision, to revoke the decision, to affirm part and revoke part, or to request additional information from either the department or the agency.

1. If an agency's license is revoked, or denied renewal and the applicant or licensee requests an administrative reconsideration and the department's decision is affirmed, and the applicant or licensee does not appeal such action, the facility must cease operation on the effective date of the designated official's decision to support the department's actions.

F. Appeal Process. Upon refusal of DHH to grant a license as provided in the current state statutes, or upon revocation or suspension of a license, or the imposition of a fine, the agency, institution, corporation, person, or other group affected by such action shall have the right to appeal such action by submitting a written request to the secretary of the department within 30 days after receipt of the

notification of the refusal, revocation, suspension of a license or imposition of a fine.

1. If an agency's license is revoked, or denied renewal and the applicant or licensee requests an appeal of the department's action and the result of the appeal supports the department's action, the facility must cease operation on the effective date of the designated official's decision to support the department's action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:58 (January 2004).

Subchapter C. Organization and Administration

§9027. General

A. Purpose and Organizational Structure. The purpose of the PRTF shall be clearly defined in a statement filed with the department. The statement includes the:

- 1. program philosophy;
- 2. program goals and objectives;
- 3. ages, sex and characteristics of residents accepted for care;
- 4. geographical area served;
- 5. types of services provided;
- 6. description of admission policies; and
- 7. needs, problems, situations or patterns best addressed by the provider's program.

B. House Rules. The provider shall have a clearly written list of Rules governing conduct for residents in care and shall document that these Rules are made available to each staff member, resident, and where appropriate, the resident's parent(s) or legal guardian(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:59 (January 2004).

§9029. Governing Body

A. The PRTF must have either an effective governing body or individual(s) legally responsible for the conduct of the PRTF operations. No contracts/arrangements or other agreements may limit or diminish the responsibility of the governing body.

B. The governing body shall:

- 1. establish PRTF-wide policy;
- 2. adopt bylaws;
- 3. appoint a chief executive officer or administrator;
- 4. designate a psychiatrist who is either board-eligible or certified in child psychiatry as the clinical director to assume responsibility for the psychiatric aspects of the program and to provide full-time coverage on an on-site or on-call basis;
- 5. maintain quality of care; and
- 6. provide an overall institutional plan and budget.

C. The governing body and/or their designee(s) shall develop and approve policies and procedures which define and describe the scope of services offered. They shall be revised as necessary and reviewed at least annually.

D. There shall be an organizational chart that delineates lines of authority and responsibility for all PRTF personnel.

E. Representation at Hearings. The PRTF shall, when required by law, have a representative present at all judicial,

educational, or administrative hearings that address the status of a resident in the care of the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:59 (January 2004).

§9031. Administrative Policy and Records

A. Policy shall be clearly written, current, and available for residents, parents or custodians, staff, and licensing staff to review.

B. Policy shall be reviewed annually by the governing board.

C. Policy shall include, but is not limited to, areas governing:

1. admission and discharge;
2. personnel;
3. volunteers;
4. grievance procedures;
5. behavior management;
6. use of restraint and seclusion;
7. mandatory reporting of abuse;
8. administering medication;
9. confidentiality of records;
10. participation of residents in activities related to fundraising and publicity;
11. participation of residents in research projects;
12. the photographing and audio or audio-visual recording of residents; and
13. emergency procedures.

D. Admission Policy

1. The PRTF shall:
 - a. only accept residents for placement from the parent(s), legal guardian(s), custodial agency or a court of competent jurisdiction;
 - b. not admit more residents into care than the number specified on the provider's license;
 - c. ensure that the resident, the resident's parent(s) or legal guardian(s) and others, as appropriate, are provided reasonable opportunity to participate in the admission process and decisions. Proper consents shall be obtained before admission.

2. Notification of Facility Policy. At admission, the facility must:

a. inform both the incoming resident and, in the case of a minor, the resident's parent(s) or legal guardian(s) of the facility's policy regarding the use of restraint or seclusion during an emergency safety situation that may occur while the resident is in the program;

b. communicate its restraint and seclusion policy in a language that the resident, or his or her parent(s) or legal guardian(s) understands (including American Sign Language, if appropriate) and when necessary, the facility must provide interpreters or translators;

c. obtain an acknowledgment, in writing, from the resident, or in the case of a minor, from the parent(s) or legal guardian(s) that he or she has been informed of the facility's policy on the use of restraint or seclusion during an emergency safety situation. Staff must file this acknowledgment in the resident's record; and

d. provide a copy of the facility policy to the resident and in the case of a minor, to the resident's parent(s) or legal guardian(s).

i. The facility's policy must provide contact information, including the phone number and mailing address, for the appropriate state protection and advocacy organization.

3. Intake Evaluation. The PRTF shall accept a resident into care only when a current diagnostic evaluation, not over one 1 year old, has been completed.

a. The diagnostic evaluation shall include examination of the medical, psychosocial, social, behavioral and developmental aspects of the recipient's situation and reflect the need for services of a PRTF. Each medical evaluation must include:

- i. diagnoses;
- ii. summary of medical findings;
- iii. medical history;
- iv. mental and physical functional capacity;
- v. prognosis; and
- vi. physician's recommendations.

E. Behavior Management

1. The PRTF shall develop and maintain a written behavior management policy which includes:

- a. goals and purposes of the behavior management program;
- b. methods of behavior management;
- c. a list of staff authorized to administer the behavior management policy; and
- d. methods of monitoring and documenting the use of the behavior management policy.

2. Prohibitions. The facility policy shall prohibit:

- a. shaking, striking, spanking or other cruel treatment;
- b. harsh, humiliating, cruel, abusive or degrading language;
- c. denial of food or sleep;
- d. work tasks that are degrading or unnecessary and inappropriate to the resident's age and ability;
- e. denial of private familial and significant other contact, including visits, phone calls, and mail, as a means of punishment;
- f. use of chemical agents, including tear gas, mace, or similar agents;
- g. extreme physical exercise;
- h. one resident punishing another resident;
- i. group punishment; and
- j. violating a resident's rights.

3. The PRTF must satisfy all requirements contained in this Chapter regarding the use of restraint or seclusion, including application of time out.

F. Resident Abuse

1. The provider shall have comprehensive written procedures concerning resident abuse including:

a. a description of ongoing communication strategies used by the provider to maintain staff awareness of abuse prevention, current definitions of abuse and neglect, and mandated reporting requirements to the Office of Community Services Resident Protection Agency;

b. a procedure for disciplining staff members who abuse or neglect a resident;

c. procedures for insuring that the staff member involved in suspected resident abuse or neglect does not work directly with the resident involved or any other resident in the program until the investigation is complete.

2. Any case of suspected resident abuse or neglect shall be reported immediately to the HSS and, unless prohibited by state law, the state-designated protection and advocacy system.

3. Staff must report any case of suspected resident abuse or neglect to both HSS and the state-designated protection and advocacy system by no later than close of business the next business day after a case of suspected resident abuse or neglect. The report must include:

- a. the name of the resident involved in the suspected resident abuse or neglect;
- b. a description of the suspected resident abuse or neglect;
- c. date and time the suspected abuse or neglect occurred;
- d. steps taken to investigate abuse and neglect; and
- e. action taken as a result of the incident.

4. In the case of a minor, the facility must notify the resident's parent(s) or legal guardian(s) as soon as possible, and in no case later than 24 hours after the suspected resident abuse or neglect.

5. Staff must document in the resident's record that the suspected resident abuse or neglect was reported to both HSS and the state-designated protection and advocacy system, including the name of the person to whom the incident was reported. A copy of the report must be maintained in the resident's record.

G Reporting of Serious Occurrences. The facility must report each serious occurrence to both HSS and, unless prohibited by state law, the state-designated protection and advocacy system. Serious occurrences that must be reported include a resident's death or a serious injury to a resident.

1. Staff must report any serious occurrence involving a resident to both HSS and the state-designated protection and advocacy system by no later than close of business the next business day after a serious occurrence. The report must include the name of the resident involved in the serious occurrence, a description of the occurrence, and the name, street address, and telephone number of the facility. The facility must conduct an investigation of the serious occurrence to include interviews of all staff involved, findings of the investigation, and actions taken as a result of the investigation.

2. In the case of a minor, the facility must notify the resident's parent(s) or legal guardian(s) as soon as possible, and in no case later than 24 hours after the serious occurrence.

3. Staff must document in the resident's record that the serious occurrence was reported to both HSS and the state-designated protection and advocacy system, including the name of the person to whom the incident was reported. A copy of the report must be maintained in the resident's record, as well as in the incident and accident report logs kept by the facility.

4. **Reporting of Deaths.** In addition to the reporting requirements contained in Paragraphs 1-4 of this Subsection, facilities must report the death of any resident to the CMS regional office. The staff must:

- a. report the death of any resident to the CMS regional office by no later than close of business the next business day after the resident's death;

b. document in the resident's record that the death was reported to the CMS regional office.

H. Fundraising and Publicity. The PRTF shall have a written policy regarding participation of residents in activities related to fundraising and publicity. Consent of the resident and, where appropriate, the resident's parent(s) or legal guardian(s) shall be obtained prior to participation in such activities.

I. The PRTF shall have written policies and procedures regarding the photographing and audio or audio-visual recordings of residents.

1. The written consent of the resident and, where appropriate, the resident's parent(s) or legal guardian(s) shall be obtained before the resident is photographed or recorded for research or program publicity purposes.

2. All photographs and recordings shall be used in a manner that respects the dignity and confidentiality of the resident.

J. Research. The PRTF shall have written policies regarding the participation of residents in research projects. No resident shall participate in any research project without the express written consent of the resident and the resident's parent(s) or legal guardian(s).

K. Administrative Records

1. The records and reports to be maintained at the facility and available for survey staff to review are:

- a. resident's clinical record;
- b. personnel records;
- c. criminal history investigation records;
- d. orientation and training hour records;
- e. menus of food served to residents;
- f. fire drill reports acceptable to the OFSM as defined by the most current adopted edition of the *NFPA 101, Life Safety Code*;
- g. schedules of planned recreational, leisure or physical exercise activities;
- h. all leases, contracts and purchase-of-service agreements to which the provider is a party;
- i. all written agreements with appropriately qualified professionals, or state agencies, for required professional services or resources not available from employees of the provider;
- j. written policies and procedures governing all aspects of the provider's activities to include:
 - i. behavior management;
 - ii. emergency evacuation;
 - iii. smoking policy.

L. Clinical Record. Information obtained by the department from any applicant or licensee regarding residents, their parents, or other relatives is deemed confidential and privileged communication. The names of any complainants and information regarding a child abuse report or investigation is kept confidential.

1. The PRTF shall ensure the confidentiality of resident records, including information in a computerized medical record system, in accordance with the HIPAA Privacy Regulations (Title 45, Part 164, Subpart E of the *Code of Federal Regulations*) and any Louisiana state laws and regulations which provide a more stringent standard of confidentiality than the HIPAA privacy regulations. Information from, or copies of records may be released only

to authorized individuals, and the PRTF must ensure that unauthorized individuals cannot gain access to or alter resident records. Original medical records shall not be released outside the PRTF unless under court order or subpoena or in order to safeguard the record in the event of a physical plant emergency or natural disaster.

a. The provider shall have written procedures for the maintenance and security of clinical records specifying who shall supervise the maintenance of records, who shall have custody of records, and to whom records may be released. Records shall be the property of the provider, and the provider as custodian shall secure records against loss, tampering or unauthorized use.

b. Employees of the PRTF shall not disclose or knowingly permit the disclosure of any information concerning the resident or his/her family, directly or indirectly, to any unauthorized person.

c. When the resident is of majority age and noninterdicted, the provider shall obtain the resident's written, informed permission prior to releasing any information from which the resident or his/her family might be identified, except for authorized state and federal agencies.

d. When the resident is a minor or is interdicted, the provider shall obtain written, informed consent from the parent(s) or legal guardian(s) prior to releasing any information from which the resident might be identified, except for accreditation teams, authorized state and federal agencies.

e. The provider shall, upon written authorization from the resident or his/her parent(s) or legal guardian(s), make available information in the case record to the resident, his counsel or the resident's parent(s) or legal guardian(s).

f. If, in the professional judgment of the clinical director, it is felt that information contained in the record would be injurious to the health or welfare of the resident, the provider may deny access to the record. In any such case the provider shall prepare written reasons for denial to the person requesting the record and shall maintain detailed written reasons supporting the denial in the resident's file.

g. The provider may use material from case records for teaching for research purposes, development of the governing body's understanding and knowledge of the facility's services, or similar educational purposes, provided names are deleted, other identifying information are disguised or deleted, and written authorization is obtained from the resident or his/her parent(s) or legal guardian(s).

2. Retention. PRTF records shall be retained by the PRTF in their original, microfilmed or similarly reproduced form for a minimum period of 10 years from the date a resident is discharged.

a. Graphic matter, images, x-ray films, nuclear medicine reports and like matter that were necessary to produce a diagnostic or therapeutic report shall be retained, preserved and properly stored by the PRTF in their original, microfilmed or similarly reproduced form for a minimum period of five years from the date a resident is discharged. Such graphic matter, images, x-ray film and like matter shall be retained for longer periods when requested in writing by any one of the following:

i. an attending or consulting physician of the resident;

ii. the resident or someone acting legally in his/her behalf;

iii. legal counsel for a party having an interest affected by the resident's medical records.

3. The written record for each resident shall include:

a. administrative, treatment and educational data from the time of admission until the time the resident leaves the facility, including intake evaluation notes and physician progress notes;

b. the name, home address, home telephone number, name of parent(s) or legal guardian(s), home address and telephone number of parent(s) or legal guardian(s) (if different from resident's), sex, race, religion, birth date and birthplace of the resident;

c. other identification data including documentation of court status, legal status or legal custody and who is authorized to give consents;

d. placement agreement;

e. resident's history including educational background, employment record, prior medical history and prior placement history;

f. a copy of the resident's individual service plan and any modifications to that plan;

g. progress reports;

h. reports of any incidents of abuse, neglect, accidents or critical incidents, including use of passive physical restraints;

i. reports of any resident's grievances and the conclusions or dispositions of these reports. If the resident's grievance was in writing, a copy of the written grievance shall be included;

j. a summary of family visits and contacts including dates, the nature of such visits/contacts and feedback from the family;

k. a summary of attendance and leaves from the facility;

l. written notes from providers of professional or specialized services; and

m. discharge summary at the time of discharge.

4. All resident's records shall be available for inspection by the department.

M. Quality Assessment and Improvement

1. The governing body shall ensure that there is an effective, written, ongoing, facility-wide program designed to assess and improve the quality of resident care.

2. There shall be a written plan for assessing and improving quality that describes the objectives, organization, scope and mechanisms for overseeing the effectiveness of monitoring, evaluation and improvement activities. All organized services related to resident care, including services furnished by a contractor, shall be evaluated. The services provided by each LMHP shall be periodically evaluated to determine whether they are of an acceptable level of quality and appropriateness.

3. Assessment of quality shall address:

a. resident care problems;

b. cause of problems;

c. documented corrective actions; and

d. monitoring or follow-up to determine effectiveness of the corrective actions taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:60 (January 2004).

§9033. Notifications

A. The facility shall comply with the notification requirements as outlined in this §9033.

1. The facility shall notify the department on the next working day in the event of:

- a. temporary or permanent closing of the facility due to natural or man-made disasters;
- b. a change in the administrator and/or clinical director;
- c. damage to the premises of the facility caused by fire, accident, or other elements that seriously affects the provision of services;

2. If a resident is absent without permission, the resident's parents or custodians are to be notified immediately.

B. The facility shall comply with the notification requirements as outlined in §9033 regarding:

1. any case of suspected resident abuse or neglect;
2. each serious occurrence; and
3. the death of a resident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:63 (January 2004).

Subchapter D. Human Resources

§9043. Personnel

A. Personnel policy includes, but is not limited to, defining staff, essential job functions, qualifications, and lines of authority.

1. The PRTF shall have:

- a. a written plan for recruitment, screening, orientation, ongoing training, development, supervision and performance evaluation of staff members whether directly employed, contract or volunteer;
- b. written personnel policies and written job descriptions for each staff position;
- c. written employee grievance procedures; and
- d. written nondiscrimination policy that shall ensure that the provider does not discriminate in the employment of individuals because of race, color, religion, sex, age, national origin, handicap, political beliefs, veteran's status or any non-merit factor in accordance with all state and federal regulations.

2. Staff Medical Requirement

a. The PRTF shall have policies and procedures that define how the facility will comply with current regulations regarding healthcare screenings of PRTF personnel.

b. The PRTF shall have policies and procedures and require all personnel to immediately report any signs or symptoms of a communicable disease or personal illness to their supervisor or administrator as appropriate for possible reassignment or other appropriate action to prevent the disease or illness from spreading to other residents or personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:63 (January 2004).

§9045. Personnel Qualifications

A. Employment Requirements. Staff shall meet the requirements outlined in this Subsection.

1. The chief executive officer (CEO) or administrator shall be qualified by an advanced degree from an accredited college or university in a mental health-related field, with at least five years of related experience.

2. The program manager shall be a LMHP with at least five years related direct service or administrative experience.

3. The clinical director shall be a psychiatrist who is either board-eligible or certified in child psychiatry, with experience appropriate to the level and intensity of services and the population to be served.

a. The governing body of the provider shall designate a psychiatrist as the clinical director.

4. Psychological services shall be provided by or supervised by a psychologist with a doctorate degree from an accredited program in clinical or counseling psychology and with appropriate post-graduate experience.

5. A registered nurse must be licensed to practice nursing by the Louisiana State Board of Nursing.

6. The physician who assumes 24-hour on-call medical responsibility shall be a board-certified physician.

B. Staffing Definitions

1. All experience requirements are related to paid experience. Volunteer work, college work/study or internship related to completion of a degree cannot be counted as work experience. If experience is in a part-time position, the staff person must be able to verify the amount of time worked each week. Experience obtained while working in a position for which the individual is not qualified may not be counted as experience.

2. All staff qualified, eligible and employed prior to January 1, 2004, may continue to provide services with the facility employing them. If any individual on staff changes facilities, the new staff requirements must be met.

C. Criminal History Investigation and References

1. The PRTF shall arrange, prior to employment, for a criminal history investigation, as required by R.S. 15:587.1. for:

- a. each applicant for employment, including all caregivers, substitutes, support staff, and any other person employed by the facility or program;
- b. others who have unsupervised access to children, such as volunteers, contracted staff, or janitors; and
- c. adults, including providers' spouses or adult children, who live in the facility.

2. Exceptions. Criminal history investigations are not required for:

- a. staff who move to a new facility operated by the same organization;
- b. parent volunteers who transport children on an irregular basis if the facility staff are present with children at all times;
- c. contracted staff who provide transportation, lessons, or other services if the facility staff are present with children at all times; and
- d. providers' children who become adults, age 18, during continuous residence at the licensed facility.

3. Staff criminal history investigations shall be maintained in a confidential manner, separate from the individual's personnel record.

D. Prohibitions

1. The facility is restricted from knowingly employing a person who:

- a. has entered a plea of guilty or nolo contendere, no contest, or has been convicted of:
 - i. any criminal activity involving violence against a person;
 - ii. child abuse or neglect;
 - iii. possession, sale, or distribution of illegal drugs;
 - iv. sexual misconduct and/or is required to register pursuant to the Sex Offenders Registration Act;
 - v. gross irresponsibility or disregard for the safety of others; or

2. The restrictions contained in this Subsection apply to employees and persons who provide services to the facility.

3. Persons who are employed by the facility or who provide services to the facility may not use or be under the influence of, alcohol or illegal drugs during hours of work.

4. If a staff member is alleged to have committed an act described in Subsection D.1 of this Section, the accused shall be removed from contact with children until the charges are resolved. However, if criminal charges are filed, the accused shall be removed from contact with children until the charges are resolved.

a. A person who has received a deferred sentence for any charge in Subsection D.1 of this Section shall be removed from contact with children for the duration of the deferment.

E. Orientation. Staff shall receive orientation within 30 days of employment.

1. Staff who will work with residents shall receive orientation before being assigned as the only staff responsible for residents.

2. Orientation includes, but is not limited to:

- a. confidentiality;
- b. grievance process;
- c. fire and disaster plans;
- d. emergency medical procedures;
- e. organizational structure;
- f. program philosophy;
- g. personnel policy and procedure;
- h. detecting and mandatory reporting of child abuse;
- i. detecting signs of illness or dysfunction that warrant medical or nursing intervention;
- j. basic skills required to meet the health needs and problems of the resident;
- k. crisis de-escalation and the management of aggressive behavior including acceptable and prohibited responses;
- l. physical restraint which is to include a practice element in the chosen method; and
- m. safe administration and handling of all medications including psychotropic drugs, dosages and side effects.

3. Orientation may be counted toward the total training hours for the first year.

F. The staff shall meet the following requirements for training.

1. Administrator and Clinical Director. The administrator and clinical director shall obtain a minimum of 12 clock hours of continuing education per calendar year. Hours are prorated at one hour per month for staff who has not been employed for a full year. The content pertains to the roles and responsibilities of the position.

2. Training for LMHPs and MHPs (excluding administrator and clinical director). LMHPs, MHPs and MHSs shall obtain a minimum of 12 clock hours of continuing education per calendar year. Hours are prorated at one hour per month for staff who has not been employed for a full year. The content pertains to the roles and responsibilities of the position. Content areas include, but are not limited to:

- a. crisis intervention;
- b. child/youth development;
- c. discipline;
- d. stress management;
- e. therapeutic relationship;
- f. therapeutic intervention; and
- g. abuse prevention, detection, and reporting.

3. All staff shall receive at least 40 hours of training, in addition to orientation training, during the first year of employment.

4. The facility must require staff to have ongoing education, training and demonstrated knowledge of:

- a. techniques to identify staff and resident behaviors, events, and environmental factors that may trigger emergency safety situations;
- b. the use of nonphysical intervention skills, such as de-escalation, mediation conflict resolution, active listening, and verbal and observational methods, to prevent emergency safety situations; and
- c. the safe use of restraint and the safe use of seclusion, including the ability to recognize and respond to signs of physical distress or injury in residents who are restrained or in seclusion.

5. Certification in the use of cardiopulmonary resuscitation, including periodic recertification, is required.

6. Individuals who are qualified by education, training, and experience must provide staff training.

7. Staff training must include training exercises in which staff members successfully demonstrate in practice the techniques they have learned for managing emergency safety situations.

8. Staff must be trained and demonstrate competency before participating in an emergency safety intervention.

9. All training programs and materials used by the facility must be available for review by CMS and HSS.

G Staff Evaluation. The provider shall complete an annual performance evaluation of all staff members. For any person who interacts with residents, the provider's performance evaluation procedures shall address the quality and nature of a staff member's relationships with residents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:63 (January 2004).

§9047. Personnel Responsibilities

A. The PRTF must meet minimum licensure requirements for staffing, staff qualifications and staffing ratios.

1. A PRTF that serves individuals from special risk populations shall modify staffing patterns to fit their increased needs.

2. The PRTF shall ensure that an adequate number of qualified staff members are present with the residents as necessary to ensure the health, safety and well-being of residents. Staff coverage shall be maintained in consideration of the time of day, the size and nature of the PRTF, the ages and needs of the residents, and shall assure the continual safety, protection, direct care and supervision of residents.

3. When residents are at school, work or recreation outside the facility, the provider shall have a plan ensuring the availability and accessibility of direct care staff to handle emergencies or perform other necessary direct care functions.

4. The PRTF shall make sufficient provisions for housekeeping and maintenance to ensure that staff is able to adequately perform direct care functions.

B. Staffing Requirements. The PRTF shall have the clinical leadership and sufficient staff on duty to meet the 24-hour, seven day per week treatment needs of recipients and shall establish policies, contracts and practices to assure:

1. availability of adequate psychiatric services to meet the following requirements:

a. provide medical oversight of all of the clinical aspects of care, and provide 24-hour, seven days per week psychiatric on-call coverage;

b. assess each resident's medication and treatment needs including administration of medication; prescribe medications or otherwise assure the case management and consultation services are provided to obtain prescriptions, and prescribed therapeutic modalities to achieve the resident's individual treatment plan's goals; and

c. participate in the facility's treatment plan team and Quality Management process;

2. sufficient supervision of all residents 24 hours a day.

C. The facility shall maintain a minimum ratio of one staff person for two residents (1:2) during awake hours.

D. The facility shall maintain a minimum ratio of one staff person for three residents (1:3) during sleeping hours. Staff shall always be awake while on duty.

E. At a minimum the following staff positions are required. However, the same person may occupy both the administrator/director position and the program manager position if the individual meets the qualifications for both positions.

1. Chief Executive Officer (CEO) or Administrator? responsible for the on-site, daily implementation and supervision of the overall facility's operation commensurate with the authority conferred by the governing body.

2. Program Manager? assists the chief executive officer (CEO) or administrator in the management of individual programs, the supervision of direct service workers, and/or the management of administrative programs.

3. Clinical Director

a. The governing body of the provider shall designate a psychiatrist as the clinical director to assume responsibility for the psychiatric aspects of the program and to provide full time coverage on an on-site or on-call basis.

b. The designated psychiatrist shall provide a monthly minimum of one hour of on-site clinical direction per resident.

c. The designated psychiatrist shall monitor and evaluate the quality and appropriateness of services and treatment provided by the facility's direct care staff.

4. The PRTF shall provide or make available adequate numbers of LMHPs, MHPs and MHSs whose care specialization is consistent with the following duties and requirements of a PRTF:

a. evaluate patients;

b. formulate written individualized treatment plans;

c. provide active treatment measures; and

d. engage in discharge planning.

5. A LMHP or MHP shall:

a. be designated and assigned as treatment plan manager for each resident and given responsibility for and authority over those activities detailed in the minimum licensure requirements, including:

i. supervision of the treatment plan;

ii. integration of the various aspects of the resident's program;

iii. recording of the resident's progress as measured by objective indicators and making appropriate changes/modifications; and

iv. serving as liaison between the resident, provider, family and community during the resident's admission to and residence in the facility, or while the resident is receiving services from the provider.

b. provide a minimum of three individual therapy sessions each week for each resident (a minimum weekly total of 120 minutes);

c. provide a minimum of two group therapy sessions per week for each resident;

d. have a maximum caseload not to exceed 12 residents.

6. The MHSs shall be under the supervision of LMHPs and/or MHPs to assist with the duties and requirements of a PRTF.

7. There shall be at least one LMHP or MHP supervisor for every nine staff members.

8. Each resident must have a minimum of one face-to-face contact with a psychiatrist each month, and additional contacts for individuals from special risk populations, and as clinical needs of the resident dictate.

9. The PRTF shall provide or have available a psychologist to provide psychological testing and psychological services, as necessary to assist in essential diagnostic formulations as requested, and participate in program development and evaluation of program effectiveness, in therapeutic interventions and in treatment plan team meetings.

10. Depending on the needs of the residents, the PRTF shall directly provide or arrange for the services of qualified professionals and specialists, including persons as necessary from the following areas:

- a. medicine and dentistry;
- b. nursing;
- c. disabilities;
- d. speech, occupational and physical therapies; and
- e. recreation.

11. The PRTF shall provide or have available a therapeutic activities program.

a. The program must be appropriate to the needs and interests of patients and be directed toward restoring and maintaining optimal levels of physical and psychosocial functioning.

b. The number of qualified therapists, support personnel and consultants shall be adequate to provide comprehensive therapeutic activities consistent with each patient's treatment plan.

12. Nursing services shall be provided by or supervised by a registered nurse.

a. There shall be an adequate number of registered nurses, licensed practical nurses, and other staff, to provide the nursing care necessary under each patient's treatment plan.

b. The PRTF shall ensure the on-site availability of a registered nurse 24 hours per day, seven days per week.

c. All drugs and biologicals shall be administered in accordance with the orders of the practitioner(s) responsible for the resident's care and accepted standards of practice.

13. A physician shall assume 24-hour on-call medical responsibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:65 (January 2004).

§9049. Personnel Records

A. The facility shall maintain on file a written personnel record for each employee working at the facility, which shall be kept for at least one year following an employee's separation from employment. The personnel record shall include:

1. an application, résumé, or staff information sheet that documents qualifications for the position;
2. any health records required by the facility;
3. annual performance evaluations and any reports and notes relating to the individual's employment with the facility;
4. date of employment; and
5. date and reason for leaving employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:66 (January 2004).

§9051. Volunteers

A. If a facility uses volunteers, the facility shall have a current, written volunteer policy.

B. Volunteers shall receive orientation before having contact with residents.

C. Volunteers shall work under the direct supervision of a paid staff member. They shall never be left alone or in charge of a resident or group of residents without a paid staff member present.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:66 (January 2004).

Subchapter E. Physical Environment

§9061. General Provisions

A. The PRTF shall be constructed, arranged and maintained to ensure the safety and well being of the resident.

B. Buildings

1. The buildings shall reflect good housekeeping and shall by means of an effective pest control program, be free of insects and rodents.

2. The PRTF shall maintain PRTF-wide ventilation, lighting and temperature controls.

3. There shall be a policy regarding the provision of services during any period in which the supply of electricity, natural gas, water and fuel is temporarily disrupted.

4. Doors leading into a facility or unit may be locked only in the direction of ingress.

5. Doors in the line of egress shall not be locked. Any deviation to allow the outermost doors in the line of egress to be locked may only be made after approval has been given by the Office of the State Fire Marshal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:66 (January 2004).

§9063. Interior Space

A. The arrangement, appearance and furnishing of all interior areas of the facility shall be similar to those of a normal family home within the community.

B. The provider shall ensure that there is evidence of routine maintenance and cleaning programs in all areas of the facility.

C. Each living unit of a facility shall contain a space for the free and informal use of the residents. This space shall be constructed and equipped in a manner in keeping with the programmatic goals of the facility.

D. A facility shall have a minimum of 60 square feet of floor area per resident in living areas accessible to the residents and excluding halls, closets, bathrooms, bedrooms, staff or staff's family quarters, laundry areas, storage areas and office areas.

E. Resident Bed Rooms

1. Single rooms must contain at least 120 square feet and multi-bed rooms shall contain at least 100 square feet per bed, exclusive of fixed cabinets, fixtures, and equipment. Any resident room shall not contain more than two beds. Rooms shall have at least a 7 1/2 foot ceiling height over the required area. In a room with varying ceiling height, only portions of the room with a ceiling height of at least 7 1/2 feet are allowed in determining usable space.

a. Any PRFT applying for licensure and constructed after the effective date of the licensing regulations must comply with the requirement that each resident room shall not contain more than two beds.

2. There shall be at least 3 feet between beds.

3. There shall be sufficient and satisfactory separate storage space for clothing, toilet articles and other personal belongings of residents.

4. There shall be at least one toilet bowl with accessories, lavatory basin and bathing facility reserved for

resident use on each resident floor and additional toilets, lavatories, and bathing facilities to adequately meet the needs of employees, professional personnel and residents on each unit.

5. Doors to individual bedrooms shall not be equipped with locks or any other device that would prohibit the door from being opened from either side.

6. The provider shall not use any room that does not have a window as a bedroom space.

7. The provider shall ensure that sheets, pillow, bedspread and blankets are provided for each resident.

8. Each resident shall have his/her own dresser or other adequate storage space for private use and designated space for hanging clothing in proximity to the bedroom occupied by the resident.

9. There shall be separate sleeping quarters for males and females.

F. Dining Areas

1. The facility shall have dining areas that permit residents, staff and guests to eat together in small groups.

2. A facility shall have dining areas that are clean, well lit, ventilated and attractively furnished.

G. Bathrooms

1. A facility shall have wash basins with hot and cold water, flush toilets, and bath or shower facilities with hot and cold water according to resident care needs.

a. Bathrooms shall be so placed as to allow access without disturbing other residents during sleeping hours.

b. Each bathroom shall be properly equipped with toilet paper, towels, soap and other items required for personal hygiene unless residents are individually given such items. Residents shall be provided individual items such as hair brushes and toothbrushes.

c. Tubs and showers shall have slip proof surfaces.

2. A facility shall have toilets and baths or showers that allow for individual privacy unless the residents in care require assistance.

3. Toilets, wash basins and other plumbing or sanitary facilities in a facility shall, at all times, be maintained in good operating condition and shall be kept free of any materials that might clog or otherwise impair their operation.

H. Kitchens

1. Kitchens used for meal preparations shall have the equipment necessary for the preparation, serving, storage and clean up of all meals regularly served to all of the residents and staff. All equipment shall be maintained in proper working order.

2. The provider shall ensure that all dishes, cups and glasses used by residents are free from chips, cracks or other defects and are in sufficient number to accommodate all residents.

I. Administrative and Counseling Area

1. The provider shall provide a space that is distinct from resident's living areas to serve as an administrative office for records, secretarial work and bookkeeping.

2. The provider shall have a designated space to allow private discussions and counseling sessions between individual residents and staff, excluding, bedrooms and common living areas.

J. Furnishings

1. The provider shall have comfortable customary furniture as appropriate for all living areas. Furniture for the

use of residents shall be appropriately designed to suit the size and capabilities of the residents.

2. The provider shall promptly replace or repair broken, run-down or defective furnishings and equipment.

K. Doors and Windows

1. The provider shall provide insect screens for all windows that can be opened. The screens shall be in good repair and readily removable in emergencies.

2. The provider shall ensure that all closets, bedrooms and bathrooms are equipped with doors that can be readily opened from both sides.

L. Storage

1. The provider shall ensure that there are sufficient and appropriate storage facilities.

2. The provider shall have securely locked storage space for all potentially harmful materials. Keys to such storage spaces shall only be available to authorized staff members.

M. Electrical Systems

1. The provider shall ensure that all electrical equipment, wiring, switches, sockets and outlets are maintained in good order and in safe condition.

2. The provider shall ensure that any room, corridor or stairway within a facility shall be well lit.

N. Heat

1. The provider shall take all reasonable precautions to ensure that heating elements, including exposed hot water pipes, are insulated and installed in a manner that ensures the safety of all residents.

2. The provider shall not use open flame heating equipment or portable electrical heaters.

O. Smoking

1. Smoking shall be prohibited in all areas of the PRTF that are heated and air-conditioned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:66 (January 2004).

§9065. Facility Exterior

A. The provider shall maintain all areas of the facility that are accessible to the residents in good repair and free from any reasonably foreseeable hazard to health or safety. All structures on the grounds of the facility shall be maintained in good repair.

1. Garbage and rubbish stored outside shall be secured in noncombustible, covered containers and shall be removed on a regular basis.

2. Trash collection receptacles and incinerators shall be separate from recreation/play areas.

3. Fences shall be in good repair.

4. Areas determined unsafe, including steep grades, open pits, swimming pools, high voltage boosters or high speed roads shall be fenced or have natural barriers to protect residents.

5. Recreation/playground equipment shall be so located, installed and maintained as to ensure the safety of the residents.

6. Residents shall have access to safe, suitable outdoor recreational space and age appropriate equipment.

7. The provider shall ensure that exterior areas are well lit at night.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:67 (January 2004).

§9067. Equipment

A. Equipment shall be clean and in good repair for the safety and well-being of the residents.

B. Therapeutic, diagnostic and other resident care equipment shall be maintained and serviced in accordance with the manufacturer's recommendations.

C. Methods for cleaning, sanitizing, handling and storing of all supplies and equipment shall be such as to prevent the transmission of infection.

D. After discharge of a resident, the bed, mattress, cover, bedside furniture and equipment shall be properly cleaned. Mattresses, blankets and pillows assigned to residents shall be in a sanitary condition. The mattress, blankets and pillows used for a resident with an infection shall be sanitized in an acceptable manner before they are assigned to another resident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:68 (January 2004).

Subchapter F. Facility Operations

§9077. Safety and Emergency Preparedness

A. The PRTF shall have an emergency preparedness plan designed to manage the consequences of natural disasters or other emergencies that could disrupt the PRTF's ability to provide care and treatment or threatens the lives or safety of the PRTF residents and/or the community it serves. The emergency preparedness plan shall be made available, upon request or if mandated to do so, to local, parish, regional and/or state emergency planning organizations, DHH and the Office of the State Fire Marshal.

B. As a minimum, the plan shall include:

1. identification of potential hazards that could necessitate an evacuation, including internal and external disasters such as a natural disaster, acts of bio-terrorism, weapons of mass destruction, labor work stoppage, or industrial or nuclear accidents;

2. emergency procedures for evacuation of the PRTF;

3. procedures in the case of interruption of utility services in a way that affects the health and safety of residents;

4. identification of the facility and an alternate facility to which evacuated residents would be relocated;

5. the estimated number of residents and staff that would require relocation in the event of an evacuation;

6. the system or procedure to ensure that medical charts accompany residents in the event of a resident evacuation and that supplies, equipment, records and medications would be transported as part of an evacuation; and

7. the roles and responsibilities of staff members in implementing the disaster plan.

C. The PRTF shall assure that residents receive nursing care throughout the period of evacuation and while being returned to the original PRTF.

D. The provider shall conduct and document fire drills once per month, one drill per shift every 90 days, at varying times of the day.

E. Notification of Emergencies. The provider shall immediately notify the HSS and other appropriate agencies of any fire, disaster or other emergency that may present a danger to residents or require their evacuation from the facility.

F. Access to Emergency Services

1. The provider shall have access to 24-hour telephone service.

2. The provider shall either post telephone numbers of emergency services, including the fire department, police department, medical services, poison control and ambulance services or show evidence of an alternate means of immediate access to these services.

G. General Safety Practices

1. The provider shall not maintain any firearm or chemical weapon in the living units of the facility.

2. The provider shall ensure that all poisonous, toxic and flammable materials are safely stored in appropriate containers labeled as to contents. Such materials shall be maintained only as necessary and shall be used in a manner that ensures the safety of residents, staff and visitors.

3. The provider shall ensure that an appropriately equipped first aid kit is available in the living units and in all vehicles used to transport residents.

4. The provider shall prohibit the use of candles in resident sleeping areas.

5. Power-driven equipment used by the provider shall be safe and properly maintained. Such equipment shall be used by residents only under the direct supervision of a staff member and according to state law.

6. The provider shall have procedures to prevent insect and rodent infestation.

7. The provider shall allow residents to swim only in areas determined to be safe and under the supervision of a person certified/trained in American Red Cross Community Water Safety or equivalent.

H. Transportation

1. The provider shall ensure that each resident is provided with the transportation necessary for implementation of the resident's treatment plan.

2. The provider shall have the means of transporting residents in cases of emergency.

3. The provider shall ensure and document that vehicles used in transporting residents, whether such vehicle is operated by a staff member or any other person acting on behalf of the provider, is inspected and licensed in accordance with state law and carries current liability insurance.

4. Any staff member of the facility or other person acting on behalf of the provider, operating a vehicle for the purpose of transporting residents shall be currently and appropriately licensed.

5. The provider shall not allow the number of persons in any vehicle used to transport residents to exceed the number of available seats in the vehicle. The provider shall not transport residents in the back or the bed of a truck.

6. The provider shall ensure that residents being transported in the vehicle are properly supervised while in the vehicle and during the trip.

7. All vehicles used for the transportation of residents shall be maintained in a safe condition and in conformity with all applicable motor vehicle laws.

8. Vehicles used to transport residents shall not be identified in a manner that may embarrass or in any way produce notoriety for residents.

9. The provider shall ascertain the nature of any need or problem of a resident that might cause difficulties during transportation, such as seizures, a tendency toward motion sickness or a disability. The provider shall communicate such information to the operator of any vehicle transporting residents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:68 (January 2004).

§9079. Food and Diet

A. The provider shall ensure that a resident is, on a daily basis, provided with food of such quality and in such quantity as to meet the recommended daily dietary allowances adjusted for age, gender and activity of the Food Nutrition Board of the National Research Council.

1. Menus shall be written and approved annually in writing by a registered dietician.

2. The provider shall develop written menus at least one week in advance.

3. Written menus and records of foods purchased shall be maintained on file for 30 days. Menus shall provide for a sufficient variety of foods, vary from week to week and reflect all substitutions.

B. A person designated by the administrator/director shall be responsible for the total food service of the facility. This person shall be responsible for:

1. initiating food orders or requisitions;
2. establishing specifications for food purchases and insuring that such specifications are met;
3. storing and handling of food;
4. food preparation;
5. food serving;
6. orientation, training and supervision of food service personnel;

7. maintaining a current list of residents with special nutritional needs;

8. having an effective method of recording and transmitting diet orders and changes;

9. recording information in the resident's record relating to special nutritional needs;

10. providing information on the resident's diets to the staff.

C. The provider shall ensure that any modified diet for a resident shall be:

1. prescribed by the resident's physician and treatment plan with a record of the prescription kept on file;

2. planned, prepared and served by persons who have received instruction from the registered dietician who has approved the menu for the modified diet.

D. The provider shall ensure that a resident is provided at least three meals or their equivalent daily at regular times with not more than 14 hours between the evening meal and breakfast on the following day.

E. The provider shall ensure that the food provided to a resident in care of the provider is in accord with his/her religious beliefs.

F. No resident shall be denied food or force-fed for any reason except as medically required pursuant to a physician's written order. A copy of the order shall be maintained in the resident's file.

G. When meals are provided to staff, the provider shall ensure that staff members eat the same food served to residents in care, unless special dietary requirements dictate differences in diet.

H. The provider shall purchase and provide to the residents only food and drink of safe quality. The storage, preparation and serving techniques shall ensure that nutrients are retained and spoilage is prevented. Milk and milk products shall be Grade A and pasteurized.

I. The provider shall ensure that food served to a resident and not consumed is discarded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:69 (January 2004).

§9081. Health Care and Nursing Services

A. Health Care

1. The provider shall have a written plan for providing preventive, routine and emergency medical and dental care for residents and shall show evidence of access to the resources outlined in the plan. This plan shall include:

- a. ongoing appraisal of the general health of each resident;
- b. provision of health education, as appropriate; and
- c. provisions for keeping resident's immunizations current.

2. The provider shall ensure that a resident receives timely, competent medical care when he/she is ill or injured. The provider shall notify the resident's parent or legal guardian, verbally/in writing, within 24 hours of a resident's illness or injury that requires treatment from a physician or hospital.

3. Records of all medical examinations, follow-ups and treatment together with copies of all notices to parent(s) or guardian(s) shall be kept in the resident's file.

4. Immunizations. Within 30 days of admission, the provider shall obtain documentation of a resident's immunization history, insuring that the resident has received all appropriate immunizations and booster shots that are required by the Office of Public Health.

B. Nursing Services

1. There shall be an organized nursing service that provides 24-hour nursing services. The nursing services shall be under the direction and supervision of a registered nurse licensed to practice in Louisiana, employed full time, 40 hours per week.

2. Written nursing policies and procedures shall define and describe the resident care provided. There shall be a

written procedure to ensure that all licensed nurses providing care in the PRTF have a valid and current Louisiana license to practice, prior to providing any care.

3. Nursing services are either furnished or supervised and evaluated by a registered nurse.

4. There shall be at least one registered nurse on duty on site at all times.

C. Medications

1. All PRTFs that house or use scheduled narcotics shall have a site-specific Louisiana dangerous substance license and a United States Drug Enforcement Administration controlled substance registration for the facility in accordance with the Louisiana Uniform Controlled Dangerous Substance Act and Title 21 of the *United States Code*.

2. The provider shall have written policies and procedures that govern the safe administration and handling of all drugs as appropriate to the facility.

3. The provider shall have a written policy governing the self-administration of both prescription and nonprescription drugs.

4. The provider shall ensure that medications are either self-administered or administered by qualified persons according to state law.

5. The provider shall have a written policy for handling medication taken from the facility by residents on pass.

6. The provider shall ensure that any medication given to a resident for therapeutic and medical purposes is in accordance with the written order of a physician.

a. There shall be no standing orders for prescription medications.

b. There shall be standing orders, signed by the physician, for nonprescription drugs with directions from the physician indicating when he/she is to be contacted. Standing orders shall be updated annually by the physician.

c. Copies of all written orders shall be kept in the resident's file.

7. Proper disposal procedures shall be followed for all discontinued and outdated drugs and containers with worn, illegible or missing labels.

8. Drugs shall be stored under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation and security.

a. Drugs used externally and drugs taken internally shall be stored on separate shelves or in separate cabinets.

b. All drugs, including refrigerated drugs, shall be kept under lock and key.

9. The provider using psychotropic medications on a regular basis shall have a written description of the use of psychotropic medications including:

a. a description of procedures to ensure that medications are used as ordered by the physician for therapeutic purposes and in accordance with accepted clinical practice;

b. a description of procedures to ensure that medications are used only when there are demonstrable benefits to the resident unobtainable through less restrictive measures;

c. a description of procedures to ensure continual physician review of medications and discontinuation of

medications when there are no demonstrable benefits to the resident;

d. a description of an ongoing program to inform residents, staff, and where appropriate, resident's parent(s) or legal guardian(s) on the potential benefits and negative side-effects of medications and to involve residents and, where appropriate, their parent(s) or legal guardian(s) in decisions concerning medication.

10. All compounding, packaging, and dispensing of drugs, biologicals, legend and controlled substances shall be accomplished in accordance with Louisiana law and Board of Pharmacy regulations and be performed by or under the direct supervision of a registered pharmacist currently licensed to practice in Louisiana.

11. Dispensing of prescription legend or controlled substance drugs direct to the public or resident by vending machines is prohibited.

12. Current and accurate records shall be maintained on the receipt and disposition of all scheduled drugs. An annual inventory, at the same time each year, shall be conducted for all Schedule I, II, III, IV and V drugs.

13. Medications are to be dispensed only upon written orders, electromechanical facsimile, or oral orders from a physician or other legally authorized prescriber, and be taken by a qualified professional.

14. All drug containers shall be labeled to show at least the resident's full name, the chemical or generic drug's name, strength, quantity and date dispensed unless a unit dose system is utilized. Appropriate accessory and cautionary statements as well as the expiration date shall be included.

15. Drugs and biologicals that require refrigeration shall be stored separately from food, beverages, blood, and laboratory specimens.

16. Drug administration errors, adverse drug reactions, and incompatibilities shall be immediately reported to the attending physician. An entry shall be made in the resident's record.

17. Abuses and losses of controlled substances shall be reported to the individual responsible for pharmaceutical services, the administrator, the Louisiana Board of Pharmacy, DHH Controlled Dangerous Substances Program and to the Regional Drug Enforcement Administration (DEA) office, as appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:69 (January 2004).

§9083. Delivery of Services

A. The PRTF shall have an on-going plan, consistent with available community and PRTF resources, to provide or make available social work, psychological and educational services to meet the medically related needs of its residents.

B. Arrangement of Residents into Groups

1. The provider shall arrange residents into groups that effectively address the needs of the residents.

2. All residents shall have an opportunity to build relationships within small groups.

3. Residents shall be involved in decision making regarding the roles and routines of their living group to the degree possible considering their level of functioning.

4. No more than 15 residents shall be in a group or unit.

5. The PRTF shall have a distinct unit for minors.

6. Groups shall be separated by gender.

C. Individual Plan of Care Developed by a Team of Professionals. The team shall be composed of physicians and other personnel who are employed by, or who provide services to patients in the facility. The team must be capable of assessing the recipient's immediate and long-range therapeutic needs, personal strengths and liabilities, potential resources of the recipient's family, capable of setting treatment objectives, and prescribing therapeutic modalities to achieve the plan's objectives.

1. The team must include, as a minimum, either:

a. a board-certified or board-eligible psychiatrist; or

b. a licensed clinical psychologist who has a doctoral degree and a physician licensed to practice medicine or osteopathy; or

c. a physician licensed to practice medicine or osteopathy with specialized training and experience in the diagnosis and treatment of mental diseases and a psychologist who has a master's degree in clinical psychology.

2. The team must also include one of the following:

i. a psychiatric social worker;

ii. a registered nurse with specialized training or one year of experience in treating mentally ill individuals;

iii. a licensed occupational therapist with specialized training, or one year of experience in treating mentally ill individuals; or

iv. a psychologist who has a master's degree in clinical psychology.

3. The plan shall be developed in consultation with the recipient and parents, legal guardians, or others in whose care he/she will be released after discharge.

4. Content. The individual plan of care is a written plan developed for each recipient to improve the recipient's condition to the extent that inpatient care is no longer necessary. The plan must:

a. be based on a diagnostic evaluation that includes examination of the medical, psychosocial, social, behavioral, and developmental aspects of the recipient's situation and reflects the need for PFTF services, including:

i. diagnoses, symptoms, complaints, and complications indicating the need for admission;

ii. a description of the functional level of the individual;

iii. any orders for medication and diet;

iv. restorative, social and rehabilitation services;

v. treatment objectives;

vi. an integrated program of therapies, activities, and experiences designed to meet the objectives;

vii. plans for continued care, as appropriate; and

viii. post-discharge plans and coordination of inpatient services with partial discharge plans and related community services to ensure continuity of care with the recipient's family, school, and community upon discharge.

5. The plan of care must be reviewed every 30 days or as often as necessary by the team of professionals.

D. The provider shall ensure that any provider of professional or special services (internal or external to the agency) meets the following:

1. are adequately qualified and, where appropriate, currently licensed or certified according to state or federal law;

2. have adequate space, facilities and privacy;

3. have appropriate equipment;

4. have adequate supplies;

5. have appropriate resources.

E. Discharge Planning. The PRTF shall also have an effective, on-going discharge planning program that facilitates the provision of follow-up care. Each resident's record shall be annotated with a note regarding the nature of post PRTF care arrangements. Discharge planning shall be initiated in a timely manner. Residents, along with necessary medical information (e.g., the resident's functional capacity, nursing and other care requirements, discharge summary, referral forms) shall be transferred or referred to appropriate facilities, agencies or services, as needed, for follow-up or ancillary care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:70 (January 2004).

§9085. Resident Rights and Grievance Procedure

A. Every resident shall have the following rights, none of which shall be abridged by the PRTF or any of its staff. The PRTF administrator shall be responsible for developing and implementing policies to protect resident rights and to respond to questions and grievances pertaining to resident rights. These rights shall include at least the following:

1. every resident, or his/her designated representative, shall whenever possible, be informed of the resident's rights and responsibilities in advance of furnishing or discontinuing resident care;

2. the right to have a family member, chosen representative and/or his or her own physician notified promptly of admission to the PRTF;

3. the right to receive treatment and medical services without discrimination based on race, age, religion, national origin, sex, sexual preferences, handicap, diagnosis, ability to pay or source of payment;

4. the right to be treated with consideration, respect and recognition of their individuality, including the need for privacy in treatment;

5. the right to receive, as soon as possible, the services of a translator or interpreter, if needed, to facilitate communication between the resident and the PRTF's health care personnel;

6. the right to participate in the development and implementation of his/her plan of care;

7. every resident or his/her representative (as allowed by state law) has the right to make informed decisions regarding his/her care;

8. the resident's rights include being informed of his/her health status, and being involved in care planning and treatment;

9. the right to be included in experimental research only when he/she gives informed, written consent to such participation, or when a guardian provides such consent for an incompetent resident in accordance with appropriate laws and regulations. The resident may refuse to participate in experimental research, including the investigations of new drugs and medical devices;

10. the right to be informed if the PRTF has authorized other health care and/or educational institutions to participate in the resident's treatment. The resident shall also have a right to know the identity and function of these institutions;

11. the right to be informed by the attending physician and other providers of health care services about any continuing health care requirements after the resident's discharge from the PRTF. The resident shall also have the right to receive assistance from the physician and appropriate PRTF staff in arranging for required follow-up care after discharge;

12. the right to consult freely and privately with his/her parent(s) or legal guardian(s);

13. the right to consult freely and privately with legal counsel, as well as the right to employ legal counsel of his/her choosing;

14. the right to make complaints without fear of reprisal;

15. the opportunity for telephone communication;

16. the right to send and receive mail;

17. the right to possess and use personal money and belongings, including personal clothing;

18. the right to visit or be visited by family and friends subject only to reasonable Rules and to any specific restrictions in the resident's treatment plan. Special restrictions shall be imposed only to prevent serious harm to the resident. The reasons for any special restrictions shall be recorded in the resident's treatment plan;

19. the right to have the individual resident's medical records, including all computerized medical information, kept confidential;

20. the right to access information contained in his/her medical records within a reasonable time frame;

21. the right to be free from all forms of abuse and harassment;

22. the right to receive care in a safe setting;

23. the right to be informed in writing about the PRTF's policies and procedures for initiation, review and resolution of resident complaints;

24. the provider shall ensure that each resident has access to appropriate educational services consistent with the resident's abilities and needs, taking into account his/her age and level of functioning;

25. the provider shall have a written description regarding the involvement of the resident in work including:

a. description of any unpaid tasks required of the resident;

b. description of any paid work assignments including the pay scales for such assignments;

c. description of the provider's approach to supervising work assignments;

d. assurance that the conditions and compensation of such work are in compliance with applicable state and federal laws;

e. all work assignments shall be in accordance with the resident's treatment plan;

f. the provider shall assign as unpaid work for the resident only housekeeping tasks similar to those performed in a normal family home. Any other work assigned shall be compensated, at such rate and under such conditions as the

resident might reasonably be expected to receive for similar work in outside employment;

26. the provider shall have a written plan for insuring that a range of indoor and outdoor recreational and leisure opportunities are provided for residents. Such opportunities shall be based on both the individual interests and needs of the resident and the composition of the living group;

a. the provider shall be adequately staffed and have appropriate recreation spaces and facilities accessible to residents;

b. any restrictions of recreational and leisure opportunities shall be specifically described in the treatment plan, together with the reasons such restrictions are necessary and the extent and duration of such restrictions;

27. every resident shall be permitted to attend religious services in accordance with his/her faith. Residents shall not be forced to attend religious services;

28. the provider shall have a program to ensure that residents receive training in independent living skills appropriate to their age and functioning level. This program shall include instruction in:

a. hygiene and grooming;

b. laundry and maintenance of clothing;

c. appropriate social skills;

d. housekeeping;

e. budgeting and shopping;

f. cooking; and

g. punctuality, attendance and other employment related matters;

29. the provider shall ensure services in the following areas to meet the specialized needs of the resident:

a. physical/occupational therapy;

b. speech pathology and audiology;

c. psychological and psychiatric services; and

d. social work services;

30. in addition to the rights listed herein, residents have the rights provided in the Louisiana Mental Health Law.

B. Resident rights regarding the use of restraint or seclusion. In addition to the resident rights listed above in this §9085, every resident shall have the following rights regarding the use of restraint or seclusion in the PRTF.

I. Protection of Residents

a. Restraint and seclusion policy for the protection of residents.

i. Each resident has the right to be free from restraint or seclusion, of any form, used as a means of coercion, discipline, convenience, or retaliation.

ii. An order for restraint or seclusion must not be written as a standing order or on an as-needed basis.

iii. Restraint or seclusion must not result in harm or injury to the resident and must be used only:

(a). to ensure the safety of the resident or others during an emergency safety situation; and

(b). until the emergency safety situation has ceased and the resident's safety and the safety of others can be ensured, even if the restraint or seclusion order has not expired;

iv. Restraint and seclusion must not be used simultaneously.

b. Emergency Safety Intervention. An emergency safety intervention must be performed in a manner that is

safe, proportionate, and appropriate to the severity of the behavior, and the resident's chronological and developmental age, size, gender, physical, medical, and psychiatric condition and personal history (including any history of physical or sexual abuse).

2. Orders for the Use of Restraint or Seclusion

a. Orders for restraint or seclusion must be by a physician, or other licensed practitioner permitted by the state and the facility to order restraint or seclusion and trained in the use of emergency safety interventions. Federal regulations at 42 CFR 441.151 require that inpatient psychiatric services for recipients under age 21 be provided under the direction of a physician.

b. If the resident's treatment team physician is available, only he/she can order restraint or seclusion. If the resident's treatment team physician is unavailable, the physician covering for the treatment team physician can order restraint or seclusion. The covering physician must meet the same requirements for training and experience described in Subparagraph a. of this Paragraph 2.

c. A physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion must order the least restrictive emergency safety intervention that is most likely to be effective in resolving the emergency safety situation based on consultation with the staff.

d. If the order for restraint or seclusion is verbal, the verbal order must be received by a registered nurse or other licensed staff such as a licensed practical nurse, while the emergency safety intervention is being initiated by the staff or immediately after the emergency safety situation ends. The physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion must verify the verbal order in a signed written form in the resident's record. The physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion must be available to the staff for consultation, at least by telephone, throughout the period of the emergency safety intervention.

e. Each order for restraint or seclusion must:

i. be limited to no longer than the duration of the emergency safety situation; and

ii. under no circumstances exceed four hours for residents ages 18 to 21; two hours for residents ages 9 to 17; or one hour for residents under age 9.

f. Within one hour of the initiation of the emergency safety intervention a physician, or other licensed practitioner trained in the use of emergency safety interventions and permitted by the state and the facility to assess the physical and psychological well being of residents, must conduct a face-to-face assessment of the physical and psychological well being of the resident, including but not limited to:

i. the resident's physical and psychological status;

ii. the resident's behavior;

iii. the appropriateness of the intervention measures; and

iv. any complications resulting from the intervention.

g. Each order for restraint or seclusion must include:

i. the name of the ordering physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion;

ii. the date and time the order was obtained; and

iii. the emergency safety intervention ordered, including the length of time for which the physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion authorized its use.

h. Staff must document the intervention in the resident's record. That documentation must be completed by the end of the shift in which the intervention occurs. If the intervention does not end during the shift in which it began, documentation must be completed during the shift in which it ends. Documentation must include all of the following:

i. each order for restraint or seclusion as required in Subparagraph g of this Paragraph 2;

ii. the time the emergency safety intervention actually began and ended;

iii. the time and results of the one-hour assessment required in Subparagraph f of this Paragraph 2;

iv. the emergency safety situation that required the resident to be restrained or put in seclusion; and

v. the name of staff involved in the emergency safety intervention.

i. The facility must maintain a record of each emergency safety situation, the interventions used, and their outcomes.

j. The physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion must sign the restraint or seclusion order in the resident's record as soon as possible.

3. Consultation with Treatment Team Physician. If a physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion orders the use of restraint or seclusion, that person must contact the resident's treatment team physician, unless the ordering physician is in fact the resident's treatment team physician. The person ordering the use of restraint or seclusion must:

a. consult with the resident's treatment team physician as soon as possible and inform the team physician of the emergency safety situation that required the resident to be restrained or placed in seclusion; and

b. document in the resident's record the date and time the team physician was consulted.

4. Monitoring of the Resident in and Immediately after Restraint

a. Clinical staff trained in the use of emergency safety interventions must be physically present, continually assessing and monitoring the physical and psychological well-being of the resident and the safe use of restraint throughout the duration of the emergency safety intervention.

b. If the emergency safety situation continues beyond the time limit of the order for the use of restraint, a registered nurse or other licensed staff, such as a licensed practical nurse, must immediately contact the ordering physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion to receive further instructions.

c. A physician, or other licensed practitioner permitted by the state and the facility to evaluate the resident's well-being and trained in the use of emergency

safety interventions, must evaluate the resident's well-being immediately after the restraint is removed.

5. Monitoring of the Resident in and Immediately after Seclusion

a. Clinical staff, trained in the use of emergency safety interventions, must be physically present in or immediately outside the seclusion room, continually assessing, monitoring, and evaluating the physical and psychological well-being of the resident in seclusion. Video monitoring does not meet this requirement.

b. A room used for seclusion must:

i. allow staff full view of the resident in all areas of the room; and

ii. be free of potentially hazardous conditions such as unprotected light fixtures and electrical outlets.

c. If the emergency safety situation continues beyond the time limit of the order for the use of seclusion, a registered nurse or other licensed staff, such as a licensed practical nurse, must immediately contact the ordering physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion to receive further instructions.

d. A physician, or other licensed practitioner permitted by the state and the facility to evaluate the resident's well-being and trained in the use of emergency safety interventions, must evaluate the resident's well-being immediately after the resident is removed from seclusion.

6. Notification of Parent(s) or Legal Guardian(s). If the resident is a minor as defined in this Chapter:

a. the facility must notify the parent(s) or legal guardian(s) of the resident who has been restrained or placed in seclusion as soon as possible after the initiation of each emergency safety intervention;

b. the facility must document in the resident's record that the parent(s) or legal guardian(s) has been notified of the emergency safety intervention, including the date and time of notification and the name of the staff person providing the notification.

7. Time Out Application

a. A resident in time out must never be physically prevented from leaving the time out area.

b. Time out may take place away from the area of activity or from other residents, such as in the resident's room (exclusionary), or in the area of activity or other residents (inclusionary).

c. Staff must monitor the resident while he/she is in time out.

8. Post Intervention Debriefings

a. Within 24 hours after the use of restraint or seclusion, staff involved in an emergency safety intervention and the resident must have a face-to-face discussion. This discussion must include all staff involved in the intervention except when the presence of a particular staff person may jeopardize the well-being of the resident. Other staff and the resident's parent(s) or legal guardian(s) may participate in the discussion when it is deemed appropriate by the facility. The facility must conduct such discussion in a language that is understood by the resident's parent(s) or legal guardian(s). The discussion must provide both the resident and staff the opportunity to discuss the circumstances resulting in the use of restraint or seclusion and strategies to be used by the staff,

the resident, or others that could prevent the future use of restraint or seclusion.

b. Within 24 hours after the use of restraint or seclusion, all staff involved in the emergency safety intervention, and appropriate supervisory and administrative staff, must conduct a debriefing session that includes, at a minimum, a review and discussion of:

i. the emergency safety situation that required the intervention, including a discussion of the precipitating factors that led up to the intervention;

ii. alternative techniques that might have prevented the use of the restraint or seclusion;

iii. the procedures, if any, that staff are to implement to prevent any recurrence of the use of restraint or seclusion; and

iv. the outcome of the intervention, including any injuries that may have resulted from the use of restraint or seclusion.

c. Staff must document in the resident's record that both debriefing sessions took place and must include in that documentation the names of staff who were present for the debriefing, names of staff that were excused from the debriefing, and any changes to the resident's treatment plan that resulted from the debriefings.

9. Medical Treatment for Injuries Resulting from an Emergency Safety Intervention

a. Staff must immediately obtain medical treatment from qualified medical personnel for a resident injured as a result of an emergency safety intervention.

b. The psychiatric residential treatment facility must have affiliations or written transfer agreements in effect with one or more hospitals approved for participation under the Medicaid program that reasonably ensure that:

i. a resident will be transferred from the facility to a hospital and admitted in a timely manner when a transfer is medically necessary for medical care or acute psychiatric care;

ii. medical and other information needed for care of the resident in light of such a transfer, will be exchanged between the institutions in accordance with state medical privacy law, including any information needed to determine whether the appropriate care can be provided in a less restrictive setting; and

iii. services are available to each resident 24 hours a day, seven days a week.

c. Staff shall document in the resident's record, all injuries that occur as a result of an emergency safety intervention, including injuries to staff resulting from that intervention.

d. Staff involved in an emergency safety intervention that results in an injury to a resident or staff shall meet with supervisory staff and evaluate the circumstances that caused the injury and develop a plan to prevent future injuries.

C. Grievance Procedure for Residents

1. The provider shall have a written grievance procedure for residents designed to allow residents to make complaints without fear of retaliation.

2. The provider shall document that the resident and the resident's parent(s) or legal guardian(s) are aware of and understand the grievance procedure.

3. The provider shall document the resolution of the grievance in the resident's record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 30:71 (January 2004).

David W. Hood
Secretary

0401#086

RULE

Department of Public Safety and Correction Corrections Services

Access to and Release of Active and Inactive Records? Adult (LAC 22:I.101)

The Department of Public Safety and Corrections, Corrections Services, in accordance with R.S. 15:823, and the Administrative Procedure Act, R.S. 49:950 et seq., hereby repeals the current LAC 22:I.101, Records of Adult Offenders and Ex-Offenders, in its entirety and adopts LAC 22:I.101, Access to and Release of Active and Inactive Records.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 1. Secretary's Office

§101. Access to and Release of Active and Inactive Records

A. Purpose. To establish the secretary's policy and procedures for access to and release of active and inactive inmate records.

B. Applicability. This regulation applies to all persons employed by the department and those who are under contract with the department. The assistant secretary/office of adult services, all wardens-adult and the director of probation and parole-adult are responsible for implementing this regulation and conveying its contents to all affected persons.

C. Definitions

Application for Pardon or Parole? for the purpose of this regulation, an *application for pardon or parole* is defined as any time that an inmate has made an *application for pardon or parole*, (including medical parole) or has been released on diminution of sentence (Good Time Parole Supervision-GTPS).

Law Enforcement Agencies? those agencies designed to enforce federal, state or municipal laws and who receive public funds as their primary source for operation, i.e., sheriff's offices, local and state police departments, departments of corrections, U.S. attorneys, district attorneys, and the Federal Bureau of Investigation (FBI).

Sex Offender, Serial Sexual Offender, Sexually Violent Predator, Child Predator? inmates committed to the Department for a crime listed in R.S. 15:536 and 15:541. (See Paragraph N.1, List of Sex Offenses.)

D. Release of Information and Records

1. The pre-sentence investigation report, the pre-parole report, the clemency report, the information and data gathered by the staffs of the Board of Pardons and Board of Parole, the prison record, and any other information obtained by the Boards or Corrections Services, in the discharge of official duties shall be confidential and shall not be subject to public inspection nor be disclosed directly or indirectly to anyone except as in accordance with this regulation.

2. Following an *application for pardon and parole*, all information pertaining to an individual's misconduct while incarcerated, statistical information, information pertaining to disposition of criminal charges and incarcerations, and information of a general nature including an individual's age, offense, date of conviction, length of sentence, any correspondence by a public official which requests, or may be determined to be in support of, or in opposition to, the pardon or parole of an individual, and discharge date shall be released to the general public at any time upon request.

NOTE: This provision shall not apply to any public official correspondence which requests, or may be determined to be in support of, or in opposition to, the pardon or parole of an individual, which was received prior to August 15, 1997.

3. An inmate's DOC number and assigned location may be released without restriction.

4. Except as noted below, any communication with the Board of Pardons or Board of Parole urging parole, pardon, clemency, or commutation of sentence or otherwise regarding an inmate shall be deemed a public record and subject to public inspection.

a. Exception. Any letter written by, or on behalf of, any victim of a crime committed by an inmate under consideration for parole, pardon, clemency, or commutation of sentence, or any letter written in opposition to pardon, clemency, or commutation of sentence shall be confidential and shall not be deemed a public record and subject to public inspection. This exception shall not apply to any elected or appointed public official.

5. Information on a particular inmate may be released without special authorization, subject to other restrictions that may be imposed by federal law or by other provisions of state law, to the following:

- a. Board of Parole;
- b. Board of Pardons;
- c. governor;
- d. sentencing judge;
- e. district attorneys;
- f. *law enforcement agencies*;

g. Department of Public Safety and Corrections personnel, including legal representatives and student workers;

h. appropriate governmental agencies or public officials, when access to such information is imperative for the discharge of the responsibilities of the requesting agency, official or court officer and the information is not reasonably available through any other means; and

i. court officers with court orders specifying the information requested.

6. Fingerprints, photographs, and information pertaining to arrests and disposition of criminal charges, as well as information regarding escapes may be released to law enforcement agencies without special authorization.

7. The secretary or his designee may approve the reading (but not copying) of confidential information by the following:

- a. social service agencies assisting in the treatment of the inmate or ex-offender; and
- b. approved researchers who have guaranteed in writing anonymity of all subjects.

8. The secretary or his designee may approve the selective reading (but not copying) of information by a private citizen or organization aiding in the rehabilitation of, or directly involved in the hiring of, the inmate or ex-offender under the following conditions:

- a. it appears that the withholding of the information would be to the inmate's or ex-offender's disadvantage;
- b. the requested information is necessary to further the rehabilitation or the likelihood of hiring the inmate or ex-offender;
- c. the requested information is not reasonably available through other means; and
- d. the inmate or ex-offender has given his written consent to release the information.

NOTE: Each unit will develop and use a "release of information consent form" for this purpose prior to the release of information and a copy will be placed in the inmate's record.

E. Release of Information on Sex Offenders

1. In addition to information which may be released pursuant to Subsection D, criminal history record information regarding sex offenders, serial sexual offenders, sexually violent predators and child predators which pertains to a conviction for which an inmate is currently sentenced to the department's custody may be disseminated without restriction.

2. For the purpose of this regulation, criminal history record information includes the following:

- a. date and parish of conviction;
- b. offense;
- c. docket number;
- d. sentence; and
- e. release dates.

3. A written record pertaining to the dissemination of criminal history record information on sex offenders (see Paragraph N.1, List of Sex Offenses) shall be maintained at the unit level. The record shall contain the following information:

- a. to whom the criminal history record information was disseminated;
 - b. the date the information was disseminated;
 - c. the individual to whom the information relates;
- and
- d. a brief description of the information disseminated.

4. The written record pertaining to the dissemination of criminal history record information on sex offenders shall be retained for a period of not less than one year.

F. Release of Information to Crime Victims

1. Both the information contained in a Victim Notice and Registration Form and the fact that a notification request has been made are confidential. Any questions from outside the department about whether particular persons have requested notification or whether there has been a notification request for particular inmates should be referred to the Crime Victims Services Bureau.

2. Information may be released to victims, witnesses, and others directly injured by the criminal acts of persons under the state's authority in accordance with Department Regulation No. C-01-007 "Crime Victims Services Bureau."

G. Subpoenaed Records

1. Whenever records of an inmate or ex-offender are subpoenaed, they shall be submitted to the appropriate court for a ruling as to whether the information should be turned over to the party who caused the subpoena to be issued. The court shall make this determinate in camera. If the court makes any one of the following determinations, the information shall be withheld:

- a. the information is not relevant to the proceedings; or
- b. the information was derived from communications which were obviously made in the confidence that they would not be disclosed; or
- c. the confidentiality is essential to the future useful relations between the source and the recorder of the information.

2. Should the court authorize disclosure of the records in accordance with the subpoena, the party who caused the subpoena to be issued shall pay a fee for the cost of production of the records in accordance with R.S. 39:241 (see Department Regulation No. A-03-003 "Collection of Fees for Reproduction of Public Records"), unless the court determines that the party has been granted pauper status in accordance with law.

H. Records Not Subpoenaed Submitted to the Courts for Review. The department reserves the right to submit any record to the appropriate court for a ruling as to whether the information should be turned over to the party requesting the information.

I. Access and Release of Medical Records. Access to and release of medical records is governed by Health Care Policy No. HC-33 "Inmate Medical Records."

J. Department's Access to Information and Records of Other Agencies. During the course of any investigation which the department is authorized by law to conduct, or which is necessary for the rehabilitation of persons in the custody of the department, the department shall have access to information and records under the control of any state or local agency which are reasonably related to the rehabilitation of the inmate.

K. Inmate Access to Records. Information contained in the inmate's record shall be confidential and shall not be released to the inmate except in accordance with this regulation.

1. An inmate may have access to his Master Prison Record, a sentence computation worksheet, any court documents that are related to the term of his instant incarceration, non-confidential unusual occurrence reports, disciplinary reports, information related to educational achievements and participation.

2. An inmate may view and make notes of his State Police and/or FBI rap sheet, but shall not be given a copy.

3. An inmate shall not have access to another inmate's active or inactive records.

4. The following is a non-exhaustive list of additional information that will not be accessible to the inmate:

- a. pre-sentence reports;
- b. post-sentence reports;

- c. pre-parole reports;
- d. clemency investigations;
- e. information revealing or tending to reveal the identity of confidential informants;
- f. admission summary;
- g. correspondence from any non-departmental source directed solely to prison officials;
- h. correspondence or inquiries originated by institutional personnel;
- i. investigations conducted by non-departmental agencies, i.e., District Attorney, State Police, FBI, etc.;
- j. investigations conducted by Corrections Services;
- k. non-disciplinary court-related institutional investigations; and
- l. correspondence from victims or witnesses, including Victim Notice and Registration Forms.

5. Each institution shall establish procedures for inmates to follow when requesting copies of documents from their records and the fees charged for such copies.

L. Information Requests. Verbal requests for information are acceptable. However, the secretary or his designee reserves the right to require a written request before releasing any information. In that case, the individual or agency must certify in writing that they will not release the information to any other agency.

M. Fees. The fee schedule for copies of public records is established in Department Regulation No. A-03-003 "Collection of Fees for Reproduction of Public Records."

N.1. List of Sex Offenses

- a. 14:41 Rape
- b. 14:42 Aggravated Rape
- c. 14:42.1 Forcible Rape
- d. 14:43 Simple Rape
- e. 14:43.1 Sexual Battery
- f. 14:43.2 Aggravated Sexual Battery
- g. 14:43.3 Oral Sexual Battery
- h. 14:43.5 Intentional Exposure of AIDS Virus
- i. 14:78 Incest
- j. 14:78.1 Aggravated Incest
- k. 14:80 Felony Carnal Knowledge of a Juvenile
- l. 14:80.1 Misdemeanor Carnal Knowledge of a Juvenile
- m. 14:81 Indecent Behavior with Juveniles
- n. 14:81.1 Pornography Involving Juveniles
- o. 14:81.2 Molestation of a Juvenile
- p. 14:89 Crime against Nature
- q. 14:89.1 Aggravated Crime against Nature
- r. 14:92(A)(7) Contributing to the Delinquency of Juvenile
- s. 14:93.5 Sexual Battery of the Infirm
- t. 14:283(E) Video Voyeurism

2. A conviction for any offense provided in the above list includes a conviction for an equivalent offense under the laws of another state.

3. A conviction for the attempt of the above offenses shall be considered as a sex offender for the purpose of this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:7, 15:540-542, 15:546-548, 15:549(C), 15:574.12, 15:840.1, C.Cr.P. Art. 877 and 894.1.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of the Director, LR 2:107 (April 1976), amended by the Department of Public Safety and Corrections, Corrections Services, LR 30:75 (January 2004).

Richard L. Stalder
Secretary

0401#046

RULE

**Department of Public Safety and Correction
Corrections Services**

**Access to and Release of Active and
Inactive Records? Juvenile (LAC 22:I.102)**

The Department of Public Safety and Corrections, Corrections Services, in accordance with R.S. 15:823, and the Administrative Procedure Act, R.S. 49:950, et seq., hereby adopts LAC 22:I.102, Access to and Release of Active and Inactive Records-Juvenile.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 1. Secretary's Office

**§102. Access to and Release of Active and Inactive
Records? Juvenile**

A. Purpose. To establish the secretary's policy and procedures for access to and release of records of active and inactive juvenile records.

B. Applicability. This regulation applies to all persons employed by the department and those who are under contract with the department. The deputy secretary, assistant secretary of the Office of Youth Development, wardens of juvenile facilities, and the probation and parole program director/juvenile are responsible for implementing this regulation and conveying its contents to all affected persons.

C. Definition

Law Enforcement Agencies? those agencies designed to enforce federal, state or municipal laws and who receive public funds as their primary source for operation, i.e., sheriff's offices, local and state police departments, departments of corrections, state attorneys general, U.S. attorneys, district attorneys, and the Federal Bureau of Investigation.

D. Release of Information and Records

1. All information obtained on a juvenile shall be confidential and shall not be subject to public inspection or be disclosed directly or indirectly to anyone except in accordance with this regulation. None of the provisions contained herein are intended to restrict the ability of the department to provide any contract facility with full and complete information on any juvenile housed therein.

2. Generally, written consent by the juvenile, parent or guardian or attorney of record is required before a person may be granted access to the juvenile's case files. Access includes viewing the record and receiving copies of documents from a juvenile's record.

3. Release of Initial Documents to Attorney (Initial Contact? No Attorney Client Relationship Yet). Upon receipt

of a completed written consent form executed by the juvenile (see Subsection M), the institution may provide copies of the following information to an attorney who has met with the juvenile and requested information:

- a. JIRMS Master (JPRNMAASA);
- b. disciplinary reports for the quarter;
- c. court documents;
- d. time computation worksheet;
- e. custody classification/reclassification for the preceding two quarters;
- f. a listing of programs completed including alcohol/drug abuse education. However, no acknowledgment of the juvenile's alcohol/ drug abuse treatment may be given.

4. Release of Records upon Establishment of Attorney Client Relationship. An attorney client relationship sufficient to allow release of a juvenile's record is established upon the occurrence of the following:

- a. juveniles age 18 and older:
 - i. receipt of a written consent form executed by the juvenile (see Subsection N) of his intent to be represented by the attorney named therein;
- b. juveniles under age 18:
 - i. in order to release information from the record of a juvenile, the institution will require receipt of a written consent form (see Subsection O) executed by the parent/guardian of the juvenile; or
 - c. alternatively, release may also be accomplished through the occurrence of all of the following:
 - i. juvenile has affirmed his intent through execution of a written document to enter into an attorney client relationship with a particular attorney or law firm and a release form is executed by the juvenile which allows general access by the attorney to the juvenile's record (see Subsection N). Additionally, if the juvenile intends to allow release of records pertaining to education, alcohol/drug abuse treatment or HIV/AIDS status, the juvenile must execute a specific confidentiality waiver for each individual category of documents; and
 - ii. receipt by the institution housing the juvenile of a copy of the letter written by the attorney, notifying the juvenile's parent/guardian that the juvenile has requested the attorney to represent him. The letter must contain language directing the parent/guardian to notify the institution or the court of juvenile jurisdiction, should the parent object to the representation and/or access to records; and
 - iii. receipt of postal "Proof of Mailing" verifying that the letter in Clause D.4.c.i. above has been mailed to the parent/guardian; and
 - iv. receipt of a written statement made by the attorney attesting that he/she has made efforts to contact the parent/guardian; and
 - v. at least 10 business days have elapsed since receipt by the institution of all documents listed in Clause D.4.c.i. through iv above, and the parent/guardian has not voiced an objection. Once the attorney client relationship is established whether through a consent form executed by the parent/guardian or through the provision of documents required in Clause D.4.c.i through v above, the documents shall be filed in the juvenile's case file at Clip 8. Establishment of the attorney client relationship shall also be entered in the JIRMS.

5. Information on a particular juvenile may be released without special authorization, subject to other restrictions that may be imposed by federal law or by other provisions of state law, to the following:

- a. Board of Parole;
- b. Board of Pardons;
- c. governor;
- d. sentencing judge;
- e. counsel for a juvenile in a delinquency matter;
- f. district attorneys;
- g. *law enforcement agencies*;
- h. Department of Public Safety and Corrections personnel, including legal representatives and student workers;
 - i. appropriate governmental agencies or public official, when access to such information is imperative for the discharge of the responsibilities of the requesting agency, official or court officer and the information if not reasonably available through any other means; and
 - j. court officers with court orders specifying the information requested.

6. Fingerprints, photographs, and information pertaining to arrests and disposition of delinquent offenses, as well as information regarding escapes may be released to *law enforcement agencies* without special authorization.

7. The secretary or his designee may approve the reading of information to the following:

- a. social services agencies assisting in the treatment of juvenile;
- b. appropriate governmental agencies or officials;
- c. approved researchers who have guaranteed in writing anonymity of all subjects.

8. The secretary or his designee may approve selective reading (but not copying) of information by a private citizen or organization aiding in the rehabilitation of, or being directly involved in the hiring of, the juvenile under the following conditions, when:

- a. it appears that the withholding of the information would be to the juvenile's disadvantage;
- b. the requested information is necessary to further the rehabilitation or the likelihood of hiring the juvenile;
- c. the requested information is not reasonably available through other means;
- d. the juvenile or his parent or guardian has given written consent for the release of information.

E. Release of Information to Crime Victims

1. Both the information contained in a Victim Notice and Registration Form and the fact that a notification request has been made are confidential. Any questions from outside the department about whether particular persons have requested notification or whether there has been a notification request for particular juveniles should be referred to the Crime Victims Services Bureau.

2. Information may be released to victims, witnesses, and others directly injured by the criminal acts of persons under the state's authority in accordance with Department Regulation No. C-01-007 "Crime Victims Services Bureau."

F. Subpoenaed Records

1. Whenever the records of a juvenile are subpoenaed, they shall be submitted to the appropriate court for a ruling as to whether the information should be turned over to the

party who caused the subpoena to be issued. The court shall make this determinate in camera. If the court makes any one of the following determinations, the information shall be withheld:

- a. the information is not relevant to the proceedings; or
- b. the information was derived from communications which were obviously made in the confidence that they would not be disclosed; or
- c. the confidentiality is essential to the future useful relations between the source and the recorder of the information.

2. Should the court authorize disclosure of the records in accordance with the subpoena, the party who caused the subpoena to be issued shall pay a fee for the cost of production of the records in accordance with R.S. 39:241 (see Department Regulation No. A-03-003 "Collection of Fees for Reproduction of Public Records"), unless the court determines that the party has been granted pauper status in accordance with law.

G Records Not Subpoenaed Submitted to the Courts for Review. The department reserves the right to submit any record to the appropriate court for a ruling as to whether the information should be turned over to party requesting information.

H. Access to and Release of Medical Records. Refer to Department Regulation No. B-06-001J "Health Care" and LSUHSC JCP Policies J/HC-RT 02-01 and 05-01 for specifics governing access to and release of medical records.

I. Department's Access to Information and Records of Other Agencies. During the course of any investigation which the department is authorized by law to conduct, or which is necessary for the rehabilitation of persons in the custody or under the supervision of the department, the department shall have access to information and records under the control of any state or local agency which is reasonably related to the rehabilitation of the juvenile.

J. Juvenile Access to Records. Information contained in the juvenile's record shall be confidential and shall not be released to him except in accordance with the following.

1. A juvenile may, upon request, have access to his JIRMS Master (JPRNMASA); a time computation worksheet; any court documents that are related to his incarceration; disciplinary reports; custody classification/reclassification and case plan.

2. A juvenile shall not have access to another juvenile's record.

3. The following is a list of additional information that will not be accessible to the juvenile (This is not an exhaustive list.):

- a. disposition reports;
- b. social history;
- c. information revealing or tending to reveal the identity of a confidential informant;
- d. unusual occurrence reports;
- e. admission summary;
- f. correspondence from any non-corrections source directly solely to institutional officials;
- g. correspondence or inquiries originated by institutional personnel;

h. investigations conducted by non-departmental agencies (district attorney, state police, FBI, etc.);

- i. progress notes;
- j. progress reports to the court;
- k. investigations conducted by Corrections

Services; and

l. non-disciplinary court-related institutional investigations.

4. Each institution shall establish procedures for juveniles to follow when requesting copies of documents from their records and the fees charged for such copies.

K. Information Requests. Verbal requests to the department for information may be acceptable. However, the secretary or his designee reserves the right to require a written request before releasing any information. In that case, the individual or agency must certify in writing that they will not release the information to any other agency.

L. Fees. The fee schedule for copies of public records is established in Department Regulation No. A-03-003 "Collection of Fees for Reproduction of Public Records."

M. Consent for Release of Initial Information to Attorney

**CONSENT FOR RELEASE OF
INITIAL INFORMATION TO ATTORNEY**

My name is _____. My date of birth is _____. I am in the custody of the Louisiana Department of Public Safety and Corrections and housed at _____ Correctional Center for Youth.

I talked and met with _____, an attorney at law. I want this attorney and the law firm _____ to have copies of my JIRMS Master (JPRNMASA), disciplinary reports for the quarter, court documents, time computation worksheet, custody classification/reclassification for the two preceding quarters, and a listing of programs I have completed.

Date

Signature

Witness

N. Statement of Representation and Release of Records

**STATEMENT OF REPRESENTATION AND
RELEASE OF RECORDS**

My name is _____. My date of birth is _____. I am in the custody of the Louisiana Department of Public Safety and Corrections and housed at _____ Correctional Center for Youth.

I want to have _____, an attorney at law, represent me.

I give my consent for my record to be copied or looked at by this attorney. This includes records contained in my medical file, mental health information and social history.

I understand that if I want to release certain records to my attorney I must waive my rights of confidentiality specifically as to those records.

_____ By placing my initials here I am confirming that I want to waive my rights as to psychological and psychiatric

documents, including but not limited to evaluations, reports and progress notes.

_____ By placing my initials here I am confirming that I want to waive my rights to confidentiality as to these particular records and allow my attorney to view/copy my **education** records.

_____ By placing my initials here I am confirming that I want to waive my rights to confidentiality as to these particular records and allow my attorney to view/copy any **alcohol/drug treatment** information which might be in my record.

_____ By placing my initials here I am confirming that I want to waive my rights to confidentiality as to these particular records and allow my attorney to view/copy any **HIV/AIDS** information which might be in my record.

Date

Signature

Witness

O. Parent/Guardian Consent to Release of Juvenile Records

PARENT/GUARDIAN CONSENT TO RELEASE OF JUVENILE RECORDS

I, _____, parent/guardian of _____, a juvenile in the custody of the Louisiana Department of Public Safety and Corrections, do hereby give my consent to release the records of my child to _____, the attorney representing him/her.

I hereby authorize the above-named attorney to view/receive copies of my child's records. I understand that included in my child's records are social, family -history and medical/mental health information.

Further, I have initialed below where it is my intention to waive my child's confidentiality and specifically authorize release to his/her attorney the following named documents.

_____ By placing my initials here I am confirming that I intend to waive my child's rights as to psychological and psychiatric documents, including but not limited to evaluations, reports and progress notes.

_____ By placing my initials here I am confirming that I intend to waive my child's rights to confidentiality and allow the attorney to view/copy my child's **education** records.

_____ By placing my initials here I am confirming that I intend to waive my child's rights to confidentiality and allow the attorney to view/copy any **alcohol/drug abuse treatment** information which might be in my child's record.

_____ By placing my initials here I am confirming that I intend to waive my child's rights to confidentiality and allow the attorney to view/copy any **HIV/AIDS** information which might be in my child's record.

Date

Signature

Witness

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.12, 15:840.1, 15:909, 39:241, C.Cr.P. Art. 875, and Ch.C.Art. 412.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 30:77 (January 2004).

Richard L. Stalder
Secretary

0401#047

RULE

**Department of Public Safety and Corrections
Corrections Services**

**Youth Placement Review Process
(LAC 22:I.312)**

In accordance with the Administrative Procedure Act, R.S. 49:953(B), and in order to comply with the Legislative mandates in Act 1225 of the 2003 Regular Session, the Department of Public Safety and Corrections, Corrections Services, has adopted the Youth Placement Review Process, Department Regulation No. B-02-012, effective September 15, 2003.

**Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 3. Adult and Juvenile Services

Subchapter A. General

§312. Youth Placement Review Process

A. Purpose. To establish the secretary's policy regarding periodic placement reviews of all youth in the custody of the department in order to determine whether the youth is placed in the least restrictive placement most appropriate to their needs and consistent with the circumstances of the case and the protection of the best interests of society and the safety of the public within the state.

B. Applicability. Assistant Secretary of the Office of Youth Development, wardens of juvenile facilities, Probation and Parole Director/Juvenile, and Probation and Parole District Managers.

C. Policy. Notwithstanding the provisions of any other regulation to the contrary, it is the secretary's policy, in accordance with R.S. 15:902.3, to authorize a periodic placement review process whereby all youth in the department's custody are screened in a multi-disciplinary placement review process. Following an initial review of all custody cases, the review for secure care shall occur no less than quarterly and in conjunction with custody reclassifications. For non-secure programs, the review shall occur in conjunction with semi -annual placement reviews or upon successful completion of the placement program. The review will determine whether the youth is placed in the setting most appropriate to their needs consistent with public safety interests, based upon a formal criteria established through department policy.

D. Definitions

Adjudication? after the presentation of evidence, or the entering of a plea, the entering of a judgment by the court which indicates whether the facts as alleged in the petition forming the basis of the action have been proven, i.e.

whether the family is in need of services or the child committed the delinquent act.

Aftercare? the control, supervision and care exercised over a youth upon exit from a secure facility or non-secure residential program into the community.

Louisiana Children's Code Article 897.1? requires that juveniles who are adjudicated delinquent for any of six most serious violent crimes (first degree murder, second degree murder, aggravated rape, aggravated kidnapping, armed robbery, and treason) must remain in a secure environment until the disposition ends. Except for armed robbery, dispositions rendered under provisions of this Article must extend until the 21st birthday.

Fourteen Legal Days? fourteen calendar days except when the 14th day ends on a weekend or legal holiday. When this occurs, the period extends to the close-of-business on the next day that is not a weekend or legal holiday. The 14-day timeframe begins the day after the filing of a legal document with the court.

Non-Secure Non-Residential Program? provides rehabilitative services to a youth who resides at home. The youth may receive the services in his home or at a central location to which he reports daily. Youth served may be in custody or on probation or parole.

Non-Secure Residential Program? provides housing, supervision and rehabilitative care for youth in the custody of the department primarily between the ages of 12-17. These facilities are usually characterized by a lack of physical security such as perimeter fences, security locks and controlled access to the facility.

Secure Care? facilities for adjudicated delinquents providing treatment and education characterized by facility design including such things as perimeter fences, security locks, supervision, and staff control that restricts on a 24-hour basis the ability of residents to enter or leave the premises.

YouthCARE? system wide positive behavior management program based upon principals of adolescent growth and development.

E. Placement review process of non-secure care youth

1. Youth in non-secure residential programs will be reviewed to determine the appropriateness of transition to a less restrictive setting. Screening criteria to be used in identifying youth to be reviewed are as follows:

- a. in a residential program five months or more; or
- b. FINS adjudication regardless of length of time in a residential program.

2. A review team in each Probation and Parole district office will review cases which meet the above criteria. The review team will consist of, but not be limited to, the following individuals:

- a. district manager;
- b. residential facility representative;
- c. placement officer from district of origin;
- d. treatment provider as necessary;
- e. unbiased individual;
- f. youth; and
- g. youth's parent/guardian.

3. The review will consist of discussion and evaluation of the youth's progress and needs in the areas of:

- a. educational/vocational needs/progress;
- b. medical concerns;

- c. mental health concerns;
- d. general treatment needs/progress in the areas of substance abuse, anger management, cognitive behavior, etc.;
- e. behavioral concerns;
- f. home environment;
- g. review of community risk assessment;
- h. aftercare plans;
- i. special needs concerns (i.e. SMI, low cognitive abilities, special education disabilities, psychotropic medication needs);
- j. availability of services to address needs, especially special needs youth;
- k. most recent case staffing findings; and
- l. availability of services in the community.

4. A determination of the appropriate course of action regarding the youth's placement will be made by the participants. Once a determination is reached, the plan will be developed. Following the review, if the recommendation is to transition the youth into a less restrictive setting, the DYS district office will submit a motion to modify disposition to the appropriate attorney for review and signing. The motion will then be returned to the DYS for filing with the clerk of court and submission to the court. The motion shall include the following:

- a. recommendation;
- b. relevant documentation supporting the recommendation, including, but not limited to, the risk and needs assessments; and
- c. aftercare plan.

5. The court will have fourteen legal days to do one of the following:

- a. make no response during the fourteen day period, in which case the District Office shall proceed with the recommendation;
- b. reject the recommendation and deny the motion;
- c. notify the department in writing that there is no objection and accept the motion as orders of the court; or
- d. schedule a future hearing and issue an order rejecting, modifying, or accepting the recommendation after the hearing.

6. All motions will be delivered to the clerk of court and a copy of the stamped motion will be obtained for Probation and Parole records. At the same time that the motion is submitted to the court, the appropriate sheriff's office and any registered crime victim, if applicable, shall also be notified.

7. Each Probation and Parole district office will maintain a document listing all youth who met the criteria for review for transition to a less restrictive setting. This document will include the results of the review and the rationale for the recommendation.

F. Placement Review Process of Secure Care Youth

1. Youth currently in secure care will be reviewed to determine the appropriateness of a transfer to a less restrictive setting. The placement criteria process will be conducted at each facility through a multi-disciplinary team activity that will take into consideration multiple aspects of the youth's classification profile to determine if the youth is placed in the most appropriate setting.

2. The team will be composed of the following individuals:

- a. deputy warden, chairperson;
- b. education;
- c. dorm security;
- d. program manager;
- e. youth's case manager;
- f. LSUHSC staff (if needed);
- g. treatment provider (if needed);
- h. DYS representative (via phone conference);
- i. youth;
- j. youth's parent/guardian(s) (in person, via phone conference, and/or prior interview).

3. The multi-disciplinary review process will include a thorough review and assessment of the youth's needs, strengths and weaknesses. At a minimum, the multi-disciplinary team will consider the following prior to recommending placement:

- a. educational/vocational needs/progress;
- b. medical concerns;
- c. mental health concerns;
- d. general treatment needs/progress in the areas of substance abuse, anger management, cognitive behavior, etc.;
- e. behavioral concerns;
- f. level of participation in YouthCARE;
- g. home environment;
- h. custody level (both prior and present);
- i. review of community risk assessment;
- j. proposed aftercare/release plans;
- k. special needs concerns (i.e. SMI, low cognitive abilities, special education disabilities, psychotropic medication needs);
- l. availability of services to address needs, especially special needs youth; and
- m. most recent secure custody screening document (must have been done within the last year).

4. A schedule of the multi-disciplinary review activities will be issued by the deputy warden and disseminated to all department heads and team members. In an effort to better promote parental/guardian input, the case manager will make telephone contact and/or formal written correspondence with the youth's parent/guardian about the scheduled date and approximate time of the multi-disciplinary activity. If any member of the multi-disciplinary team is not represented at the staffing, written comments or reports shall be used in the staffing to ensure education, medical, mental health, recreation and security activities are considered.

5. A determination of the appropriate course of action regarding the youth's placement will be made by the participants. Once a determination is reached, the plan will be developed. Following the review, if the recommendation is to transition the youth into a less restrictive setting, the DYS District Office will submit a motion to modify disposition to the appropriate attorney for review and signing. The motion will then be returned to the DYS office for filing with the clerk of court and submission to the court. The motion shall include the following:

- a. recommendation;
- b. relevant documentation supporting the recommendation, including, but not limited to, the risk and needs assessments; and
- c. aftercare plan.

6. The court will have fourteen legal days to do one of the following:

- a. make no response during the fourteen day period, in which case the district office shall proceed with the recommendation;
- b. reject the recommendation and deny the motion;
- c. notify the department in writing that there is no objection and accept the motion as orders of the court; or
- d. schedule a future hearing and issue an order rejecting, modifying, or accepting the recommendation after the hearing.

7. All motions will be delivered to the clerk of court and a copy of the stamped motion will be obtained for Probation and Parole records. At the same time that the motion is submitted to the court, the appropriate sheriff's office and any registered crime victim, if applicable, shall also be notified.

8. Each Probation and Parole district office will maintain a document listing all youth who met the criteria for review for transition to a less restrictive setting. This document will include results of the review and the rationale for the recommendation.

G. Quality assurance. A copy of all screening forms, as well as multi-disciplinary team review forms, are to be maintained for a period of three years as a component of system quality assurance.

H. Procedures. Refer to Attachment A for Risk Screening Document and Attachment B for Secure Screening/Data Collection Form.

I. The effective date of this regulation is September 15, 2003.

Office of Youth Development
Risk Screening Document

Offender: _____ Date of Current Rating: _____ JIRMS# _____
Most Serious Present Adj. Offense: _____ Date of Disposition: _____

1.	<u>Age at First Adjudication</u>	<u>Score</u>
	Age 12 or younger	(10)
	Age 13	(07)
	Age 14	(05)
	Age 15 or older	(02)
2.	<u>Severity of Present Adjudicated Offense</u>	
	High Severity: L. R. S. 14.2, and Ch. C. Art 897.1	(10)
	Moderate Severity: All other felonies	(06)
	Low Severity: All misdemeanors and FINS	(03)
3.	<u>Most Serious Prior Adjudicated Offense</u>	
	High Severity (see above)	(05)
	Moderate Severity (see above)	(03)
	Low Severity (see above)	(01)
	No Prior Adjudicated Offense record	(00)
4.	<u>Number of Prior Adjudications</u>	
	Four or more Felony adjudications	(10)
	Three Felony or four or more Misdemeanor offenses	(05)
	Two Felony grade offenses or three Misdemeanor offenses	(03)
	One Felony or two Misdemeanors/FINS adjudications	(01)
	One prior misdemeanor or one Prior FINS or No Prior Adjudications	(00)
5.	<u>History of Probation or Parole Supervision or DPS&C Custody</u>	
	Current	(02)
	Within past 12 months	(01)
	No Prior History of Supervision or Custody	(00)
6.	<u>Number of Out-of-Home Placements</u>	
	Non-Secure	Secure
	Three or more	or One or more
	One or Two	
	No Prior Out-of-Home Placement(s)	(00)
7.	<u>Prior Escapes or Runaways</u>	
	From a Secure facility (more than once)	(03)
	From a Secure facility (1) or Non-Secure (2 or more times)	(02)
	From a Non-Secure facility once (1)	(01)
	No Prior Escapes or Runaways	(00)
	Total Score	_____

Supervision Level based on above score:

Level	Assessment
Red	12 and above
Yellow	11 and Lower

Administrative/Case Review Report

Identifying Information

Youth's Name:
Youth's Date of Birth:
Petition Number(s) for CNF or CND:

Placing District:
Placing District PPO:

Review

Date of Initial Placement:
Date of Initial Plan:

Date of Last Review: N/A
Date of Current Review:

Facility Information

Name of Facility:
Address:

Phone Number:

Reason Youth Entered Care: Placement History:

Judicial Determination

Was court recommendation regarding placement followed? Yes No

If no, why not?

Was Judicial Determination of Reasonable Efforts documented? Yes No

If no, why not?

Criteria For Placement

Did the Psychological Evaluation recommend Non-secure Placement? Yes No

If no, explain:

Change In Placement

Has there been a change in placement since the last review? Yes No

If yes: Date of Current Placement:

Date Written Notification sent to Court:

Explain Reason for Change in Youth's Placement:

Appropriateness of Placement

Discuss appropriateness of services provided at this facility, which match this youth's specific needs, as identified in the Psychological Evaluation or Individual Service Plan:

Is Facility a Safe Setting in the best interests and needs of the youth? Yes No

Is the Facility Licensed by DSS, Bureau of Licensing? Yes No

If no, explain:

Is the Facility monitored by the Office of Youth Development as per Department Regulation C-05-003?

Yes No

Date of last monitoring:

Close Proximity

Is this the closest facility available, which best meets the needs of this youth? Yes No

If no, explain:

Least Restrictive

Is this the least restrictive environment available which best meets the youth's specific needs?

Yes No

If no, explain:

Identify Previous Need Areas

- | | |
|--|--|
| <input type="checkbox"/> Family | <input type="checkbox"/> Peer Relationships |
| <input type="checkbox"/> Drug Use | <input type="checkbox"/> Employment |
| <input type="checkbox"/> Alcohol Use | <input type="checkbox"/> Sexual History |
| <input type="checkbox"/> Emotional Stability | <input type="checkbox"/> Physical Health |
| <input type="checkbox"/> School/Education | <input type="checkbox"/> Independent Living Skills |

Current Need Areas

Family

Youth's Current Status:
Discussion of Progress Towards Meeting Goals:
Measurement of Progress:
Explain:

Drug Use

Youth's Current Status:
Discussion of Progress Towards Meeting Goals:
Measurement of Progress:
Explain:

Alcohol Use

Youth's Current Status:
Discussion of Progress Towards Meeting Goals:
Measurement of Progress:
Explain:

Emotional Stability

Youth's Mental Health Diagnosis:
Youth's Current Status:
Discussion of Youth's Psychotropic Medications:
Discussion of Progress Towards Meeting Goals:
Measurement of Progress:
Explain:

School/Education

Name of School: Type:

Is the current IEP (Individual Education Plan) in the file? Yes No

Youth's Current Status - Performance/Grades:
Youth's Current Status - Attendance:
Youth's Current Status - Behavior/Discipline:
Discussion of Progress Towards Meeting Goals:
Measurement of Progress:
Explain:

Peer Relationships

Youth's Current Status:
Discussion of Progress Towards Meeting Goals:
Measurement of Progress:
Explain:

Employment

Youth's Current Status:
Discussion of Progress Towards Meeting Goals:
Measurement of Progress:
Explain:

Sexual History

Youth's Current Status:
Discussion of Progress Towards Meeting Goals:
Measurement of Progress:
Explain:

Physical Health

Has there been a change in Medical/Dental Providers since last Kid Med form? Yes No

Youth's Current Status:
Discussion of Youth's Non-Psychotropic Medications and Immunizations in last six months:
Is the current Immunization Record in the file? Yes No

Discussion of Progress Towards Meeting Goals:
Measurement of Progress:

Independent Living Skills (if youth is/will be 16 before next review)

Youth's Current Status:

Briefly Describe the Independent Living Services Provided by the Facility:
Discussion of Progress Towards Meeting Goals:
Measurement of Progress:

Measurement of Progress

Number of Need Areas Completed:
Number of New Need Areas:
Number of Remaining Need Areas:

Permanency Plan

Hearing Scheduled: at
Identify the Permanent Plan:
Return to Parent/Guardian:
Place with a relative:
Emancipation/Independent Living: Explain why:
Date Staffed with OCS for Termination of Parental Rights Prior to 11 Month Review:
If not, explain:

Visitation Plan

Is Visitation between the youth and Permanent Plan appropriate? Yes No

If No, why?

Has the facility Visitation Plan been discussed with the Permanent Plan? Yes No

If No, why?

Does the youth participate in Home Passes with the Permanent Plan? Yes No

Discussion of the Home Passes:
Discussion of Family Visits at Facility:

Panel's Recommendation regarding Continued Need for Placement

The Compelling Reason why this youth continues to require placement:
Projected Release Date:

Comments

Youth:

Family:

Facility:

PPO:

Other:

Signatures are attached.

	Signatures	Notified	Attended	Date
Youth		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
Parent/Guardian		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
Parent/Guardian		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
Facility Representative		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
PPO		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
Supervisor/DM		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
Program Specialist		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
Others:		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
Administrative Review Panelist		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	

If any party failed to be notified of review, explain:
 If any party has not, or refuses to sign, explain:

SECURE SCREENING/DATA COLLECTION FORM

YOUTH: _____ **JIRMS:** _____ **DORM:** _____

HISTORY: Prior and Present Custody Levels

Minimum Medium Maximun Date: _____

Minimum Medium Maximun Date: _____

Minimum Medium Maximun Date: _____

Secure Custody Screening Document

Total Score: _____ Date: _____

OFFENSE: _____ **FTD:** _____

IS YOUTH 897.1? Yes No

DATE OF COMMITMENT: _____ **DATE OF LAST QUARTERLY STAFFING:** _____

NUMBER OF SCHEDULE B VIOLATION FOUND TO BE VALID _____

PRIOR MODIFICATIONS: Yes No

*If yes, provide narrative (include date, specifics about modification, response by court)
Attach a copy*

IS YOUTH MAKING ADEQUATE PROGRESS IN MEETING GOALS OF IIP? Yes No

Explanation of Response: _____

ONE ON ONE INTERVIEW WITH YOUTH: **DATE:** _____

SUMMARY OF MEETING : _____

PHONE CONTACT WITH PARENT: Yes No

PHONE NUMBER _____ (IF NO PHONE, WAS NOTIFICATION OF STAFFING SENT TO PARENT/GUARDIAN?)

PARENTAL CONCERNS: _____

Case Manager *Date*

Note: *If the youth is an 897.1 youth, has less than 45 days to his/her full term date, had 10 or more validated schedule B violations, or has been in secure care for less than 90 days **do not complete** the CRM form. For all other youth, the CRM form is to be completed prior to the multi-disciplinary staffing.*

AUTHORITY NOTE: Promulgated in accordance with Act 1225 of the 2003 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 30:80 (January 2004).

Richard L. Stalder
Secretary

0401#057

RULE

Department of Public Safety and Corrections Gaming Control Board

Promotions (LAC 42:VII.2953; IX.2922; and XIII.2953)

The Louisiana Gaming Control Board amends LAC 42:VII.2953, IX.2922, XIII.2953 in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42 LOUISIANA GAMING

Part VII. Pari-Mutuel Live Racing Facility Slot Machine Gaming

Chapter 29. Operating Standards

§2953. Promotions

A. - D. ...

E. Any promotional program involving a giveaway of prizes or drawing for cash or prizes shall incorporate the following elements.

1. Only persons 21 years of age and older shall be eligible to participate.

2. Entry forms required in drawings open to the general public shall be displayed in a prominent manner inside the casino.

3. No payment or purchase of anything of value, including chips or tokens from the casino or any other business, shall be required for participation in any giveaway or drawing, nor shall there be a requirement to pay an entry fee.

F. ...

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 26:768 (April 2000), amended LR 27:1555 (September 2001), LR 30:90 (January 2004).

Part IX. Landbased Casino Gaming

Subpart 1. Economic Development and Gaming Corporation

Chapter 29. Operating Standards Generally

§2922. Promotions

A. - D. ...

E. Any promotional program involving a giveaway of prizes or drawing for cash or prizes shall incorporate the following elements.

1. Only persons 21 years of age and older shall be eligible to participate.

2. Entry forms required in drawings open to the general public shall be displayed in a prominent manner inside the casino.

3. No payment or purchase of anything of value, including chips or tokens from the casino or any other business, shall be required for participation in any giveaway or drawing, nor shall there be a requirement to pay an entry fee.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:335 (February 2000), amended LR 27:1557 (September 2001), LR 30:90 (January 2004).

Part XIII. Riverboat Gaming

Subpart 2. State Police Riverboat Gaming Division

Chapter 29. Operating Standards

§2953. Promotions

A. - D. ...

E. Any promotional program involving a giveaway of prizes or drawing for cash or prizes shall incorporate the following elements.

1. Only persons 21 years of age and older shall be eligible to participate.

2. Entry forms required in drawings open to the general public shall be displayed in a prominent manner inside the casino.

3. No payment or purchase of anything of value, including chips or tokens from the casino or any other business, shall be required for participation in any giveaway or drawing, nor shall there be a requirement to pay an entry fee.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board LR 27:1558 (September 2001), LR 30:90 (January 2004).

Hillary J. Crain
Chairman

0401#056

RULE

Department of Revenue Policy Services Division

Withholding by Professional Athletic Teams
(LAC 61:I.1520)

In accordance with the Administrative Procedure Act, R.S. 47:1511 and R.S. 39:100.1(D) the Secretary of Revenue hereby adopts the following Rule.

This Rule is necessary to implement recent legislative changes to the Sports Facility Assistance Fund and to allow the Department of Revenue to effectively and efficiently attribute the income tax collected from nonresident professional athletes to the Sports Facility Assistance Fund.

Act 1203 of the 2001 Regular Session enacted R.S. 39:100.1, which created a fund in the state treasury called the Sports Facility Assistance Fund (the Fund). Each year, the treasurer must pay into the Fund an amount equal to the

income tax collected by the state from nonresident professional athletes and professional sports franchises on income earned in Louisiana. The monies in the Fund are appropriated dollar-for-dollar to the owners of the facilities at which the money that generated the income tax was earned. The purpose of this Rule is to enable the Department of Revenue to collect income tax from nonresident professional athletes and to accurately attribute the income tax collected to the fund.

Act 119 of the 2003 Regular Session enacted R.S. 39:100.1(D) that authorized the Secretary of Revenue to prescribe regulations necessary to carry out the purposes of R.S. 39:100.1. This Rule will require periodic withholding for professional athletic teams domiciled outside Louisiana on their nonresident team members. It will also clarify that these teams are required to follow current withholding provisions for their team members who are residents of Louisiana.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 15. Income: Withholding Tax.

§1520. Withholding by Professional Athletic Teams

A. Definitions

Nonresident? any person not domiciled, residing in, or having a permanent place of abode in Louisiana.

Professional Athletic Team? a member team of a professional sports association or league.

Team Member? shall include those employees of a *professional athletic team* who are active players, players on the disabled list, and any other persons required to travel and who travels with and perform services on behalf of a *professional athletic team* on a regular basis. This definition includes, but is not limited to, coaches, managers, and trainers.

B. Withholding Requirement for *Nonresident Team Members*

1. *Professional Athletic Teams* not Domiciled in Louisiana

a. Any *professional athletic team* that is not domiciled in Louisiana and that pays compensation to a *nonresident* individual for services rendered to the team within Louisiana shall be deemed to be an employer making payment of wages and shall be required to withhold Louisiana individual income tax from that portion of the compensation for services rendered to the team attributable to "duty days" spent in Louisiana, as defined in LAC 61:I.1304(I), for each game played in Louisiana.

b. This Section does not alter the *professional athletic team's* withholding requirements for *team members* who are residents of Louisiana. The withholding for these *team members* must be as provided for in R.S. 47:111.

2. *Professional athletic teams* with a Louisiana domicile. *Professional athletic teams* that are domiciled in Louisiana must withhold for all *team members* as provided for in R.S. 47:111.

3. This Section does not alter any *professional athletic team member's* requirement to file the income tax schedule required under LAC 61:I.1305.

C. Rate of Withholding. The withholding tax rate under this Section shall be 4.2 percent of the compensation attributable to "duty days" spent in Louisiana.

D. Due Date of Withholding Return and Payment. A withholding return and payment must be submitted for each game played in Louisiana. The withholding return and payment must be submitted on or before the last day of the month following the month in which the game was played.

E. Account Numbers

1. Each *professional athletic team* not domiciled in Louisiana will be issued an identification number by the department.

2. The *professional athletic team* filing the withholding return must be clearly identified by name, address and Louisiana revenue account identification number. The team's federal employer identification number will not be accepted as a substitute. The withholding return will not be considered complete unless the team's Louisiana revenue account identification number is on the return.

F. Annual Reconciliation Schedule

1. All *professional athletic teams* that pay compensation to a *nonresident* individual for services rendered to the team within Louisiana must submit an annual withholding reconciliation schedule that includes a list of all *team members* who received Louisiana source income during the year. The list must include the following information:

a. the name, social security number, and permanent physical address of all *team members* regardless of residency, and

b. for each *nonresident team member*:

i. the total number of duty days spent with the team during the taxable year;

ii. the number of duty days spent in Louisiana;

iii. the total amount of compensation for services rendered to the team;

iv. the amount of compensation for services rendered to the team in Louisiana; and

v. the total amount deducted and withheld under this Section.

2. The annual reconciliation schedule is due on or before the first business day following February 27 of each year for the preceding calendar year. The secretary may grant a reasonable extension of time, not exceeding thirty days for the filing of the annual reconciliation schedule. The annual reconciliation schedule is not considered to be remitted until it is complete.

3. The permanent address listed on the annual reconciliation schedule will be presumed to be the residence of the *team member* for purposes of administering the Sports Facility Assistance Fund.

G. Penalty for Failure to Timely Remit Schedules and Payments

1. The following penalties will be imposed for failure to timely remit these returns, schedules, and payments.

a. In the case of failure to timely remit any return or schedule required by this Section, the penalty shall be five hundred dollars for the first such failure, one thousand dollars for the second such failure within the three-year period beginning on the due date of the first delinquent return or schedule, and two thousand five hundred dollars for each subsequent failure within the three-year period

beginning on the due date of the first delinquent return or schedule.

b. In the case of failure to timely remit any payment required by this Section, the penalty shall be five percent of the total payment due if the delinquency is for not more than thirty days, with an additional five percent for each additional thirty days or fraction thereof during which the delinquency continues, not to exceed fifty percent of the amount due.

H. Exception to Withholding Requirement under this Section

1. The secretary may grant an exception to withholding requirements under this Section to any *professional athletic team* not domiciled in Louisiana that agrees in writing to file team composite returns and remit composite payments as provided in LAC 61:I.1304(J).

2. The composite return and composite payment will be considered to be a return and payment required by the secretary to administer the provisions of the Sports Facility Assistance Fund.

3. This agreement will be binding on the secretary and the *professional athletic team* until it is revoked. Either party may revoke this agreement.

AUTHORITY NOTE: Adopted in accordance with R.S. 39:100.1, R.S. 47:164(D), R.S. 47:295, R.S. 47:1511, and R.S. 47:1602.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 30:91 (January 2004).

Cynthia Bridges
Secretary

0401#036

RULE

Department of Social Services Bureau of Licensing

Adult Residential Care Facility (LAC 48:I.8821)

The Department of Social Services, Office of the Secretary, Bureau of Licensing, has amended the Louisiana Administrative Code, Title 48, Part I, Subpart 3, Licensing and Certification, effective February 1, 2004.

This revision is mandated by Act 301 of the 2003 Regular Session requiring that all adult residential care homes provide for resident support during times of emergency and natural disasters.

Title 48

PUBLIC HEALTH? GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 88. Adult Residential Care Home

§8821. Resident Protection

A. - F.3. ...

a. evacuation of residents to safe or sheltered areas. Facilities must maintain services for residents in the event of an emergency or natural disaster. No facility may order residents to vacate the facility in advance of an approaching weather event, natural disaster or other emergency;

F.3.b. - H.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2151-2161, and Act 301 of the 2003 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 14:27 (January 1988), amended by the Department of Social Services, Bureau of Licensing, LR 24:2326 (December 1998), LR 30:92 (January 2004).

Gwendolyn P. Hamilton
Secretary

0401#060

RULE

Department of Social Services Office of the Secretary Bureau of Licensing

Transitional Living (LAC 48:I.Chapter 62)

The Department of Social Services, Office of the Secretary, Bureau of Licensing has amended the Louisiana Administrative Code, Title 48, Part I, Subpart 3, Licensing and Certification. These standards are being enacted per Act 726 of the 2001 Regular Session of the Legislature of Louisiana to include the Transitional Living Program. This Rule is mandated by R.S. 46:1451 et seq., and is effective February 1, 2004.

Title 48

PUBLIC HEALTH? GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 62. Transitional Living

§6201. Purpose

A. It is the intent of the legislature to provide for the care and to protect the health, safety, and well being of youths in the custody or formerly in the custody of the State of Louisiana, who are nearing the age of majority and who, by reason of age, are unlikely to be placed with foster families for adoption. The legislature recognizes that such youth are likely to remain in need of supervision and services, even after reaching the age of majority, to assist them in making the transition from child foster care to independent adulthood. It is the purpose of this policy to establish a system of licensed facilities to care for such persons up to the age of 22; to establish statewide minimum standards; to ensure the maintenance of those standards; and to regulate conditions in these facilities through a program of licensing and inspection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:92 (January 2004).

§6203. Authority

A. Act 726 of the 2001 Regular Session directs the Department of Social Services, Bureau of Licensing to develop and publish minimum standards for licensing transitional youth residences. The bureau shall review such standards and, if necessary, revise and amend them at least once every six years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:92 (January 2004).

§6205. Waivers

A. The secretary of the Department of Social Services may waive compliance with any standard if the intent of the standard is being met and if the health, safety, and well being of the persons in care are not affected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:93 (January 2004).

§6207. Application for Licensure

A. An application for a transitional youth residence license shall be made by the provider to:

Department of Social Services
Bureau of Licensing
P. O. Box 3078
Baton Rouge, LA 70821

B. There shall be an annual licensing fee of \$200 for each transitional youth residence caring for 6 or fewer youths; \$400 for each transitional youth residence caring for at least 7 but less than 11 youths; and \$600 for each transitional youth residence caring for 12 or more youths.

C. The Department of Social Services, Bureau of Licensing has the power to deny, revoke, or refuse to renew a license for a transitional youth residence if the applicant has failed to comply with the provisions of this policy.

D.1. Upon the refusal of the Bureau of Licensing to grant or renew a license or upon the revocation of a license, the applicant or licensee shall have the right to appeal such action by submitting a written request within 10 days of the receipt of the notification of the refusal or revocation to:

Bureau of Appeals
P. O. Box 2944
Baton Rouge, LA 70821

2. The appeal hearing shall be held no later than 30 days after the request.

E. Whoever operates a transitional youth residence without a valid license or in violation of this policy after being notified of such violation and being given an opportunity to correct such violation, shall be fined not less than \$75 or more than \$250 for each day of such offence. The Department of Social Services may file suit in the District Court for the parish in which the facility is located for injunctive relief.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:93 (January 2004).

§6209. Definitions

Abuse? the infliction of physical or mental injury on an individual by other parties, including but not limited to such means as sexual *abuse*, exploitation, or extortion of funds or other things of value, to such an extent that his/her health, self-determination, or emotional well-being is endangered.

Administrator? the owner or the manager designated by the governing body as responsible for the management, administration, and supervision of the program.

DSS? the Department of Social Services.

Documentation? written evidence or proof, signed and dated.

Human Services Field? psychology, sociology, special education, rehabilitation counseling, juvenile justice, corrections, nursing, etc.

Shall or Must? indicates mandatory standards.

Transitional Youth Residence? any communal or supervised independent living arrangement existing for the primary purpose of providing care for at least 2, but less than 20, youths living in individualized apartment units, alone or jointly with other youths, under the supervision, custody or control, directly or indirectly, of the Office of Community Services.

Transitional Youth Residence Program? a program of services, including counseling, guidance, vocational or education training, and supervision for youths living in transitional youth residences.

Transitional Living? a program to provide care, supervision, vocation and education training, guidance and counseling for youth between the ages of 16 and 21 in the custody or formerly in the custody of the Office of Community Services, living in their own apartments (congregate or individual) to assist them in making the transition to adult living.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:93 (January 2004).

§6211. Inspections

A. The Department of Social Services, Bureau of Licensing shall inspect at regular intervals not to exceed one year, or deemed as necessary by the bureau, and without prior notice, all transitional youth residence administrative offices subject to the provisions of this policy. The facility shall be open to inspection by authorized DSS personnel during working hours or at all times when youths are in care.

B. The bureau shall also investigate all complaints except those alleging abuse against a youth resident and those concerning the prevention and spread of communicable diseases. The bureau may take such action as is authorized in the law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:93 (January 2004).

§6213. General Requirements

A. A provider shall allow designated representatives of DSS in the performance of their mandated duties to inspect all aspects of a provider's functioning which impact the youth and to interview any staff member or youth.

B. A provider shall make available to DSS any information that the provider is required to have under the present requirements and any information reasonably related to assessment of compliance with these requirements.

C. A provider will furnish adequate space for the representatives of DSS to work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:93 (January 2004).

§6215. Governing Body

A. A provider shall have an identifiable governing body with responsibility for and authority over the policies and activities of the program. The provider, whether it is a corporation, partnership or association, shall identify the names and addresses of its members and officers and shall, where applicable, have a charter, partnership agreement, constitution, and articles of association or by-laws.

B. A provider shall have documents identifying all members of the governing body; their addresses; their terms of membership; any officers of the governing body; and terms of office of any officers.

C. When the governing body of a provider is composed of more than one person, the governing body shall hold formal meetings at least twice a year.

D. When the governing body is composed of more than one person, a provider shall have written minutes of all formal meetings of the governing body and by-laws specifying frequency of meetings and quorum requirements.

E. A private provider shall have documentation of its authority to operate under state law.

F. The provider's governing body shall:

1. ensure the provider's compliance and conformity with the provider's charter;
2. ensure the provider's continual compliance and conformity with all relevant federal, state, local and municipal laws and regulations;
3. ensure that the provider is adequately funded and fiscally sound;
4. review and approve the provider's annual budget;
5. designate a person to act as director and delegate sufficient authority to this person to manage the facility;
6. formulate and annually review, in consultation with the director, written policies concerning the provider's philosophy, goals, current services, personnel practices, and fiscal management;
7. annually evaluate the director's performance;
8. have the authority to dismiss the director;
9. meet with designated representatives of DSS whenever required to do so;
10. inform designated representatives of DSS prior to initiating any substantial changes in the services provided; and
11. ensure that the director or a person authorized to act on behalf of the director shall be accessible to staff or designated representatives of DSS at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:94 (January 2004).

§6217. Accounting

A provider shall not permit public funds to be paid, or committed to be paid, to any person to whom any of the members of the governing body, administrative personnel, or members of the immediate families of members of the governing body or administrative personnel have any direct or indirect financial interest, or in which any of these persons serve as an officer or employee, unless the services or goods involved are provided at a competitive cost or under terms favorable to the facility. The provider shall have a written disclosure of any financial transaction with the

facility in which a member of the governing body, administrative personnel, or his/her immediate family is involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:94 (January 2004).

§6219. Administrative Files

A. The provider shall maintain records that cover the basic administrative requirements of running a facility.

B. The administrative files shall include at least:

1. an organizational chart of the provider;
2. all leases, contracts and purchase-of-service agreements to which the provider is a party;
3. insurance policies issued in the name of the provider that include commercial comprehensive liability and coverage for any owned and non-owned vehicles utilized to transport clients;
4. annual budgets;
5. master list of all social service providers and other contractors used by the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:94 (January 2004).

§6221. Program Description

A. A provider shall have a written program description describing:

1. the overall philosophy and approach to supervised transitional living;
2. the long-term and short-term goals;
3. the types of youth best served;
4. the provider's approach to service planning;
5. ongoing programs available to the youth during placements; and
6. any living arrangements provided.

B. The provider must include a written description of direct services, support services, and services to be arranged to achieve the goals of the transitional living program.

1. Direct services shall include, but are not limited to, the following:

a. services related to education and vocational training e.g.: career planning; preparation for the GED or higher education; job readiness; job search assistance; job placement; job follow-up activities; vocational training; tutoring and other remedial education;

b. programs and services in basic independent living skills e.g.: money management; home management (housekeeping, etc.); consumer skills; identifying community resources; time management; communication skills; use of transportation; physical and mental health care; locating safe and stable housing; problem solving/decision making; sex education; menu planning and nutrition; cooking;

c. individual and/or group counseling as well as workshops and conferences to promote: self-esteem; self confidence; development of interpersonal and social skills; preparation for transition to independence and termination of services; after care.

2. Support services shall include, but not be limited to, the following: vocational assessment or training; GED

classes; preparation for college entrance exams; driver's education, if appropriate; counseling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:94 (January 2004).

§6223. Records

A. A provider shall ensure that all entries in records are legible, signed by the person making the entry, and accompanied by the date on which the entry was made.

B. All records shall be maintained in an accessible, standardized order and format and shall be retained and disposed of in accordance with state laws.

C. A provider shall have sufficient space, facilities and supplies for providing effective record keeping services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:95 (January 2004).

§6225. Confidentiality and Security of Files

A. A provider shall have a written policy and procedure for the maintenance and security of records specifying who shall supervise the maintenance of records, who shall have custody of records, and to whom records may be released. Records shall be the property of the provider and he/she, as custodian, shall secure records against loss, tampering, or unauthorized use.

B. A provider shall maintain the confidentiality of all youths' case records. Employees of the provider shall not disclose or knowingly permit the disclosure of any information concerning the youth or his/her family directly or indirectly, to any unauthorized person.

C. When the youth is of majority age or emancipated, a provider shall obtain the youth's written informed permission prior to releasing any information from which the youth or his/her family might be identified.

D. When the youth is a minor, a provider shall obtain written informed consent from the legally responsible person prior to releasing any information from which the youth might be identified.

E. A provider shall, upon request, make available information in the case record to the youth, the legally responsible person, or legal counsel of the youth.

F. A provider may use material from case records for teaching or research purposes, development of the governing body's understanding and knowledge of the provider's services, or similar educational purposes, provided that names are deleted and other identifying information are disguised or deleted.

G. A provider shall not release a personnel file without the employee's permission except in accordance with state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:95 (January 2004).

§6227. Staffing Requirements

A. There shall be a director responsible for the day-to-day administration of the program who has at least a bachelor's degree in a human service field, one year of experience relative to the population being served, and is at

least 21 years of age. Documentation of director's qualifications shall be on file.

B. There shall be a qualified professional who will have the responsibility for supervising the client's individual service plan. This person shall have at least a bachelor's degree in a human service field and one year of experience relative to the population served (one person can serve in the capacity as director and qualified professional).

C. A provider shall employ a sufficient number of qualified staff and delegate sufficient authority to such staff to carry out the responsibilities the provider undertakes and to adequately perform the following:

1. administrative functions;
2. fiscal functions;
3. clerical functions;
4. direct youth service functions;
5. supervisory functions;
6. record keeping and reporting functions;
7. social service functions;
8. ancillary service functions.

D. A provider shall ensure that all staff members are properly supervised, certified and/or licensed as legally required.

E. A provider shall ensure that there is staff immediately accessible to the youth 24 hours a day, 7 days a week.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:95 (January 2004).

§6229. Staff Plan and Practices

A. A provider shall have a written plan for recruitment, screening, orientation, on-going training, development, supervision, and performance evaluations of staff members.

B. There shall be written job descriptions for each staff position.

C. The provider shall have a written employee grievance procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:95 (January 2004).

§6231. Personnel File

A. A provider shall have a personnel file for each employee which shall contain:

1. the application for employment and/or résumé;
2. three reference letters from former employer(s) and personal references or phone notes on such references to assess applicant's qualifications;
3. criminal record clearance;
4. evidence of applicable professional credentials/certifications;
5. job description;
6. annual performance evaluations;
7. personnel actions, reports and notes relating to the individual's employment with the provider;
8. employee's starting and termination dates;
9. driver's license to operate a vehicle used to transport clients (if applicable).

B. The staff member shall have reasonable access to his/her file and shall be allowed to add any written statement he/she wishes to make to the file at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:95 (January 2004).

§6233. Orientation

A. A provider's orientation program shall provide at least 16 hours of training for all direct service workers within one week of the date of employment to include the following topics:

1. philosophy, organization, program, practices and goals of the provider;
2. instructions in the specific responsibilities for the employee's job;
3. implementation of the transitional living plan;
4. emergency and safety procedures including medical emergencies;
5. detecting and reporting suspected abuse and neglect;
6. reporting critical incidents;
7. rights of youth;
8. crisis de-escalation and management of aggressive behavior;
9. assistance with self-administration of medications;
10. universal precautions;
11. methods of facilitating youth development training;
12. issues of adolescents and young adults.

B. A new employee shall sign a statement of understanding certifying that such training has occurred.

C. A new employee shall not be given sole responsibility for the implementation of the service plan until training is completed.

D. Each employee having direct care responsibilities shall have current first aid certification that shall be obtained within the first 30 days of employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:96 (January 2004).

§6235. Training

A. A provider shall ensure that each direct service worker participated in an annual review of all the orientation topics.

B. Current first aid certification shall be obtained for employees having direct care responsibilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:0996 (February 2004).

§6237. Staff Communications

A. A provider shall establish procedures to assure adequate communication among staff to provide continuity of services to the youth. Written documentation shall be maintained.

B. Any employee of a provider working directly with youth in care shall have access to information from the youths' case records that is necessary for effective performance of the employee's assigned tasks.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:96 (January 2004).

§6239. External Professional Services

A. A provider shall, as necessary, give assistance to youth in obtaining any required professional services not available from employees of the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:96 (January 2004).

§6241. Admission Policy

A. A provider shall have a written description of an admission policy that shall include the following information:

1. written description of the admission criteria as provided to all placing agencies;
2. the age and sex of the youth to be served by the provider;
3. the needs, problems, situations or patterns best addressed by the provider;
4. pre-admission skills and other criteria for successful participation in and completion of the program; and
5. criteria for discharge as well as the termination of admission agreement.

B. A provider shall not refuse admission to any youth on the grounds of race, color, sex, religion, national origin, handicap, or any non-merit factor in accordance with all state and federal guidelines.

C. A provider shall not accept any youth whose needs cannot be adequately met by the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:96 (January 2004).

§6243. Service Agreement

A. The provider shall ensure that a written service agreement is completed prior to placement. A copy of the agreement, signed by the provider, the youth, if applicable the legally responsible party and all those involved in its formulation, shall be kept in the youth's record and a copy shall be available to DSS, the youth, and where appropriate, the legally responsible person.

B. The service agreement shall include:

1. a delineation of the respective roles and responsibilities of the provider and where applicable, the referring agency;
2. specification of all services to be provided including the plan for contact between the youth and provider staff;
3. facility rules that will govern continued participation in the transitional living program, and consequences of inappropriate behavior of youth while in care;
4. the provider's expectations concerning the youth and the youth's responsibility;
5. criteria for discharge;
6. specification of financial arrangements including any fees to be paid by the youth;

7. authorization to care for the youth;
8. authorization for medical care;
9. attendance and absences from the provider to also include curfew times; and
10. criteria for notifying the funding agency of any change of address of the youth and any significant change in the youth's life or program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:96 (January 2004).

§6245. Service Planning

A. A provider shall make every effort to ensure that service and program planning for each youth is a comprehensive process involving appropriate provider staff; representatives of the referring agency; where appropriate, representatives of other significantly involved agencies; the youth; where appropriate, the legally responsible person; and any other person significantly involved in the youth's life on an ongoing basis.

1. The director, qualified professional, or a designated staff who meets the director qualifications, shall be responsible for the coordination and development of the transitional living plan.

2. A provider shall ensure the youth is in attendance during the development of his/her transitional living plan.

B. Following acceptance of a youth, a provider shall conduct an assessment of his/her transitional living skills and annually thereafter. The assessment shall include the following:

1. life safety skills including ability to access emergency services, basic safety practices and evacuation of the living unit;
2. physical and mental health care; (i.e., health maintenance, scheduling physician appointments);
3. recognizing when to contact a physician;
4. money management, budgeting, and consumer awareness (i.e. paying bills, shopping, food management, sources of income, credit);
5. self-administration of medication;
6. stated purpose and possible side effects of medications prescribed for the youth and other common prescription and non-prescription drugs and other drug use;
7. career planning/career interests;
8. use of transportation (i.e. ability to access public transportation, learning to drive, obtaining insurance);
9. social skills;
10. daily living skills (i.e., housekeeping, cooking, personal appearance, and grooming skills);
11. vocational/job skills/job seeking skills (i.e., employment experience, training);
12. identifying community resources;
13. education (i.e., current grade level; education goals/expectations/plans);
14. locating housing;
15. problem solving/decision making;
16. time management (punctuality and attendance);
17. communication skills;
18. parenting skills;
19. legal issues, knowledge of legal rights; and
20. use of recreation and leisure time.

C. On the basis of the transitional living skill assessment, a provider shall, within one month of placement, formulate a transitional living plan for the youth. The plan shall include:

1. the youth's long term goals;
2. time-limited, measurable objectives addressing training in skill areas identified as needs;
3. the type and frequency of supervision needed;
4. the identification of roles and responsibilities of all persons involved (youth, provider, and others) in the implementation of the plan;
5. the life skills and the criteria necessary for achieving a successful discharge; and
6. the preliminary plan for discharge and aftercare.

D. The plan shall be reviewed monthly and shall be revised whenever necessary. A written progress report shall be completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:97 (January 2004).

§6247. Youth's Case Record

A. A provider shall have a written record for each youth that shall include:

1. the name, sex, race, birth date and birthplace of the youth; address of youth's current place of employment, school or other service providers;
2. other identification data including court status and legal status, identifying who is authorized to give consent;
3. youth's history including, where applicable, family data, educational background, employment record, prior medical history and prior placement history;
4. the service agreement;
5. written authorization signed by the youth or, when appropriate the legally responsible person for emergency medical care;
6. written authorization signed by the youth or, when appropriate the person legally responsible for managing the youth's money;
7. assessment of the youth's independent living skills;
8. a copy of the youth's individual service plan and any modifications or updates of the service plan;
9. monthly progress reports;
10. the names, addresses and phone numbers of the youth's physician and dentist;
11. psychological and psychiatric evaluation, if applicable;
12. dates of admission and discharge;
13. signed acknowledgement of rights and grievance procedures; and
14. incident reports.

B. A provider shall maintain health records on a youth including:

1. a description of any serious or life threatening medical condition of the youth;
2. a description of any medical treatment or medication necessary for the treatment of any serious or life threatening medical condition together with the provider's provisions for ensuring the youth's access to such medication or treatment;
3. current medications; and

4. report of general medical examination by a physician within a year prior to admission and annual exams; and

5. dental exams.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:97 (January 2004).

§6249. Accounting for Youth's Money

A. A provider shall have a written policy describing how they will manage the youth's money.

B. A provider shall only accept a youth's money when such management is mandated by the youth's service plan. The provider shall manage and account for money of youth who are minors.

C. Providers who manage youth's money shall maintain in the youth's file a complete record accounting for his/her money.

1. The provider shall maintain a current balance sheet containing all financial transactions to include the signature of staff and the youth for each transaction.

2. The money shall be kept in an individual account in the name of the youth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:98 (January 2004).

§6251. Supervision and Support

A. A provider shall have a written plan for providing support and supervision to youth in transitional living situations. This plan shall ensure:

1. regular contact between provider personnel and the youth daily and at least two face-to-face visits weekly in the youth's apartment. A youth may not be seen less than the above amount unless specified by his/her plan, which has been signed by the parent or legal guardian;

2. all contacts with the youth shall be documented; and

3. provisions for emergency access by youth to an appropriate provider staff member on a 24-hour basis.

B. A provider shall, through at least monthly visits by staff to the living situation, determine and document that:

1. there is no reasonable cause for believing that the youth's mode of life or living situation presents any unacceptable risks to the youth's health or safety;

2. the living situation is maintained in a clean and safe condition;

3. the youth is receiving any necessary medical care;

4. the current provider plan provides appropriate and sufficient services to the youth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:98 (January 2004).

§6253. Rights and Grievance Procedures for Youth

A. The provider shall have a written policy on youths' rights. A copy will be given to the youth to review and sign. The signature page will be maintained in the youth's record. The policy shall assure the youth:

1. are free from physical or psychological abuse or neglect, and from financial exploitation;

2. are able to consult freely and privately with his/her parent(s) or legal guardian(s);

3. are able to possess and use personal money and belongings;

4. are actively and meaningfully making decisions affecting his/her life;

5. are allowed to have privacy;

6. are allowed visits to and from his/her family and friends;

7. are not required to work without compensation;

8. are treated with dignity and respect;

9. are provided due process;

10. have access to records, including information about their finances;

11. participate in self-directed service planning which is developed and modified timely;

12. are provided adequate and appropriate assistance in meal planning;

13. shall not be deprived of any civil or legal rights, benefits, or privileges guaranteed by law or the Constitution of the United States;

14. shall not be denied admission to a program, segregated, or discriminated against on the basis of race, sex, handicap, creed, national background or ancestry, sexual orientation, political beliefs, or any other non-merit factor;

15. are provided access to professional and specialized services, as appropriate;

16. shall be free from mental, emotional, and physical abuse and neglect and assured that no chemical restraints will be used;

17. shall be allowed to participate in religious services in accordance with his/her faith, but shall not be forced to attend religious services;

18. shall be encouraged and assisted to exercise rights as a citizen; to voice grievances;

19. shall be free to consult with legal counsel of their choice;

20. are allowed to meet with representatives of the Bureau of Licensing as well as other state officials.

B. The provider shall have a written grievance policy and procedures for youth designed to allow them to make complaints without fear of retaliation. The youth shall be informed of the advocacy services available.

1. The provider shall make every effort to ensure that all youth are aware of and understand the grievance procedure.

2. The youth's records shall contain a record of any grievances and their resolutions.

C. The provider shall develop written procedures for a Youth Advisory Board consisting of youth representatives receiving services to provide feedback relative to program policies, practices, and services.

1. The Youth Advisory Committee shall be allowed to meet at least monthly.

2. The provider shall maintain documented minutes of the Youth Advisory Board and resolutions of problems addressed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:98 (January 2004).

§6255. Reporting of Critical Incidents and Abuse and Neglect

A. A provider shall have a written policy and procedures for the reporting and documentation of unusual incidents and other situations or circumstances affecting the health, safety or well being of the youth (i.e., accident or injury to the youth, unexplained overnight absences, death, fights or physical confrontations, suspected incidents of abuse or neglect, etc.).

1. Such procedures shall ensure timely verbal reporting to the director or designee and a preliminary written report within 24 hours of the incident.

2. Copies of all critical incident reports shall be kept as a part of the youth's record.

B. A provider shall have comprehensive written procedures concerning abuse and neglect to include provisions for:

1. training and maintaining staff awareness of abuse prevention, current definitions of abuse and neglect, reporting requirements and applicable laws;

2. ensuring that regulations for reporting critical incidents involving abuse and neglect are followed;

3. ensuring that the administrator completes an investigation report within 10 working days;

4. ensuring that the youth is protected from potential harassment during the investigation;

5. disciplining staff members who abuse or neglect youth; and

6. ensuring that the staff member involved does not work directly with the youth involved or any other youth in the program until the investigation is complete.

C. When and if an incident occurs, a detailed report of the incident shall be made. At a minimum, the incident report shall contain the following:

1. a brief description of the incident;

2. date and time the incident occurred;

3. where the incident occurred;

4. action taken as a result of the incident;

5. name and signature of the person who completed the report and the name(s) of person(s) who witnesses the incident; and

6. date and time and name of responsibility party notified.

D. In the event an incident results in the death of a youth, involves abuse or neglect of a youth, or entails any serious threat to the youth's health, safety or well being, the provider shall:

1. immediately report to the placing agency with a preliminary written report within 24 hours of the incident;

2. immediately notify the appropriate law enforcement authority in accordance with state law;

3. immediately notify the Bureau of Licensing and other appropriate authorities, according to state law, with written notification to the above agencies to follow within 24 hours of the suspected incident;

4. immediately notify to the family or representative of the youth, with written notification to follow within 24 hours;

5. provide follow-up written reports to all the above persons and agencies; and

6. document appropriate corrective action taken to prevent future incidents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:99 (January 2004).

§6257. Behavior Management

A. A provider shall have a written description of any behavior management strategies to be utilized.

B. No strategy shall deny any of the youth's rights unless approved by the individual plan of care.

C. The youth's record shall document that he/she has acknowledged receiving a copy of the behavior management strategies at admission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:99 (January 2004).

§6259. Transportation

A. A provider shall ensure that every vehicle used by provider staff to transport youth is properly maintained, inspected, licensed according to state laws, and insured.

B. Any youth who drives must be properly licensed to operate any vehicle which he/she drives and has the required insurance coverage. The youth's record must contain this documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:99 (January 2004).

§6261. Physical Environment

A. A provider shall ensure and document in the youth's record that any living situation selected by the provider for the use of youth is:

1. accessible to and functional for the youth, taking into consideration any handicapping condition or other disability of the youth;

2. free from any hazard to health or safety;

3. properly equipped with useable facilities for sleeping, food storage and preparation, sanitation, bathing, personal hygiene and household cleaning;

4. in compliance with applicable health, safety, sanitation and zoning codes. The provider shall, on request, allow DSS to inspect any living situation;

5. each resident shall have his or her own bed; and

6. living situations shall be equipped with operable smoke detectors and fire extinguishers.

B. A provider shall ensure and document in the youth's record that any youth placed in a transitional living situation selected by the provider has:

1. 24-hour access to a telephone;

2. access to transportation; and

3. access to any services mandated by the youth's service program plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:99 (January 2004).

§6263. Capacity

A. A provider shall ensure that no more than three youths are placed in an apartment utilized as a transitional living situation.

B. A provider who utilizes communal living arrangements (home situation) housing four or more must obtain fire and health approval.

C. A provider's arrangements for selecting youth and youth groups for a specific living situation shall make allowance for the needs of each youth for reasonable privacy and shall not conflict with the program plan of any resident of the living situation or with the overall philosophy of the provider.

D. No youth shall be placed together in a living situation except by mutual agreement between the youth. Signed agreements shall be maintained in each client's record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:99 (January 2004).

§6265. Emergency Procedures

A. The provider shall ensure the development of an emergency evacuation policy and safety plan for each client that is specific for location of the living unit in the event of a fire, natural or national disaster. The youth's record shall document that the youth has acknowledged receiving a copy of this policy and plan at admission.

B. A provider shall document that all youth are trained in emergency procedures within one week of admission. Such training shall include:

1. instruction in evacuation from the living situation;
2. instruction in contacting police, fire and other emergency services; and
3. instruction in fire and accident prevention.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:100 (January 2004).

§6267. Food Service

A. When meals are prepared in a central kitchen, the provider shall ensure that menus include the basic four food groups and each youth's nutritional needs are met. Menus shall be maintained on file for at least a month.

B. If youths develop and prepare their menus and meals, the provider shall give assistance to ensure nutritional standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:100 (January 2004).

§6269. Discharge

A. A provider shall have a written discharge policy detailing the reasons a youth may be discharged.

B. A provider shall, whenever possible, notify the placing agency and the youth's parent(s), tutor or curator as soon as possible or within five working days prior to the planned discharge of a youth.

C. A provider shall compile a complete written discharge summary immediately upon discharge; such summary to be included in the youth's record. When the youth is discharged to another agency, this summary must accompany the youth. This summary shall include:

1. a summary of services provided during involvement in the program;

2. a summary of growth and accomplishments during involvement;

3. the assessed needs which remain to be met and alternate service possibilities that might meet those needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:100 (January 2004).

Gwendolyn P. Hamilton
Secretary

0401#061

RULE

Department of Treasury Teachers' Retirement System

Management of DROP Accounts (LAC 58:III.503)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Trustees of Teachers' Retirement System of Louisiana has amended policies governing the Management of DROP Accounts, LAC 58:III.503 as follows.

Title 58

RETIREMENT

Part III. Teachers' Retirement System of Louisiana Chapter 5. Deferred Retirement Option Plan (DROP)

§503. Management of DROP Accounts

A. - B.2. ...

3. interest earnings will begin accruing the day after termination of DROP participation and will be compounded daily;

- a. members eligible to enter DROP prior to January 1, 2004, will have interest deposited to their DROP accounts once a year when the actuarially realized rate of return is approved by the Public Retirement System's Actuarial Committee. This interest will be equal to the approved actuarially realized rate of return less an administrative fee. Interest deposits will reflect the interest earned on the account during the previous fiscal year and will be entered on quarterly statements issued after this approval is obtained. No interest will accrue on the DROP account after the date the account has been liquidated. No interest is paid on any interest only balance. *Liquidated* means all funds have been withdrawn from the DROP account except for the possible final interest earnings due but not yet posted;

- b. members eligible to enter DROP on or after January 1, 2004, will have their DROP funds transferred to a Liquid Asset Money Market Account after the termination of DROP participation. Interest will be deposited monthly based on the interest earned on the Liquid Asset Money Market Account less an administrative fee. Final payouts of DROP accounts will have interest posted through the date of the payment. Quarterly statements issued will reflect the interest earned and posted;

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 18:621 (June 1992), repromulgated LR 24:500 (March 1998), amended LR 25:1655 (September 1999), LR 30:100 (January 2004).

Bonita B. Brown, CPA
Director

0401#062

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Removal of Abandoned Crab Traps (LAC 76:VII.367)

The Wildlife and Fisheries Commission does hereby promulgate a Rule, LAC 76:VII.367, which provides for an abandoned crab trap removal program. Authority to establish these regulations is vested in the commission by R.S. 56:332(M).

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§367. Removal of Abandoned Crab Traps

A. The use of crab traps shall be prohibited for a 16-day period from 6 a.m., February 28, 2004 through 6 a.m., March 14, 2004, within that portion of Lafourche and Terrebonne Parishes as described below.

1. From a point originating from the southern boundary of the Pointe-aux-Chenes Wildlife Management Area at the South Lafourche Hurricane Protection Levee, thence west along the southern boundary of the Pointe-aux-Chenes Wildlife Management Area to the Humble Canal, thence west along the northern shoreline of Humble Canal to its intersection with Bayou Terrebonne, thence south along the western shoreline of Bayou Terrebonne to its intersection with Bush Canal, thence west along the northern shoreline of Bush Canal to its intersection with Bayou Little Caillou, thence north along the eastern shoreline of Bayou Little Caillou to the Gulf South/South Coast Natural Gas Pipeline in Chauvin, thence northwest along the Gulf South/South Coast Natural Gas Pipeline to LA Highway 57, thence south and then southeast along LA Highway 57 to its intersection with LA Highway 56, thence south along LA Highway 56 to Latitude 29° 17'00" N, thence east along Latitude 29° 17'00" N to LA Highway 1, thence north along LA Highway 1 to the South Lafourche Hurricane Protection Levee, thence north along the South Lafourche Hurricane Protection Levee and terminating at the southern boundary of the Pointe-aux-Chenes Wildlife Management Area.

B. The use of crab traps shall be prohibited in a portion of Vermilion Bay as described later for a 14-day period beginning at 6 a.m. five days prior to the opening of the 2004 Spring inshore shrimp season in Vermilion Bay and ending at 6 a.m. nine days following the opening of the 2004 Spring inshore shrimp season in Vermilion Bay. In the event that the Wildlife and Fisheries Commission approves opening the 2004 Spring inshore shrimp season in Vermilion Bay before a five-day minimum notice can be provided for the crab trap closure, then the use of crab traps shall be prohibited for a nine-day period beginning at 6 a.m. on the opening of the 2004 Spring inshore shrimp season in Vermilion Bay and ending at 6 a.m. nine days following the opening of the 2004 Spring inshore shrimp season in Vermilion Bay as described below.

1. From a point originating from the intersection of the Acadiana Navigational Channel and the Gulf Intracoastal Waterway, thence southwest along the Acadiana Navigational Channel red buoy line to the red navigational marker number 12 on the Marsh Island shoreline near Southwest Pass, thence south along the eastern shore of Southwest Pass to a position which intersects the inside/outside shrimp line as defined in R.S. 56:495, thence west along the inside/outside shrimp line to the western shore of Freshwater Bayou, thence north along the western shore of Freshwater Bayou to its intersection with the Gulf Intracoastal Waterway, thence east along the northern shore of the Gulf Intracoastal Waterway to the intersection of the Gulf Intracoastal Waterway and the eastern shore of the Acadiana Navigational Channel.

C. All crab traps remaining in the closed areas during the specified periods shall be considered abandoned. For the winter closure only, crab traps may be removed only between one-half hour before sunrise to one-half hour after sunset. Anyone is authorized to remove these abandoned crab traps within the closed areas, however, no person removing crab traps from the designated closed areas shall possess these traps outside of the closed areas. However, nonserviceable traps may be possessed by a shrimp fisherman outside of the closed area when in compliance with R.S. 56:332. The Wildlife and Fisheries Commission authorizes the Secretary of the Department of Wildlife and Fisheries to designate disposal sites.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:332(M).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 30:101 (January 2004).

James H. Jenkins, Jr.
Secretary

0401#045

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Agro-Consumer Services Weights and Measures Division

Calibration and Registration of Taxi Meters (LAC 7:XXXV.125)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 3:4608, the Department of Agriculture and Forestry, Weights and Measures Commission, hereby proposes to amend regulations governing the calibration and registration of taxi meters.

The Louisiana Department of Agriculture and Forestry is the only governmental agency that checks on the accuracy of taxi meters in the state of Louisiana. The fee for registering and inspecting taxi meters has been set at \$15. This fee, however, falls far short of the cost incurred by the department in ensuring the accuracy of taxi meters. The registration and testing of taxi meters is vital and important to the citizens of Louisiana because the registering and testing of taxi meters insures that the public who utilizes taxis are not subjected to fraud and illegal and excessive fares. The people who use taxis are individuals who cannot either afford to own a vehicle of their own or are businessmen and tourists coming into the state.

The department, as a result of state budget deficits and cuts to the department's appropriations, is forced to look for ways to bring its budget in line with current appropriations. Therefore, the department is forced to either cut services, such as calibration of taxi meters or to increase fees to cover the cost of services provided.

These Rules comply with and are enabled by R.S. 3:4608.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

§125. Metrology Laboratory Fee Structure

A. - E. ...

F. The annual fee for registration of taxi meters is \$50.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4622.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1534 (December 1993), amended LR 23:857 (July 1997), LR 30:

Family Impact Statement

The proposed amendments to LAC 7:XXXV.125 regarding taxi meters calibration and registration should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. 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;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons should submit written comments on the proposed rules to Benjy Rayburn through February 26, 2004 at 5825 Florida Blvd., Baton Rouge LA 70806. All interested parties may submit data, views or arguments in writing, by 4:30 p.m. on February 26, 2004. No preamble regarding these rules is available.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Calibration and Registration of Taxi Meters

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No implementation costs or savings to state or local governmental units are anticipated.

The Louisiana Department of Agriculture and Forestry has increased the fee for registering and inspecting taximeters from \$15 to \$50. There are approximately 3,000 cabs in the state of Louisiana. The difference in the annual increase in fees will be approximately \$105,000.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is estimated to be an increase of revenue collections to the state or local governmental units in the amount \$105,000.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is an estimated cost to directly affected persons of \$35 per taxi for the registration and calibration of taximeters. The increase in the fee for the registration and calibration of taximeters went from \$15 to \$50 per taxi. Therefore, the approximate increase in annual costs to taxi cab owners is \$105,000.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendments are not anticipated to have a net effect on competition and employment.

Skip Rhorer
Assistant Commissioner
0401#052

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry Office of the Commissioner

Testing Procedures and Quarantines of Pet Turtles (LAC 7:XXI.2311 and 2315)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry proposes to amend regulations regarding microbiological testing procedures and quarantines for the farming and selling of Louisiana pet turtles.

The Department of Agriculture and Forestry is amending these rules and regulations to enhance the accuracy and consistency of the testing for salmonella by requiring that all follow up testing of positive samples be done by the same state operated reference laboratory; thereby providing maximum protection for the industry and the public in the production of a safe wholesome product and to further assist the industry in its efforts to lift the FDA ban that was imposed on the sale of pet turtles in the United States and to increase the industry's ability to control Salmonella spp.

These Rules comply with and are enabled by R.S. 3:2358.2. No preamble concerning the proposed Rules is available.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 23. Pet Turtles

§2311. Microbiological Test Procedures

A. - B. ...

C. If any group of turtles or turtle eggs test positive for *Salmonella spp.*, the owner of each such group may request that the group be tested again for *Salmonella spp.* Any such request must be made within seven days of the date the quarantine is issued. The owner may request a retest of the group as a whole using the same sampling procedures as used for the original test or the owner may subdivide the affected positive group into a maximum of four equal subgroups. Each such subgroup shall be separately identified, simultaneously randomly sampled and tested. The Louisiana Veterinary Medical Diagnostic Laboratory shall conduct the retesting, whether from the group as a whole or from any of the subgroups in accordance with normal protocol. The Louisiana Veterinary Medical Diagnostic Laboratory test results, whether from the group as a whole or from any of the subgroups shall be the final and conclusive test results. Any group or subgroup that tests positive for *Salmonella spp.* shall be disposed of in accordance with the law and these regulations.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2 and 3:2358.12.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 17:351 (April 1991) amended by the Department of Agriculture, Office of the Commissioner, LR 26:1569 (August 2000), LR 30:

§2315. Quarantine

A. - A.3 ...

4. All groups of turtles or groups of turtle eggs that are found to be positive for *Salmonella spp.* shall be quarantined and disposed of as provided by law and these regulations unless a second test has been timely requested by the owner. In the event that a second test has been timely requested by the owner then the group, if tested as a whole, or any subgroup that test positive for *salmonella spp.* in the second test shall be disposed of in accordance with the law and these regulations within 21 days after the second test results are obtained.

5. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2 and 3:2358.12.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 17:352 (April 1991) amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1570 (August 2000), LR 30:

Family Impact Statement

The proposed Rules in LAC 7:XXI.2311 and 2315 should not have any known or foreseeable impact on any family as defined by R.S. 49:972 D or on family formation, stability and autonomy. 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;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons should submit written comments on the proposed Rules to Dr. Maxwell Lea through the close of business on February 26, 2004, at 5825 Florida Blvd., Baton Rouge, LA 70806. No preamble regarding these Rules is necessary.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Testing Procedures and Quarantines of Pet Turtles

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No implementation costs or savings to state or local governmental units are anticipated. The Department of Agriculture and Forestry is amending these rules and regulations to enhance the accuracy and consistency of the testing for *Salmonella spp.* by requiring that all follow up testing of positive samples be done by the same state operated reference laboratory; thereby providing maximum protection for the industry and the public in the production of a safe wholesome product and to further assist the industry in its efforts to lift the FDA ban that was imposed on the sale of pet turtles in the United States and to increase the industry's ability to control *Salmonella spp.*

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is estimated to be no effect on revenue collections of the state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is estimated to be no costs and/or economic benefits to directly affected persons or non-governmental units, other than any indirect benefit that comes from enhanced health and safety requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendments are not anticipated to have no effect on competition and employment other than any indirect benefit that comes from enhanced health and safety requirements.

Skip Rhorer
Assistant Commissioner
0401#053

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
Seed Commission**

**Sugarcane (Tissue Culture) Certification Standards
(LAC 7:XIII.207)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 3:1433, the Department of Agriculture and Forestry, Office of the Louisiana Seed Commission, proposes to amend regulations governing sugarcane (tissue culture) certification standards.

The Louisiana Seed Commission, at the request of the sugarcane industry, is proposing to amend the Rules regarding sugarcane (tissue culture) certification standards to include Sugarcane Ratoon Stunting Disease (RSD) and Sugarcane Yellow Leaf Virus testing to prevent the introduction and spread of these potential harmful diseases into Louisiana sugarcane. These Rules are also being amended to reduce the tolerances for other varieties, Sugarcane Borer and Johnson grass within a certified seed cane field, to bring these tolerances in line with current acceptable industry levels.

These Rules are enabled by R.S. 3:1433.

Title 7

AGRICULTURE AND ANIMALS

Part XIII. Seeds

Chapter 1. Louisiana Seed Law

Subchapter C. Certification of Specific Crops/Varieties

§207. Sugarcane (Tissue Culture) Certification Standards

A. Limitation of Stand Eligibility

1. Source of foundation stock is limited only to material obtained from the Louisiana State University Agricultural Center or USDA-ARS Sugarcane Research Unit sugarcane variety selection programs that has been processed through the LSUAC Sugarcane Quarantine Program.

a. Foundation stock shall be tested on a yearly basis for sugarcane ratoon stunting disease by the LSU Ag Center Sugarcane Disease Detection Lab based on the protocol provided by the lab. The applicant for certification

shall provide to the Louisiana Department of Agriculture and Forestry verification that foundation stock has been tested for sugarcane ratoon stunting disease (RSD)

2. - 4.b. ...

B. Field Inspections. At least four field inspections shall be made each year to determine if certified seedcane is being produced that apparently meets field standards.

a. Collection of leaf samples for the detection of sugarcane yellow leaf virus shall be made at the third inspection.

b. Individual fields shall be sampled by Louisiana Department of Agriculture and Forestry inspectors for the detection of Sugarcane Yellow Leaf Virus according to the following guidelines.

Field Size in Acres	# Leaf Tissue Samples per Field
Less than 5 Acres *	25
5 - 10 Acres	50
Greater than 10 Acres	75
*Minimum of 25 Leaf Tissue Samples per Field	

c. Tissue samples shall be submitted to the LSU Ag Center Sugarcane Disease Detection Lab for analysis.

d. The department shall have the right to re-inspect, re-sample and re-test fields that are out of tolerance for sugarcane yellow leaf virus prior to certification.

C. Land Requirements. The land shall be fallowed one summer from the previous crop.

D. Field Standards

Factor	Foundation	Registered	Certified
Isolation	10 ft.	10 ft.	10 ft.
Other Varieties (obvious)	None	1.00%	1.00%
Off-Type (definite)	None	1.00%	1.00%
Noxious Weeds:			
Johnsongrass	None	5 Plants/Acre	5 Plants/Acre
Itchgrass	None	1 Plant/Acre	1 Plant/Acre
Other Weeds:			
Browntop panicum (Panicum fasciculatum)	None	20 Plants/Acre	20 Plants/Acre
*Harmful Diseases:			
Sugarcane Mosaic Virus	None	10.00%	10.00%
Sugarcane Smut	None	0.50%	0.50%
**Harmful Insects:			
Sugarcane Borer	None	5.00%	5.00%
*Determined by lab analysis for the LSU Sugarcane Disease Detection Lab			
**Plants exhibiting symptoms.			
***Determined by percentage of internodes bored.			

E. - F.2.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 12:825 (December 1986), amended LR 23:1284 (October 1997), LR 30:

Family Impact Statement

The proposed amendments to Title 7, Part XIII, §207 regarding sugarcane (tissue culture) certification standards should not have any known or foreseeable impact on any family as defined by R. S. 49:972.D or on family formation, stability and autonomy. 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;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

All interested persons may submit written comments on the proposed Rules through February 26, 2004, to Eric Gates, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806. All interested persons will be afforded an opportunity to submit data, views or arguments in writing at the address above. No preamble concerning the proposed Rules is available

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Sugarcane (Tissue Culture)
Certification Standards**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No implementation costs or savings to state or local governmental units are anticipated.
The Louisiana Seed Commission, at the request of the sugarcane industry, is proposing to amend the Rules regarding sugarcane (tissue culture) certification standards to include Sugarcane Ratoon Stunting Disease (RSD) and Sugarcane Yellow Leaf Virus testing to prevent the introduction and spread of these potential harmful diseases into Louisiana sugarcane. These Rules are also being amended to reduce the tolerances for Other Varieties, Sugarcane Borer and Johnson grass within a certified seed cane field, to bring these tolerances in line with current acceptable industry levels.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is estimated to be no effect on revenue collection of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There is estimated to be no costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed amendments are not anticipated to have an effect on competition and employment.

Skip Rhorer Assistant Commissioner 0401#054	Robert E. Hosse General Government Section Director Legislative Fiscal Office
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NOTICE OF INTENT

**Department of Agriculture and Forestry
Structural Pest Control Commission**

Termite Minimum Specification Standards
(LAC 7:XXV.101, 119 and 141)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Structural Pest Control Commission, proposes to amend regulations regarding

definitions, contract addendum for monitoring stations, minimum specifications for pre-treatments and re-treatments.

The Department of Agriculture and Forestry deems the implementation of these rules and regulations necessary to provide for uniform minimum treatment specifications for pre-treatments regarding the perimeter application and re-treatment of structures under existing termite contract. The Rule better defines a pre-treat and the requirements for the perimeter application. Pest control operators (PCO) are using termite monitors without baits to monitor for termites. These Rules insure that the PCO contracts, installs and monitors for subterranean termites to at least a minimum set of requirements. These Rules allow the department to regulate termite pre-treat perimeters, re-treat requirements and monitoring systems consistently and insure that the state's citizens are getting the services for which they are paying.

These Rules comply with and are enabled by R.S. 3:3203.

**Title 7
AGRICULTURE AND ANIMALS
Part XXV. Structural Pest Control
Chapter 1. Structural Pest Control Commission
§101. Definitions**

Certified Fumigation Technician? a qualified technician to perform the following:

1. *Structural Fumigation?* apply and clear fumigants from structures under the supervision of a licensed fumigator.
2. *Ship Fumigation?* only add additional gas to a ship fumigation after the initial amount of gas has been applied, under the supervision of a licensed fumigator.
3. *Commodity Fumigation?* apply and clear fumigants commodities under the supervision of a licensed fumigator. This provision will not apply until two years from date of enforcement.

Chain Wall? any wall constructed of any material that supports or skirts a structure.

Commission? the Structural Pest Control Commission.

Commodity Fumigation? the fumigation of food or non-food items stored in stacks, rail cars, containers, trucks, barges, boxes, bins, etc. that are not normally occupied by humans. No living quarters should be in any of the above.

Construction? during the building of a structure and up to the time the structure is ready to be inhabited.

Contract? a written agreement executed by a licensed pest control operator services for the provision of specific pest control services.

Restricted-Use Pesticide? a pesticide that is classified for restricted use by the administrator of the Environmental Protection Agency under the Federal Insecticide, Fungicide and Rodenticide Act and/or by the Louisiana Department of Agriculture and Forestry.

Retreat? a liquid termiticide treatment to a structure that is under a current contract.

Rodent? any of several mammals, such as rats and mice, commonly associated with man-made structures characterized by constantly growing incisors adapted for gnawing or nibbling.

* * *

Ship Fumigation? the fumigation of a vessel capable of transporting or housing people and/or products. It is normally self-powered and must have a crew or living quarters.

Spot Treatment (when used in reference to termite control work)? a localized application of chemicals or other substances to control, prevent or eradicate termites in a residence or other structure that is not under a current contract.

Structural Fumigation? the fumigation by covering or sealing churches, schools, homes or any other buildings in which people are normally housed or work or is frequented by people. This also includes the covering or sealing of small boats or ships under 100 feet.

* * *

Violation? any act which is prohibited by the Act or any of these rules and regulations. Violations shall be classified in accordance with degree of severity, as follows.

1. *Minor Violation?* any act prohibited by the Act or these rule and regulations which does not result in danger to human health or damage to personal property, including, but not limited to, clerical error failure to make timely reports to the commission.

2. *Moderate Violation?* any act of negligence in meeting the guarantees of an agreement for structural pest control work in the licensure phase where the violation occurs, such as failure to apply chemicals in accordance with label and labeling requirements and minimum specifications.

3. *Major Violation?* any act which may adversely affect human health and safety. Any act performed without having the proper permit, license, or registration; any intentional misrepresentation of any matter involved in or related to structural pest control work; or any false or misleading statement knowingly make in a wood-destroying insect report or any failure to timely pay any civil penalty imposed buy the commission or any failure to timely pay any fee collected by the Louisiana Department of Agriculture and Forestry.

* * *

Wood-Destroying Insect Report? any document approved by the Structural Pest Control Commission issued by a pest control operator which pertains to wood-destroying insects, but not including a bid, a proposal or a contract for any structural pest control services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3362 and R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:323 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:594 (November 1989), LR 17:251 (March 1991), LR 23:855 (July 1997), LR 30:

§119. Contracts for Termite Control Work

A. The licensee must enter into a written agreement for termite work with the property owner employing him, which agreement must:

1. be in a form provided or approved by the commission;
2. guarantee performance for a period of not less than one year after the treatment is made;
3. guarantee treatment of the structure(s) in accordance with minimum specifications for termite control

work set forth in §141 hereof; and provide for at least one inspection of all unobstructed or accessible areas outside of the structure(s) prior to expiration of the agreement;

4. each contract must include an inspection diagram;
5. contracts shall provide for the treatment of all subterranean termites.

B. - F. ...

G. Contracts as described in LAC 7:XXV.119.A. that include termite monitoring stations shall include a contract addendum that provides the number of monitoring station(s) and the frequency of inspection(s). The contract addendum shall be approved by the commission prior to its use.

H. The licensee or any technician working under the licensee's supervision shall enter into a written agreement for monitoring for subterranean termites with the structure owner\agent employing him\her, which agreement must:

1. be in a form approved by the commission;
2. provide for the frequency of inspections that shall include at least one inspection of the structure prior to expiration of the agreement;
3. provide for the number of subterranean termite monitoring station(s);
4. provide for the owner name, address, city, state, zip of the structure;
5. provide the name, address, city, state, zip of the pest control company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and R.S. 3:3370

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:328 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:957 (November 1989), LR 26:2437 (November 2000), LR 27:1179 (August 2001), LR 27:2084 (December 2001), LR 28:1171 (June 2002), LR 30:

§141. Minimum Specifications for Termite Control Work

A. - D.3.c. ...

E. Pre-Treatment of Slabs

1. Pre-treatment means any treatment, as required by label and labeling, of any structure prior to or during construction.

2. The licensee shall report the completion of the application to the outside of the foundation to the Louisiana Department of Agriculture and Forestry on the Termite Perimeter application form. Within 12 months after initial treatment, the outside perimeter of the foundation, will be treated as follows:

a. trench around the entire perimeter of the structure being treated, adjacent to the foundation wall. All trenches must be approximately 4 inches wide at the top, angled toward the foundation and sufficiently deep (approximately 6 inches) to permit application of the required chemical. Apply the emulsion into the trench at a rate and manner prescribed on the label and labeling. Rodding will be acceptable where trenching will damage flowers and/or shrubs. Maximum distance between rod holes shall be 4 inches.

b. Rod under or drill through any slab(s) adjoining or abutting the initial pre-treated slab and treat all areas beneath adjoining or abutting slab(s) as per label and labeling instructions. When any slab(s) is drilled, the holes must be no more than 18 inches (unless label requires closer distance) apart along the above stated areas.

3. If, during the treatment of any area which will be beneath a slab foundation, the operator must leave the site for any reason prior to the completion of the application as specified in §141.E.1 above, the operator must prominently display a poster, to be furnished by the Louisiana Department of Agriculture and Forestry, which states that the treatment of the area under the slab is not complete.

4. All pre-treatment of slabs must be called or faxed to the Department of Agriculture and Forestry District Office in which the pretreat occurs, a minimum of one hour prior to beginning the application of termiticides. The information provided shall include a street address, city, parish, directions to the property being pre-treated, and time of beginning the application of termiticides to the property. All pest control operators must keep a log of all pretreats including the information noted. The following is a list of parishes in which the seven Department of Agriculture and Forestry Districts operate. Pre-treatments in those parishes shall be called into the corresponding District Office.

a. Shreveport District? Caddo, Bossier, Webster, Claiborne, Bienville, Red River, and Desoto.

b. Monroe District? Union, Morehouse, West Carroll, East Carroll, Madison, Richland, Ouachita, Lincoln, Jackson, Winn, Caldwell, Franklin, Tensas, Concordia, and Catahoula.

c. Alexandria District? Sabine, Natchitoches, Grant, LaSalle, Avoyelles, Rapides, and Vernon.

d. Crowley District? Beauregard, Allen, Acadia, Jefferson Davis, Cameron, Calcasieu.

e. Opelousas District? Evangeline, St. Landry, St. Martin, Iberia, St. Mary, Vermillion, and Lafayette.

f. Baton Rouge District? Pointe Coupee, West Feliciana, East Feliciana, St. Helena, Tangipahoa, Washington, St. Tammany, Livingston, St. James, Lafourche, Terrebonne, Assumption, Ascension, Iberville, West Baton Rouge, and East Baton Rouge.

g. New Orleans District? St. John the Baptist, St. Charles, Jefferson, Orleans, St. Bernard, and Plaquemines.

F. - H.2. ...

I. Waiver of Requirements of Minimum Specifications for Termite Control Work

1. A pest control operator may request from the owner/agent of the structure(s) to be treated, a waiver of the requirements set out in these regulations whenever it is impossible or impractical to treat one or more areas of the structure in accordance with these minimum specifications for initial treatment. The waiver shall be signed by the owner/agent of the structure(s) to be treated prior to or during treatment. A signed copy of the waiver shall be given to the owner/agent and shall be sent to the department with the company's monthly eradication report. The waiver shall include, but not be limited to, the following information:

a. graph identifying the structure and the specific area(s) where treatment is waived;

b. a description of each area where treatment is waived; and

c. for each area, the reason treatment is being waived.

2. A pest control operator may request, from the owner/agent of the structure(s) to be treated, a waiver of the requirements set out in these regulations whenever it is impossible or impractical to treat one or more areas of the

structure in accordance with these minimum specifications for Retreat(s). The waiver shall be signed by the owner/agent of the structure(s) to be treated prior to or during treatment. A signed copy of the waiver shall be given to the owner/agent and shall be made available to the department upon reasonable request. The waiver shall include, but not be limited to, the following information:

a. a graph identifying the structure and the specific area(s) where treatment is waived;

b. a description of each area where treatment is waived; and

c. for each area, the reason treatment is being waived.

J. - J.8.h. ...

K. Requirements for Retreats

1. Retreatment of existing slab-type construction shall treat following the label and labeling and the following minimum specifications.

a. Trench and treat 10 feet on both sides of live subterranean termite infestation site(s) and/or a breach(s) in the treated zone around the perimeter of the structure, adjacent to the foundation wall. All trenches must be approximately 4 inches wide at the top, angled toward the foundation and sufficiently deep (minimum 6 inches) to permit application of the required chemical. Apply the emulsion into the trench at a rate and manner prescribed on the label and labeling. Rodding will be acceptable where trenching will damage flowers and/or shrubs. Maximum distance between rod holes shall be 4 inches.

b. Rod under or drill through abutting slab(s) and treat all areas in the abutting slab(s) within the 20 feet as required in LAC 7:XXV.141.K.1.a. When the abutting slab is drilled, the holes must be no more than 18 inches apart along the above stated areas unless the label requires closer distance.

c. Treat bath trap(s) as per label and labeling when live subterranean termites or a breach(s) in the treated zone occur. Bath trap(s) access hole of a minimum of 6 x 8 inches shall be provided to all bathtub plumbing.

i. If the soil in a trap does not reach the bottom of the slab, the trap must be filled to within 2 inches of the top of the slab with soil prior to treatment. Treat bath trap(s) as required by label and labeling.

ii. A tar filled bath trap must also be drilled and treated as required by label and labeling.

iii. If bath trap is solid concrete pour, it must be drilled and treated as close as practical to the bathtub plumbing.

2. Retreatments of existing pier-type construction with a live subterranean termite infestation(s) and/or a breach(s) in the treated zone shall liquid treat to the following minimum specifications.

a. Trench and treat 10 feet on both sides of a breach(s) in the treated zone or an infestation site(s) on chain wall(s) and all piers within 10 feet of an infested or breached pier or chain wall. Trench, drill, and treat as required in LAC 7:XXV.141.

3. Minimum specification treatments shall not include areas properly waived in initial treatment contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3302 and R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:330 (April

1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:958 (November 1989), LR 20:644 (June 1994), LR 21:931 (September 1995), LR 23:1285 (October 1997), LR 25:235 (February 1999), LR 25:1620 (September 1999), LR 26:2437 (November 2000), LR 27:1180 (August 2001), LR 30:

Family Impact Statement

The proposed amendments to LAC 7:XXV.101, 119, and 141, regarding definitions, contract addendum for monitoring stations, minimum specifications for pre-treatments and re-treatments. minimum specifications for use of termite bait and baiting systems should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. 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;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

A public hearing will be held on these Rules on February 26, 2004, at 10 a.m. at the address listed below. Interested persons should submit written comments on the proposed rules to Bobby Simoneaux through close of business on February 25, 2004, at 5825 Florida Blvd., Baton Rouge, LA 70806. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing. No preamble regarding these Rules is available.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Termite Minimum
Specification Standards**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No implementation costs or savings to state or local governmental units are anticipated. The Louisiana Department of Agriculture and Forestry proposes to amend regulations regarding definitions, contract addendum for monitoring stations, minimum specifications regarding pre-treatments and re-treatments. There will be no increase in the costs because the rules are standardizing the requirements.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is estimated to be no increase in revenue collections to the Structural Pest Control Commission. The rule amends the definitions, minimum specifications for pre-treats and re-treatments and provides for a contract addendum for monitoring stations. There is no costs to obtain an addendum.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no increase in costs to individuals. The rule amends the definitions, minimum specifications for pre-treats and re-treatments and provides for a contract addendum for monitoring stations. Affected persons are paying for these

services now. These rules allow the Department to regulate termite pre-treat perimeters, re-treat requirements and monitoring systems consistently and insure that the state's citizens are getting the services for which they are paying.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendments are not anticipated to have a net effect on competition and employment.

Skip Rhorer Assistant Commissioner 0401#055	Robert E. Hosse General Government Section Director Legislative Fiscal Office
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NOTICE OF INTENT

**Department of Economic Development
Office of Business Development**

Small and Emerging Business Development Program
(LAC 19:II.Chapters 1-13)

The Department of Economic Development, Office of Business Development, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950, hereby gives notice of its intent to adopt the following amendments to the Rules of the Small and Emerging Business Development Program, in order to amend LAC 19:II.Chapters 1, 3, 5, 7, 9, 11, and 13. The Department of Economic Development has found a need to open the program to "legal residents," as well as "citizens;" to provide additional definitions; to allow the Director's "designee" to act in the absence of the Director; to achieve flexibility regarding the Louisiana Contractors Accreditation Institute (LCAI) bonding program when no state funding is available for such training; to permit the limitation of the number of bond guarantees outstanding at a given time; and to correctly reflect the name of the office adopting the rules.

**Title 19
CORPORATIONS AND BUSINESS
Part II. Small and Emerging Business
Development Program**

**Chapter 1. General Provisions
§101. Statement of Policy**

A. In accordance with the provisions of R.S. 51:941-945 and the provisions of the Administrative Procedure Act, R.S. 49:950-970 as amended, the Department of Economic Development's Small and Emerging Business Development Program administers these regulations which are intended to prescribe the procedures for qualifying and certifying small and emerging businesses; to provide for bonding and other financial assistance; to provide for technical and managerial assistance; to provide for a business mentor-protégé program; to recognize achievements for small and emerging businesses; and to facilitate access to state agency procurement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:49 (January 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:542 (April 2003), LR 30:

§103. Purpose

A. The purpose and intent of this Chapter is to provide the maximum opportunity for small and emerging businesses to become competitive in a non-preferential modern economy. This purpose shall be accomplished by providing a program of assistance and promotion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:50 (January 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:542 (April 2003), LR 30:

§105. Definitions

A. When used in these regulations, the following terms shall have meanings as set forth below.

Assistant Secretary? the *assistant secretary* of the Department of Economic Development.

Certification? the determination that a business qualifies for designation as a small and emerging business.

Designee? the person designated by the *director* to act in his absence.

Director? the director of the Small and Emerging Business Development Program designated by the *secretary* of the Department of Economic Development.

Firm? a business that has been certified as small and emerging.

Full-Time? working in the firm at least 35 hours per week.

Program? the Small and Emerging Business Development Program in the Department of Economic Development.

RFP? request for proposal.

Secretary? the *secretary* of the Department of Economic Development.

Small and Emerging Business (SEB)? a small business organized for profit and performing a commercially useful function which is at least 60 percent owned and controlled by one or more *small and emerging business persons* and which has its principal place of business in Louisiana. A nonprofit organization is not a *small and emerging business* for purposes of this Chapter.

Small and Emerging Business Person? a citizen or legal resident of the United States who has resided in Louisiana for at least one year and whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business, and whose diminished opportunities have precluded, or are likely to preclude, such individual from successfully competing in the open market.

Undersecretary? the *undersecretary* of the Department of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:50 (January 1997), amended LR 24:430 (March 1998), amended by the Department of Economic Development, Office of Business Development, LR 29:542 (April 2003), LR 30:

§107. Eligibility Requirements for Certification

A. An SEB is a firm owned and controlled by one or more small and emerging business person(s). Eligibility

requirements fall into two categories, one applies to the individual owners and the other to the applicant's firm. In order to continue participation in the program, a firm and its individual owners must continue to meet all eligibility requirements.

B. Small and Emerging Business Person. For purposes of the program, a person who meets all of the criteria in this Section shall be defined as a small and emerging business person.

1. Citizenship. The person is a citizen or legal resident of the United States.

2. Louisiana Residency. The person has resided in Louisiana for at least one year.

3. Net Worth. The person's net worth may not exceed \$200,000. The market value of the individual owner's personal residence, 401K, IRA, and other legal retirement funds will be excluded from the net worth calculation.

C. Small and Emerging Business

1. Ownership and Control. At least 60 percent of the company must be owned and controlled by one or more small and emerging business persons.

2. Principal Place of Business. The firm's principal place of business must be Louisiana.

3. Lawful Function. The company has been organized for profit to perform a lawful, commercially useful function.

4. Business Net Worth. The business' net worth at the time of application may not exceed \$750,000.

5. Full Time. Managing owners who claim small and emerging business person status must be full-time employees of the applicant firm.

6. Job Creation. An applicant firm anticipates creating new full-time jobs.

D. Requirement for Certification. An application containing an affidavit signed, dated, and notarized attesting to all of the aforesaid eligibility requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:50 (January 1997), amended LR 24:430 (March 1998), LR 25:1084 (June 1999), LR 26:1572 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:542 (April 2003), LR 30:

§109. Control and Management

A. Description. An applicant firm's management and daily business operations must be controlled by an owner(s) of the applicant firm who has/have been determined to be a small and emerging business person. In order for a small and emerging business person to be found to control the firm, that individual must have managerial or technical experience and competency directly related to the primary industry in which the applicant firm is seeking program certification.

1. The small and emerging business person(s) upon whom eligibility is based shall control the board of directors of the firm, either in actual numbers of voting directors or through weighted voting. In the case of a two-person board of directors where one individual on the board is a small and emerging business person and one is not, the formers vote must be weighted by share ownership, worth more than one vote to achieve a minimum of 60 percent control, in order for the firm to be eligible for the program. This does not preclude the appointment of nonvoting or honorary

directors. All arrangements regarding the structure and voting rights of the board must comply with state law and with the firm's articles of incorporation and/or bylaws.

2. Individuals who are not a small and emerging business person may be involved in the management of an applicant's firm and may be stockholders, partners, officers, and/or directors of such firm. Such individual(s), their spouse(s) or immediate family members who reside in the individual's household may not, however:

a. exercise actual control or have the power to control the applicant or certified firm;

b. be an officer or director, stockholder, or partner of another firm in the same or similar line of business as the applicant or certified firm;

c. receive excessive compensation as directors, officers, or employees from either the applicant or certified firm. Individual compensation from the firm in any form, including dividends, consulting fees, or bonuses, which is paid to a non-disadvantaged owner, his/her spouse or immediate family member residing in the same household will be deemed excessive if it exceeds the compensation received by the small and emerging business person chief executive officer, president, partner, or owner, unless the compensation is for a clearly identifiable skill for which market rates must be paid for the firm to utilize the person's expertise;

d. be former employers of the small and emerging business owner(s) of the applicant or certified firm, unless the program determines that the contemplated relationship between the former employer and the small and emerging business person or applicant firm does not give the former actual control or the potential to control the applicant or certified firm and if such relationship is in the best interest of the certified firm.

B. Non-small and emerging business person control. non-small and emerging business person(s) or entities may not control, or have the power to control, the applicant firm. Examples of activities or arrangements which may disqualify an applicant firm from certification are:

1. a non-small and emerging business person such as an officer or member of the board of directors of the firm, or through stock ownership, has the power to control daily direction of the business affairs of the firm;

2. the non-small and emerging business person or entity provides critical financial or bonding support or licenses to the firm, which directly or indirectly allows the non-small and emerging business person to gain control or direction of the firm;

3. a non-small and emerging business person or entity controls the firm or the individual small and emerging business person(s) through loan arrangements;

4. other contractual relationships exist with non-small and emerging business person or entities, the terms of which would create control over the firm.

AUTHORITY NOTE: Promulgated in accordance with R.S.51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:51 (January 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:543 (April 2003), LR 30:

§111. Responsibility for Applying

A. It is the responsibility of any business wishing to participate in the program to complete the required certification process. Failure to provide complete, true, or accurate data may result in rejection of the application.

B. Certification materials will be distributed by SEBD Program, or its designee, upon written or verbal request. Written requests for certification materials should be directed to the SEBD Program office in Baton Rouge.

C. Certification as a SEB also does not constitute compliance with any other laws or regulations and does not relieve any firm of its obligations under other laws or regulations. Certification as a small and emerging business also does not constitute any determination by SEBD Program that the firm is responsible or capable of performing any work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:52 (January 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:543 (April 2003), LR 30:

§113. Certification Application Procedure

A. Applicant submits an application containing a signed, dated, and notarized affidavit to the SEBD office.

B. The SEBD Program staff reviews the application and if it is found to be incomplete or further information is needed, the SEBD Program staff will contact applicant. If the applicant does not respond within 15 days, the application will be denied.

C. The director, or designee, notifies the applicant in writing of the decision whether or not to grant certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:52 (January 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:544 (April 2003), LR 30:

§115. Duration of Certification

A. The maximum amount of time that a firm may be granted certification by the SEBD Program is seven years or when the firm graduates.

B. Retention of the firm in the program depends upon time, the firm's progress toward attainment of its business goals, willingness or ability to cooperate, and follow through on recommendations of the SEBD Program staff or its designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:52 (January 1997), LR 26:1572 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:544 (April 2003), LR 30:

§117. Reports by Certified Small and Emerging Businesses

A. Report Form. On forms identified or prescribed by the SEBD Program, certified businesses shall report at times

specified by the SEBD Program their financial position and attainment of the business' performance goals. Failure to do so may result in termination from the program.

B. Verification of Eligibility. The SEBD Program, or its designee, may take any reasonable means at any time to confirm a certified firm's eligibility, such as by letter, telephone, contact with other governmental agencies, persons, companies, suppliers, or by either announced or unannounced site inspection.

C. Notification of Changes. To continue participation, a certified firm shall provide the SEBD Program, or its designee, with a written statement of any changes in an address, telephone number, ownership, control, financial status, or major changes in the nature of the operation. Failure to do so may be grounds for termination of eligibility.

D. Evaluation. The SEBD Program or its designee, as necessary, shall evaluate the information to determine progress, areas for further improvement, resources needed by the firm, and eligibility for continued participation in the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:52 (January 1997), LR 26:1572 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:544 (April 2003), LR 30:

§119. Deception Relating to Certification of a Small and Emerging Business

A. Any person found guilty of the crime of deception relating to certification of an SEB as provided in R.S. 51:944 will be discharged from the program and will not be eligible to reapply under the business name involved in the deception or any business with which such individual(s) may be associated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:944.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:52 (January 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:544 (April 2003), LR 30:

Chapter 3. Developmental Assistance Program

§301. Developmental Assistance

A. Purpose. The SEBD Program will coordinate technical, managerial, and indirect financial assistance through internal and external resources to assist certified small and emerging businesses in becoming competitive in the market place.

B. Developmental Steps

1. The certified SEB owner will be required to participate in, and complete a SEBD Program approved entrepreneurial training program. The small and emerging business owner that demonstrates adequate entrepreneurial skills or compelling reasons for not participating may be granted a waiver by the Director or designee.

2. Determination of Additional Assistance. In consultation with the business owner, the SEBD Program's staff or its designee will determine areas in which the business owner needs additional assistance.

3. Referral to Additional Resources. The SEBD Program or its designee will assist the firm obtain technical and/or managerial assistance from other resources, such as small business development centers, procurement centers, consultants, business networks, professional business associations, educational institutions, and other public agencies.

4. Ongoing Evaluation. In conjunction with the small and emerging business firm and appropriate external resources, the SEBD Program or its designee will periodically assess the SEB firm's progress toward attainment of its business goals. The SEBD Program, in conjunction with the SEB firm, will determine the effectiveness of assistance being administered. If assistance is ineffective, the SEBD Program will investigate and take appropriate action.

5. Graduation from the Program. Upon completion of the Program's seven year term or attainment of the SEB's programmatic goals, the SEB firm will graduate from the program. Firms that do not make satisfactory progress and/or exceed the net worth prerequisites for certification will be terminated from the SEBD Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:53 (January 1997), LR 26:1573 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:544 (April 2003), LR 30:

Chapter 5. Mentor-Protégé Program

§501. General Policy

A. The policy of the state is to implement a mentor/protégé program that breaks down barriers and builds capacity of small and emerging businesses, through internal and external practices which include:

1. tone setting? intense and deliberate reinforcement by the governor's office of the state's provision for substantial inclusion of small and emerging businesses in all aspects of purchasing, procurement and contracting;

2. accountability? responsibility of each cabinet member and policy administrator to produce self-imposed and specific outcomes within a specified period of time;

3. partnering? teaming of small and emerging businesses with businesses who have the capability of providing managerial and technical skills, transfer of competence, competitive position and shared opportunity toward the creation of a mutually beneficial relationship with advantages which accrue to all parties;

4. capacity building? enhancing the capability of small and emerging businesses to compete for public and private sector contracting and purchasing opportunities;

5. flexibility? promoting relationships based on need, relative strengths, capability and agreement of the parties within the boundaries of the program objectives of inclusion, impartiality and mutual understanding;

6. education? sharing instruction on intent, purpose, scope and procedures of the Mentor/Protégé program with both government personnel at all levels of administration as well as the business community and the general citizenry;

7. monitoring? requiring the routine measurement and reporting of important indicators of (or related to) outcome

oriented results which stems from the continuing quest for accountability of Louisiana state government;

8. reporting? informing the governor's office of self-imposed outcomes via written and quarterly reports as to the progress of intra-departmental efforts by having the secretary of the department and her/his subordinates assist in the accomplishment of the initiative keep records, and coordinate and link with representatives of the Department of Economic Development; and

9. continuous improvement? approach to improving the performance of the Mentor/Protégé operation which promotes frequent, regular and possible small incremental improvement steps on an ongoing basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 23:53 (January 1997), amended LR 26:1573 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:545 (April 2003), LR 30:

§503. Incentives for Mentor Participation

A. Businesses participating as mentors in the Mentor/Protégé Program will be motivated for program participation via program features incorporated in the bid process as well as contracts and or purchase agreements negotiated with the firm. The following features may be instituted by the state of Louisiana to motivate Mentor participation.

1. Preferential Contract Award. The state of Louisiana may institute a system for awarding points to mentor participants which will confer advantages in the bid or selection process for contracting. The evaluation points granted a mentor/protégé program participant will be proportionate to the amount of protégé participation in the project. Evaluation points will be weighted with the same standards as points awarded for quality for product or service; or

2. Performance Incentives. Contracts for goods or services may include a factor for evaluation of performance for the purpose of providing incentives for work performed or deliveries completed ahead of schedule. The incentive for contractors and suppliers who are mentor/protégé program participants shall be not less than 5 percent greater than incentives awarded to firms who are not program participants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1573 (August 2000), amended by Office of Business Development, LR 29:545 (April 2003), LR 30:

§505. Incentives for Protégé Participation

A. Businesses participating as protégés will be eligible for the following program benefits.

1. Subcontracting Opportunities. Protégé firms may be eligible for non-competitive subcontracting opportunities with the state and private sector industries.

2. Technical and Developmental Assistance. Protégé firms will be provided technical and developmental assistance provided by Mentors which is expected to build the capacity of the protégé firm to compete successfully for public and private sector opportunities.

3. Networking. The Department of Economic Development will institute a system of networking protégé firms with potential mentors for the purposes of facilitating successful mentor/protégé partnerships. SEB firms participating in the program will be included in the Department of Economic Development's protégé source guide, which lists the firm and its capabilities as a sources of information for mentors in the program. Additionally, networking seminars for the purposes of introducing potential mentors and protégés will be held annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1574 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:545 (April 2003), LR 30:

§507. Guidelines for Participation

A. The Mentor/Protégé Program will be open to participation by any business entity which meets the criteria for participation as outlined below.

1. Mentor firms:

a. must be capable of contracting with the state;

b. must demonstrate their capability to provide managerial or technical skills transfer or capacity building; and

c. must remain in the program for the period of the developmental assistance as defined in the Mentor/Protégé plan.

2. Protégé firms:

a. must be a certified small and emerging business with the state of Louisiana Department of Economic Development;

b. must be eligible for receipt of government and private contracts;

c. must graduate from the program within a period not to exceed 7 years or until the firm reaches the threshold of \$750,000 net worth as defined by the SEB certification guidelines.

3. Mentor/Protégé Plan

a. A mentor/protégé plan signed by the respective firms shall be submitted to the Department of Economic Development, Program of Small and Emerging Business Development for approval. The plan shall contain a description of the developmental assistance that is mutually agreed upon and in the best developmental interest of the protégé firm.

b. The mentor/protégé plan shall also include information on the mentor's ability to provide developmental assistance, schedule for providing such assistance, and criteria for evaluating the protégé's developmental success. The plan shall include termination provisions complying with notice and due process rights of both parties and a statement agreeing to submit periodic report reviews and cooperate in any studies or surveys as may be required by the department in order to determine the extent of compliance with the terms of the agreement.

c. The submitted mentor/protégé agreement shall be reviewed by an economic development small business advisor. The small business advisor may recommend to the director of the Program of Small and Emerging Business Development acceptance of the submitted Agreement if the

agreement is in compliance with the program's mentor/protégé guidelines.

4. Protégé Selection. Selection of the protégé is the responsibility and at the discretion of the mentor. Protégés may be selected from the listing of SEB firms provided by the Department of Economic Development, Program of Small and Emerging businesses. A protégé selected from another source or reference must be referred to the Department of Economic Development for certification as an SEB firm. The protégé must meet the department's guidelines for SEB certification as a condition of the mentor/protégé plan acceptance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1574 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:546 (April 2003), LR 30:

§509. Measurement of Program Success

A. The overall success of the mentor/protégé program will be measured by the extent to which it results in:

1. an increase in the protégé firm's technical and business capability, industrial competitiveness, client base expansion and improved financial stability;
2. an increase in the number and value of contracts, subcontracts and supplier agreements by small and emerging businesses; and
3. the overall enhancement and development of protégé firms as a competitive contractor, subcontractor, or supplier to local, state, federal agencies or commercial markets.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51: 942

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1574 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:546 (April 2003), LR 30:

§511. Internal Controls

A. The Program of Small and Emerging Business Development will manage the program and establish internal controls to achieve the stated program objectives. Controls will include:

1. reviewing and evaluating mentor/protégé agreements for goals and objective;
2. reviewing semi-annual progress reports submitted by mentors and protégés on protégé development to measure protégé progress against the approved agreement;
3. requesting and reviewing periodic reports and any studies or surveys as may be required by the program to determine program effectiveness and impact on the growth, stability and competitive position of small and emerging businesses in the state of Louisiana; and
4. continuous improvement of the program via ongoing and systematic research and development of program features, guidelines and operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51: 942

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1574 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:546 (April 2003), LR 30:

§513. Non-Performance

A. The Mentor/Protégé Agreement is considered a binding agreement between the parties and the state. Mentors who compete for contract award or purchasing activity and receive evaluation points as program participants are bound, in accordance with the terms of the state contract or purchase order, to fulfill the responsibilities outlined in the approved mentor/protégé agreement as a condition of successful contracting or purchase activity. Protégé who are selected for program participation are bound, in accordance with the terms of their agreement with the Department of Economic Development for continued participation in the program. Failure of the parties to meet the terms of the agreement is considered a violation of contract with liabilities as outlined below.

B. Failure of the mentor to meet the terms of the mentor/protégé agreement will be considered a default of state contract or purchasing agreement.

C. Failure of the protégé to meet the terms of the mentor/protégé agreement will result in exclusion from future participation in the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1574 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:546 (April 2003), LR 30:

§515. Conflict Resolution

A. The state will institute a system for independent arbitration for the resolution of conflicts between mentors and protégé as program participants and/or between program participants and the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1575 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:547 (April 2003), LR 30:

Chapter 9. Small Business Bonding Program

§901. Small Business Bonding Assistance

A. Program Activities? Louisiana Contractors Accreditation Institute (LCAI)

1. Eligibility. All SEB construction contractors who are certified by the Small and Emerging Business Development Program, Department of Economic Development, are eligible to attend the institute. However, other contracting businesses will be invited to attend the institute but they will not be able to receive bond guarantee assistance until they have been certified by the SEBD Program.

2. Standards and Procedures for Determining Course Content. The staff of Bonding Assistance Program (BAP) will once a year, or as budget permits, consult with the heads of the construction schools in Louisiana approved by the Board of Regents and Department of Education to ensure that current course content adequately prepares the students to run their construction firms in a businesslike manner.

3. Attendance. Attendance is open to only certified or potentially certified small and emerging business construction contractors. However, contractors must register for the institute he or she wishes to attend. Each contractor

who successfully completes the LCAI will be issued a certificate of accreditation.

4. Accreditation without Institute Attendance. An SEB firm may request to be accredited without attendance. The staff of the BAP will conduct a review of the firm. If the contractor can present evidence he conducts business within standards set by best practices, an accreditation may be issued to the firm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:53 (January 1997), amended LR 24:430 (March 1998), LR 26:1575 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:547 (April 2003), LR 30:

§903. Direct Bonding Assistance

A. Direct Bonding Assistance. All certified small and emerging construction businesses that have been accredited by the LCAI and all other certified SEBs (non-construction) may be eligible for surety bond guarantee assistance not to exceed the lesser of 25 percent of contract or \$200,000 on any single project. LCAI accreditation is required when funding is available to support accreditation. LCAI accreditation will ONLY be waived for contracts that occur during the specific time periods when funding is not available to support accreditation. All obligations, whether contractual or financial, will require the approval of the undersecretary.

B. Application Process

1. A small business bonding program applicant requesting a bond guaranty is first required to contact a surety company interested in insuring such a bond contingent on SEBD approval. The aforesaid surety will contact SEBD to discern eligibility requirements and submit a formal application on behalf of the business concern.

2. Application for surety bond guarantee assistance including contractor or business underwriting data as prescribed by surety companies shall be submitted by the contractor or its agent to the surety company.

3. Manager of BAP or designee will:

- a. determine and document that business is eligible to participate in program;
- b. secure proof that project has been awarded to contractor or business, in the case of performance and payment bonds;
- c. determine worthiness of the project based on advice and input from surety company;
- d. make recommendations to the BRAS Director as required.

C. Surety Companies

1. Criteria for Eligibility and Continuation in the Program. A surety company must have a certificate of authority from, and its rates approved by, the Department of Insurance, and appear in the most current edition of the *U.S. Treasury Circular 570*.

a. BAP, at its sole discretion, may refuse to recommend the issuance of further guarantees/letters of credit (LC) to a participating surety where the administration finds any of the following:

- i. fraud or misrepresentation in any of the sureties business dealings, BAP-related or not;

- ii. imprudent underwriting standards;
- iii. excessive losses (as compared to other participating sureties);
- iv. failure of a surety to consent to BAP audit;
- v. evidence of discriminatory practices; and
- vi. consideration of other relevant factors.

b. BAP, at its sole discretion, may refuse to recommend the issuance of further guarantees/LC to a participating surety where the Department of Economic Development finds that the surety has failed to adhere to prudent underwriting standards or other practices relative to those of other sureties participating in the BAP. Any surety that has been denied participation in the program may file an appeal, in writing, delivered by certified mail to the Secretary of the Department of Economic Development, or a designee, who will review the adverse action and will render the final decision for the department. Appeals must be received no later than 30 days from the issuance of the secretary's, or designee's, decision.

2. Subsuretyship. A lead or primary surety must be designated by those sureties who desire to bond a contract together. BAP will recommend a guarantee only to one surety. This does not mean that surety agreements cannot be entered. In a default situation, BAP will recommend to indemnify only the lead or primary surety, which will have an indemnification agreement with its re-insurers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:430 (March 1998), amended by the Department of Economic Development, Office of Business Development, LR 29:547 (April 2003), LR 30:

§907. Management Construction/Risk Management Company

A. Surety may require contractor to engage a management construction/risk management company to do, at a minimum, an independent take off and review of all low bid projects and advise BAP of their findings, this determination shall be made based on the Surety's standard underwriting procedures. Surety may also require contractor to engage a management construction/risk management company to provide the following services:

1. review of the initial bond request for compatibility of the contractor with the scope of work as outlined in the solicitation;
2. job cost breakdown and bid preparation assistance;
3. monitor all projects once awarded. This will include a full (critical path) reporting throughout the life of the contract;
4. funds receipt and disbursement through a job-specific account on each project. This will include compliance with all lien waivers, releases and vendor payment verification;
5. make itself immediately available for project completion on any defaults at no additional fee to the project cost.

B. Management construction/risk management company engaged by contractor shall be pre-approved by BAP and surety. BAP shall not receive any portion of any fees paid to management construction/risk management company by contractor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:431 (March 1998), amended by the Department of Economic Development, Office of Business Development, LR 29:548 (April 2003), LR 30:

§909. Underwriting a BAP Guaranteed Bond

A. In underwriting a BAP guaranteed bond, the surety is required to adhere to the surety industry's general principles and practices used in evaluating the credit and capacity; and is also required to adhere to those rules, principles, and practices as may be published from time to time by the BAP.

B. Once an application for a bond guarantee/LC is received from a contractor, a review will be conducted in order to determine whether the small and emerging business is eligible for BAP's surety bond guarantee assistance. This review will focus on the presence of a requirement for surety bonds and other statutory requirements.

1. Bonds

a. There must be a specific contract amount in dollars or obligee estimate of the contract amount, in writing, or other than firm fixed price contracts.

b. There must be nothing in the contract or the proposed bond that would prevent the surety, at its election, from performing the contract rather than paying the penalty.

c. BAP, having guaranteed the bid bond, may refuse to recommend guarantee of the required payment and performance bonds when the actual contract price exceeds the original bid and the next higher bid amount. In such an instance, the surety would either issue the payment and performance bond without BAP's guarantee, or suffer default in fulfilling the bid bond, which should result in claims against the surety and surety's claim against BAP.

2. Types of Bond Guarantees. BAP guarantees will be limited to certain bid, performance, and payment bonds issued in connection with a contract. Bid, performance, and payment bonds listed in the contract bonds section, *Rate Manual of Fidelity, Forgery and Surety Bonds*, published by the Surety Association of America, will be eligible for a BAP guarantee. In addition, the BAP guarantee may be expressly extended, in writing, to an ancillary bond incidental to the contract and essential to its performance.

3. Ineligible Bond Situations and Exceptions

a. If the contracted work is already underway, no guarantee will be issued unless the director or a designee consents, in writing, to an exception.

b. While it should not be a common occurrence, and is in fact to be discouraged, applications for surety bonds may occasionally be submitted for consideration after a job is in process. In such cases, the surety must submit, as part of the application, the following additional information:

i. evidence from the contractor that the surety bond requirement was contained in the original job contract;

ii. adequate documentation as to why a surety bond was not previously secured and is now being required;

iii. certification by contractor: list of all suppliers indicating that they are paid up to date, attaching a waiver of lien from each; that all labor costs are current; that all subcontractors are paid to their current position of work and a waiver of lien from each;

iv. certification by obligee that the job has been satisfactorily completed to present status; and

v. certification from the architect or engineer that the job is in compliance with plans and specifications; and is satisfactory to the present.

c. There are prepared forms published by the American Institute of Architects (AIA), which may be used for the purposes listed above.

C. The surety must satisfy to BAP that there is reasonable expectation that the small and emerging business will perform the covenants and conditions of the contract with respect to which a bond is required. BAP's evaluation will consider the small and emerging business' experience, reputation, and its present and projected financial condition. Finally, BAP must be satisfied as to the reasonableness of cost and the feasibility of successful completion of the contract. The BAP's determination will take into account the standards and principles of the surety industry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:431 (March 1998), amended by the Department of Economic Development, Office of Business Development, LR 29:548 (April 2003), LR 30:

§911. Guarantee

A. Amount of Guarantee. Providing collateral in the form of an irrevocable letter of credit to the surety may be posted on an individual project basis, for one or more projects at any one time, at the discretion of the Department of Economic Development.

B. Surety Bond Guarantee Agreement

1. Terms and Conditions

a. The *guarantee agreement* is made exclusively for the benefit of BAP and the surety; it does not confer any rights or benefits on any other party including any right of action against BAP by any person claiming under the bond. When problems occur on a contract substantive enough to involve the surety, the surety is authorized to take actions it deems necessary. Regardless of the extent or outcome of surety's involvement, the surety's services, including legal fees and other expenses, will be chargeable to the contractor unless otherwise settled.

b. Any agreement by BAP to guarantee a surety bond issued by a surety company shall contain the following terms and conditions:

i. the surety represents that the bond or bonds being issued are appropriate to the contract requiring them;

ii. the surety represents that the terms and conditions of the bond or bonds executed are in accordance with those generally used by the surety for the type of bond or bonds involved;

iii. the surety affirms that without the BAP guarantee to surety, it will not issue the bond or bonds to the principal;

iv. the surety shall take all steps necessary to mitigate any loss resulting from principal's default;

v. the surety shall inform BAP of any suit or claim filed against it on any guaranteed bond within 30 days of surety's receipt of notice thereof. Unless BAP decides otherwise, and so notifies surety within 30 days of BAP's

receipt of surety's notice, surety shall take charge of the suit for claim and compromise, settle or defend such suit or claim until so notified. BAP shall be bound by the surety's actions in such matters;

vi. the surety shall not join BAP as a third party in any lawsuit to which surety is a party unless BAP has denied liability in writing or BAP has consented to such joinder.

c. When contractor successfully completes bonded job a status inquiry report is signed by appropriate parties and is forwarded to surety's collateral department. Surety shall release standby letter of credit within 90 days of recordation of acceptance date shown on status inquiry report.

d. Variances. The terms and conditions of BAP's guarantee commitment or actual bond guarantee may vary from surety to surety and contract to contract depending on BAP's experiences with a particular surety and other relevant factors. In determining whether BAP's experience with a surety warrants terms and conditions which may be at variance with terms and conditions applicable to another surety, BAP will consider, among other things, the adequacy of the surety's underwriting; the adequacy of the surety's substantiation and documentation of its claims practice; the surety's loss ratio and its efforts to minimize loss on BAP guaranteed bonds; and other factors. Any surety which deems itself adversely affected by the Director's exercise of the foregoing authority may file an appeal with the Secretary of the Department of Economic Development. The Secretary will render the final decision.

2. Reinsurance Agreement. In all guarantee situations, BAP agrees to reimburse the participating surety up to the agreed-upon percentage of any and all losses incurred by virtue of default on a particular contract. The participating surety agrees to handle all claims, with recoveries being shared on a pro rata basis with BAP. This includes reinsurance agreements between the surety and any other licensed surety or reinsurance company. In other words, no indemnity agreement can be made to inure solely to the benefit of the surety to recover its exposure on any bond guarantee by BAP without BAP participating in its pro rata share.

3. Default

a. Notice of Default. Surety shall notify BAP if it becomes aware of any circumstances which may cause the contractor to fail to timely complete the project in accordance with the provisions of the contract. Where BAP receives information from other sources indicating a contractor is in potential violation of his contract, the information is to be relayed to the surety for its information and appropriate action.

b. Default Claims, Indemnity Pursuit, and Settlement

i. The sole authority and responsibility in BAP for handling claims arising from a contractor's default on a surety bond guaranteed by the BAP shall remain with the director and undersecretary relative to BAP's guarantee. The director and undersecretary will process and negotiate all claim matters with surety company representatives.

ii. In those situations where BAP's share is \$500 or less, the surety shall notify the contractor, by letter, of its outstanding debt with no further active pursuit undertaken

by the surety for which BAP would be requested to reimburse.

iii. In those situations where BAP's share is over \$500 through \$2,500, the surety shall promptly develop financial background information on the debtor contractor. These findings will determine whether it is economically justified to further pursue indemnity recovery or to close the file.

iv. In those situations where BAP's share is over \$2,500, the surety shall pursue recovery through its normal method, assessing and comparing the estimated cost of recovery efforts with the probable monetary gain from the effort prior to exercising its rights under LC.

v. The surety shall advise BAP of attempts made to contact indemnitor or to attach other assets, and the outcome of these attempts. The surety shall insure that BAP is credited with its respective apportionment of all recovery within 90 days of the recovery.

vi. At the culmination of subrogation and indemnity recovery efforts, the surety shall notify the obligor of the total amount outstanding. A copy of the notice sent to the contractor shall be promptly forwarded to the BAP. After recovery efforts have been exhausted, the surety and BAP will make final reconciliation on the defaulted case, and close the file on that particular contractor's project. Prior to closing the file, surety shall conduct a recapitulation of the account to assure that BAP has been correctly credited with all funds recovered from any and all sources.

vii. Under the terms and conditions of the surety bond guarantee agreement, the authority to act upon proposed settlement offers in connection with defaulted surety bonds lies with the surety, not with the BAP. A settlement occurs when a defaulted contractor and its surety agree upon a total amount and/or conditions which will satisfy the contractor's indebtedness to the surety, and which will result in closing the loss file. The surety must pay BAP its pro rata share of such settlement. BAP, immediately upon receipt of same, closes the file.

4. Reinstatement. A contractor's contractual relationship is with the surety company. Therefore, all matters pertaining to reinstatement must be arranged with and through the surety. BAP's contractual relationship is with the surety company only. Because of these relationships, BAP will neither negotiate nor discuss with a contractor amounts owed the surety by the contractor, or settlement thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:432 (March 1998), amended by the Department of Economic Development, Office of Business Development, LR 29:549 (April 2003), LR 30:

§913. Audits

A. At all reasonable times, BAP or designee may audit the office of either a participating agency, its attorneys, or the contractor or subcontractor completing the contract, all documents, files, books, records and other material relevant to the surety bond guarantee commitments. Failure of a surety to consent to such an audit will be grounds for BAP to refuse to issue further surety guarantees until such time as

the surety consents to such audit. However, when BAP has so refused to issue further guarantees the surety may appeal such action to the Secretary of the Department of Economic Development. All appeals must be in writing and delivered by certified mail within 30 days of receiving the Director's, or designee's written issuance of notice that no further guarantees will be issued. Otherwise the Director's, or designee's, decision becomes final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:433 (March 1998), amended by the Department of Economic Development, Office of Business Development, LR 29:550 (April 2003), LR 30:

§915. Ancillary Authority

A. The Director, with the approval of the undersecretary and assistant secretary, will have the authority to commit funds and enter into agreements which are consistent with and further the goals of this program. This authority would include, but not be limited to, designating a pool of funds upon which only a particular surety has recourse to, in the event of a contractor default.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:433 (March 1998), amended by the Department of Economic Development, Office of Business Development, LR 29:550 (April 2003), LR 30:

Chapter 11. Promotion of Small and Emerging Businesses

§1101. Promotion

A. Directory

1. **Compilation.** The SEBD Program shall compile a directory of all certified SEBs and make it available to the businesses and governmental agencies.

2. **Frequency of Publication.** The directory shall be updated at least annually, based upon information provided by certified businesses. The SEBD Program may issue updated directories more frequently.

3. **Volume and Distribution.** At least one copy of the directory will be made available to each state agency and educational institution, and copies will be provided to the state library. Additional copies may be made available to the public and governmental agencies as SEBD Program's resources permit.

4. **Available Information.** Public information concerning a small and emerging business may be obtained by contacting the Small and Emerging Business Development Program staff during normal working hours.

B. **Other Promotional Means.** The SEBD Program will utilize other feasible means of promoting small and emerging businesses, such as, but not limited to, the internet, world wide web, electronic bulletin boards, trade shows, or private sector contacts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:54 (January 1997), amended by the Department of Economic

Development, Office of Business Development, LR 29:550 (April 2003), LR 30:

Chapter 13. Complaints and Investigations

§1301. Complaints and Investigation of Ineligibility

A. **Right to File Complaint.** Any individual, firm, or governmental agency which believes that a certified business does not qualify for certification may file a written, signed complaint with the SEBD Program. The complaint must contain sufficient information for SEBD Program staff to conduct an investigation, including specific identification of the affected business, basis for the charge of ineligibility, and identification, mailing address, and telephone number of the complainant.

B. **Right to Due Process.** No small and emerging business shall be decertified based upon a complaint, without first having had an opportunity to respond to the allegations; however, failure of the small and emerging business to respond to the SEBD Program's notification within 30 calendar days of mailing from the Program may result in revocation of certification.

C. Investigative Procedure

1. **Notification of Allegation.** The SEBD Program shall notify the certified business which is subject of the complaint by certified mail, return receipt requested, of the allegation within 15 calendar days of the complaint's receipt.

2. **Investigation Conducted.** Within available resources, the SEBD Program shall investigate each complaint as promptly as possible. In no event shall the investigation extend beyond 60 calendar days from the date that the complaint was received.

3. **Cooperation.** The small and emerging business shall cooperate fully with the investigation and make its staff and records available to the SEBD Program, if requested. Insufficient cooperation may be grounds for concluding that the firm has not borne the burden of proving to the satisfaction of the SEBD Program that it is eligible for certification, resulting in revocation of certification.

4. Upon completion of the investigation, the SEBD Program's staff shall make a determination and issue a written decision which either rejects the complaint or revokes the certification within 10 working days. A copy of the written decision shall be sent to the firm that was subject of the complaint, the complainant, and the director of the SEBD Program of State Purchasing.

AUTHORITY NOTE: Promulgated in accordance with RS. 51:944.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:54 (January 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:551 (April 2003), LR 30:

§1303. Grounds and Procedure for Reconsideration of Denial

A. **Right to Petition.** A decision by the SEBD Program to deny issuing certification, deny renewal of certification, or to revoke certification will be reconsidered after an applicant business has submitted a written petition for reconsideration to the staff of the SEBD Program.

B. **Grounds.** Grounds for petitioning the SEBD Program to reconsider a denial or revocation of certification are that the Small and Emerging Business Development Program:

1. did not have all relevant information;

2. misapplied its rules;
3. otherwise made an error in reaching its original decision.

C. Right to Petition for Reconsideration. A petitioning business may appeal SEBD Program's decision to deny issuance of certification, to deny recertification, or to revoke certification. Only a firm which is subject of the denial or revocation has a right to petition for reconsideration.

1. Petition Submitted. The appellant business submits a written petition for reconsideration to the SEBD Program's staff. If the petition has not been received by the SEBD Program within 30 days of the date of the letter announcing the denial or revocation, the SEBD Program's decision becomes administratively final.

2. The petition shall specify grounds upon which a reconsideration is justified and the type of remedy requested. The petition for reconsideration must also clearly identify a contact person, mailing address, telephone number. The petitioning firm may provide any additional information which would be pertinent to the issue.

3. Acknowledgment. Upon receiving a petition for reconsideration, SEBD Program shall acknowledge its receipt by sending certified mail, return receipt requested, to the petitioner within five working days.

4. Reconsideration. The SEBD Program shall consider the petition and review all pertinent information, including additional information provided by the appellant business. The SEBD Program may conduct further investigation as necessary.

5. Notification of Decision. No later than 60 calendar days from receipt of the petition for reconsideration, the SEBD Program shall notify the petitioner by certified mail, return receipt requested, of its decision either to affirm the denial or revocation, with specific reason(s) of the grounds for the decision.

D. Final Decision. A decision to deny, revoke, or suspend certification following consideration of a petition for reconsideration is final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:944.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:55 (January 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:551 (April 2003), LR 30:

Family Impact Statement

These proposed Rules should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D, or on family formation, stability and autonomy. 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. on family earnings and family budget;
5. the behavior and responsibility of children;
6. or the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments to Robert L. Cangelosi, Attorney, Legal Division, Louisiana Department of Economic Development, P.O. Box 94185,

Baton Rouge, LA 70804-9185; or physically delivered to Capitol Annex Building, Second Floor, 1051 North 3rd Street, Baton Rouge, LA 70802. All comments must be submitted (mailed and received) by 5:00 P. M., February 20, 2004.

Don J. Hutchinson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Small and Emerging Business Development Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no incremental costs or savings due to the implementation of these rules into this program. Current staff will be sufficient to process and monitor these rules within program. There will be no increase in costs or savings. Funding for this program will come from the regular authorized appropriations received by the Department of Economic Development and the Economic Development Fund.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no expected impact on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no anticipated additional costs to directly affected persons or non-governmental groups. The economic benefit of such rules will inure to new and expanding Louisiana businesses which will invest in Louisiana-based economic development projects. These rules are intended to open the program to "legal residents," as well as "citizens;" to provide additional definitions; to allow the director's "designee" to act in the absence of the director; to achieve flexibility regarding the Louisiana Contractors Accreditation Institute (LCAI) bonding program when no state funding is available for such training; to permit the limitation of the number of bond guarantees outstanding at a given time; and to correctly reflect the name of the office adopting the rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The purpose and intent of these rules are to provide the maximum opportunity for small and emerging businesses to become competitive in a non-preferential modern economy. This purpose should be accomplished by providing a program of assistance and promotion, which will in turn create jobs and greatly enhance economic development throughout Louisiana. These regulations are intended to prescribe the procedures for qualifying and certifying small and emerging businesses; to provide for bonding and other financial assistance; to provide for technical and managerial assistance; to provide for a business mentor-protégé program; to recognize achievements for small and emerging businesses; and to facilitate access to state agency procurement; all of which will create increased competition among businesses and correspondingly increase employment prospects for Louisiana residents throughout the state.

Arthur Cooper
Director
0401#091

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746? Louisiana Standards for State Certification of School Personnel? Validity, Reinstatement, Renewal, and Extension of Certificates (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to *Bulletin 746? Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy amends the current Validity, Reinstatement, Renewal, and Extension of Certificates policy in Bulletin 746 to allow reactivation of a lapsed teaching certificate for a one-year period, contingent upon the bearer of the certificate completing six semester hours of coursework within one year of the reactivation date. This temporary reactivation recognizes the certification status the teacher achieved prior to leaving the profession. Additionally, the policy adds language to limit the amount of time for response to a declination letter issued to an applicant for a non-standard certificate.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans Subchapter A. Bulletins and Regulations §903. Teacher Certification Standards and Regulations

A. Bulletin 746

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), LR 28:2505, 2508 (December 2002), LR 29:117, 119 (February 2003), LR 29:119,121 (February 2003), LR 29:121, 123 (February 2003), LR 30:

Process for Renewing Lapsed Professional Certificates Type C, B, and A Certificates and Level 1, 2, and 3 Certificates

Type C and Level 1 certificates for beginning teachers in Louisiana shall be valid for three years. Teachers who have had the required academic preparation and the necessary number of years of successful teaching experience in their

properly certified field and have successfully completed the Louisiana Teacher Assistance and Assessment program may have Type C certificates converted into Type B or Type A certificates, or may have Level 1 certificates converted into Level 2 or Level 3 certificates, with validation subject to the terms and conditions hereinafter set forth.

Type B and A certificates shall be valid for life; and Level 2 and Level 3 certificates shall be valid for five years and renewable with 150 Continuing Learning Units (CLUs) of professional development. The period of validity is subject to the provision that the holder does not allow any period of five or more consecutive calendar years of disuse to accrue and/or the certificate is not revoked by the State Board of Elementary and Secondary Education acting in accordance with law.

Type C, Type B, and Type A certificates will lapse for disuse if the holder thereof allows a period of five consecutive calendar years to pass in which he is not a regularly employed educator for at least one semester (90 consecutive days).

Level 1, 2 and Level 3 professional certificates will lapse for disuse (a) if the holder thereof allows a period of five consecutive calendar years to pass in which he is not a regularly employed educator for at least one semester (90 consecutive days), or (b) if the holder fails to complete the required number of professional development hours during his employ.

Full reinstatement of a lapsed certificate shall be made only on evidence that the holder earned six semester hours (or equivalent) of resident, extension, correspondence, or online credit in courses approved by the Division of Teacher Certification and Higher Education or a dean of a Louisiana College of Education. The six semester credit hours must be earned during the five-year period immediately preceding reinstatement.

If the holder of a lapsed certificate has not earned the required six credit hours, the lapsed certificate may be reactivated (at the level that was attained prior to disuse) for a period of one year, during which time the holder of certificate is required to complete six semester credit hours of coursework and present evidence of successful completion to the Division of Teacher Certification and Higher Education. Failure to complete the necessary coursework during the one-year reactivation period will result in a lapsed certificate that cannot be reinstated until evidence of completed coursework is provided.

**Approved Courses to Reinstate Lapsed Certificates
(Six semester hours of coursework required)**

Type of Approved Coursework	Early Childhood (PK, K, PK-3)	Elementary Grades (1-4, 1-5, 1-6, 1-8)	Middle Grades (4-8, 5-8)	Secondary Grades (6-12, 7-12)	Special Education (1-12)	All-Level (K-12) Areas (Art, Dance, Foreign Language, H&PE, Music)
(Diagnostic & Prescriptive Reading)	X	X	X	X	X	
Reading in the Content Area	X	X	X	X	X	
Other Content in Reading	X	X	X	X	X	X
Early Numeracy Concepts of Mathematics	X	X	X		X	
Other Content in Mathematics	X	X	X		X	
Content in English/ Language Arts	X	X	X		X	
Content in Science	X	X	X		X	
Content in Social Studies	X	X	X		X	
Content Specific to Subject Area of Certification			X	X	X	X
Classroom and/ or Behavior Management	X	X	X	X	X	X
Technology in the Classroom	X	X	X	X	X	X
Teaching in an Inclusive Setting	X	X	X	X	X	X
Vocational and Transition Services for Students					X	

- Notes:
1. Teachers with multiple certification areas may complete coursework specific to any of their certification areas.
 2. Coursework must be reflected on a transcript from a regionally accredited institution.
 3. Coursework must be gained within the five-year period immediately preceding reinstatement of the certificate.
 4. Coursework cannot be a repeat of prior coursework shown on a transcript, unless the student failed or earned a "D" in the course.

Effective July 2002; Revised December 2002

Types of Teaching Authorizations and Certifications

Standard Teaching Authorizations Teachers holding standard teaching authorizations and certifications may meet the requirements of the NCLB mandate.		
Professional Level Certificates (Issued beginning July 1, 2002)		
Level 1 Professional Certificate (Three-year term)	Teachers must graduate from a State-approved teacher preparation program (traditional or alternative path), pass PRAXIS, and be recommended by a university to receive a Level 1 Professional Certificate. -OR- Teacher must complete a State-approved Practitioner Teacher Program, pass PRAXIS, and be recommended by the Practitioner Teacher Program provider to receive a Level 1 Professional Certificate. -OR- Teacher must meet the requirements of an out-of-state certified teacher.	A lapsed Level 1 certificate may be renewed once for an additional three years, upon recommendation of the parish superintendent (or corresponding administrative officer of a private school system) who wishes to employ such teachers, subject to the approval of Teacher Certification and Higher Education, or upon the presentation of six semester hours of resident, extension, or correspondence credit directly related to the area of certification.
Level 2 Professional Certificate	Teachers with a Level 1 Professional Certificate must pass the Louisiana Teacher Assistance and Assessment Program and teach for three years to receive a Level 2 Professional Certificate.	Teachers must complete 150 clock hours of professional development over a five-year time period in order to have a Level 2 Professional License renewed.
Level 3 Professional Certificate	Teachers with a Level 1 or Level 2 Certificate are eligible for a Level 3 Certificate if they complete a Masters Degree, teach for five years, and pass the Louisiana Teacher Assistance and Assessment Program.	Teachers must complete 150 clock hours of professional development over a five-year time period in order to have a Level 3 Professional License renewed.
Standard Teaching Certificates (Issued prior to July 1, 2002)		

Type C Certificate	Type C certificates will not be issued after July 1, 2002.		
Type B Certificate	Candidates currently holding Type A or Type B certificates will continue to hold these certificates, which are valid for life, provided the holder does not allow any period of five or more consecutive years of disuse to accrue and/or the certificate is not revoked by the State Board of Elementary and Secondary Education, acting in accordance with law.		
Type A Certificate			
Out-of-State Certificate			
A teacher certified in another state who meets all requirements for a Louisiana certificate, except for the PRAXIS examinations.	Individual submits application to LDE. Valid for three years and non-renewable.	Teacher must take and pass the appropriate PRAXIS examinations -OR- Teacher provides evidence of at least four years of successful teaching experience in another state, completes one year of employment as a teacher in Louisiana public school systems, and secures recommendation of the local superintendent of the employing school system for continued employment	
Practitioner Licenses			
Teachers holding standard teaching authorizations and certifications may meet the requirements of the NCLB mandate.			
One-year license that can be held a maximum of three years, renewable annually.	The District and the alternate certification program provider must identify the individual as a practitioner teacher (PL1), a non-master's alternate certification program teacher (PL2), a master's alternate certification program teacher (PL3), or as a teacher who is not in one of the three new alternate certification programs (PL4) but qualifies for a PL.	Teacher must be admitted to and enrolled in a State-approved Practitioner Teacher Program (PL1), Non-Master's Alternate Certification Program (PL2), or Master's Degree Alternate Certification Program (PL3), which necessitates meeting all program requirements including baccalaureate degree, stipulated GPA, and passing scores on the Praxis PPST and content area exams. A teacher receiving a PL4 license is not in a new alternate certification program, has passed the Praxis content specialty exam or has 31 hours in the content area of certification, but has not yet completed all requirements for full certification.	The alternate certification teacher (PL1, PL2, and PL3) must remain enrolled in the respective program and fulfill all coursework, teaching assignments, and prescribed activities as identified by the program provider. The PL4 teacher must complete all alternate program coursework that remains, complete all Praxis requirements for the certification area, and achieve a 2.50 GPA. Program requirements must be completed within the three-year maximum that the license can be held. PL2 and PL3 teachers must demonstrate progress toward program requirements by successfully completing at least 9 semester hours each year to remain on the PL license.

Non-Standard Temporary Authorizations to Teach*			
(Teachers holding non-standard teaching authorizations and certifications DO NOT meet NCLB mandate requirements.)			
Temporary Authority to Teach	Districts may recommend that teachers be given one-year temporary authorizations to teach according to the stipulated conditions. Districts submit the application to LDE and provide an affidavit signed by the local superintendent that "there is no regularly certified, competent, and suitable person available for that position" and that the applicant is the best qualified person for the position.	Conditions	Requirements to renew Temporary Authorization to Teach and/or Move to Another Certification Level
A teacher may hold a one-year Temporary Authorization to Teach for a maximum of three years while pursuing a specific certification area. He/she may not be issued another Temporary Certification at the end of the three years for the same certification area unless the Louisiana Department of Education designates the area as one that requires extensive hours for completion.		a. Individual who graduates from teacher preparation program but does not pass PRAXIS	Teacher must prepare for the PRAXIS and take the necessary examinations at least twice a year.
		b. Individual who holds a minimum of a baccalaureate degree from a regionally-accredited institution and who applies for admission to a Practitioner Teacher Program or other alternate program but does not pass the PPST or the content specialty examination of the PRAXIS required for admission to the program.	Teacher must successfully complete a minimum of six credit hours per year in the subject area(s) that he/she is attempting to pass on the PRAXIS; candidate must reapply for admission to a Practitioner Teacher Program or other alternate program.
		c. Individual who holds a minimum of a baccalaureate degree from a regionally-accredited institution and who is hired after the start of the Practitioner Teacher Program	Teacher must apply for admission to a Practitioner Teacher Program or other alternate program and pass the appropriate PRAXIS examinations required for admission to the program.
Out-of-Field Authorization to Teach	District submits application to LDE; renewable annually for maximum of three years. The employing district superintendent must provide a signed statement certifying that "there is no regularly certified, competent, and suitable person available for the position" and that applicant is the best-qualified person available for the position.	a. Individual holds a Louisiana teaching certificate, but is teaching outside of the certified area.	Teacher must obtain a prescription/outline of course work required for add-on certification in the area of the teaching assignment. Teacher must successfully complete a minimum of six credit hours per year of courses that lead toward certification in the area in which he/she is teaching; or the secondary-certified teacher who is teaching out-of-field may opt to take and pass the required PRAXIS content specialty examination for the specific 7-12 academic certification area, if the area has been declared as a primary or secondary teaching focus area. The district must support a teacher's efforts in this area.
A teacher may hold a one-year Out-of-Field Authorization to Teach, renewable annually, for a maximum of three years. If the teacher is actively pursuing certification in the field and LDE designates the certification area as one requiring extensive hours for completion, two additional years of renewability may be granted.			

Temporary Employment Permit	Under condition (a) the district submits application to LDE; renewable annually for a period not to exceed three total years.	a. Individual meets all certification requirements, with the exception of passing all portions of the NTE examination, but scores within ten percent of the composite score required for passage of all exams. (Formerly classified as EP)	Superintendent and President of the school board to which the individual has applied for employment must submit a signed affidavit to the LDE stipulating that there is no other applicant who has met all of the certification requirements available for employment for a specific teaching position. Such permit shall be in effect for not more than one year, but may be renewed annually, twice. One can remain on this temporary certificate for a period not to exceed three years. Such renewal of the permit shall be accomplished in the same manner as the granting of the original permit. The granting of such emergency teaching permit shall not waive the requirement that the person successfully complete the exam. While employed on an emergency teaching permit, employment period does not count toward tenure.
	Under condition (b) the individual submits application to LDE; renewable annually for a period not to exceed three total years.	b. Individual meets all certification requirements, with the exception of passing one of the components of the PRAXIS, but has an aggregate score equal to or above the total required on all tests. (Formerly classified as TEP)	Temporary Employment Permits are issued at the request of individuals, who must submit all application materials required for issuance of a regular certificate to LDE. An individual can be re-issued a permit two times only if evidence is presented that the required test has been retaken within one year from the date the permit was last issued. One can remain on this temporary certificate for a period not to exceed three years.

*A declination letter sent to a school district must be corrected within 10 working days. If the district does not comply with the request for additional information within the 10 days, the district must remove the teacher upon the 11th working day.

Process for Renewing Lapsed Professional Certificates Type C, B, and A Certificates and Level 1, 2, and 3 Certificates
<p>Type C, Type B, and Type A certificates will lapse for disuse if the holder thereof allows a period of five consecutive calendar years to pass in which he is not a regularly employed educator for at least one semester (90 consecutive days).</p> <p>Level 1, 2 and Level 3 professional certificates will lapse for disuse (a) if the holder thereof allows a period of five consecutive calendar years to pass in which he is not a regularly employed educator for at least one semester [90 consecutive days], or (b) if the holder fails to complete the required number of professional development hours during his employ.</p> <p>Full reinstatement of a lapsed certificate shall be made only on evidence that the holder earned six semester hours (or equivalent) of resident, extension, correspondence, or online credit in courses approved by the Division of Teacher Certification and Higher Education or a dean of a Louisiana College of Education. The six semester credit hours must be earned during the five-year period immediately preceding reinstatement.</p> <p>If the holder of a lapsed certificate has not earned the required six credit hours, the lapsed certificate may be reactivated (at the level that was attained prior to disuse) for a period of one year, during which time the holder of certificate is required to complete six semester credit hours of coursework and present evidence of successful completion to the Division of Teacher Certification and Higher Education. Failure to complete the necessary coursework during the one-year reactivation period will result in a lapsed certificate that cannot be reinstated until evidence of completed coursework is provided.</p>

* * *

Interested persons may submit comments until 4:30 p.m., March 10, 2004, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 746? Louisiana Standards for
State Certification of School Personnel? Validity,
Reinstatement, Renewal, and Extension of Certificates**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

This policy amends the current Validity, Reinstatement, Renewal, and Extension of Certificates policy in Bulletin 746 to allow reactivation of a lapsed teaching certificate for a one-year period, contingent upon the bearer of the certificate completing six semester hours of coursework within one year of the reactivation date. This temporary reactivation recognizes the certification status the teacher achieved prior to leaving the profession. Additionally, the policy adds language to limit the amount of time for response to a declination letter issued to an applicant for a non-standard certificate. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

This policy will have no effect on revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

There are no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0401#033

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Student Financial Assistance Commission
Office of Student Financial Assistance**

**Scholarship/Grant Programs? Discharge of Obligation
(LAC 28:IV.911, 1111, and 2105)**

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its Scholarship/Grant Rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, and R.S. 17:3048.1).

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

**Title 28
EDUCATION**

**Part IV. Student Financial Assistance? Higher
Education Scholarship and Grant Programs
Chapter 9. TOPS Teacher Award**

§911. Discharge of Obligation

A. - C.7. ...

D. Cancellation

1. The obligation to repay any remaining unpaid balance of the TOPS Teacher Award shall be canceled in the event either of the following occurs:

a. upon submission to LASFAC of a sworn affidavit from a qualified physician that the recipient is precluded from gainful employment because of a complete and permanent medical disability or condition; or

b. upon submission to LASFAC of a death certificate or other evidence conclusive under state law, that the recipient is deceased.

2. The obligation to repay any remaining unpaid balance of the TOPS Teacher Award may be canceled in the event the remaining unpaid balance is \$25 or less.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3041.10-3041.15, R.S. 17:3042.1-3042.8 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:638 (April 1998), amended LR 24:1907 (October 1998), LR 26:69 (January 2000), LR 26:1603 (August 2000), LR 27:1858 (November 2001), LR 28:774 (April, 2002), LR 30:

**Chapter 11. Rockefeller State Wildlife Scholarship
§1111. Discharge of Obligation**

A. - C.5.b. ...

D. Cancellation

1. The obligation to repay all or part of Rockefeller State Wildlife Scholarship Program funds shall be canceled in the event either of the following occurs:

a. upon submission to LASFAC of a sworn affidavit from a qualified physician that the recipient is precluded from completing the educational program and/or from gainful employment because of a complete and permanent medical disability or condition;

b. upon submission to LASFAC of a death certificate, or other evidence conclusive under state law, that the recipient is deceased.

2. The obligation to repay all or part of Rockefeller State Wildlife Scholarship Program funds may be canceled in the event the remaining unpaid balance is \$25 or less.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3041.10-3041.15, R.S. 17:3042.1-3042.8, R.S. 17:3048.1 and R.S. 56:797.D(2).

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:640 (April 1998), amended LR 24:1909 (October 1998), repromulgated LR 27:1860 (November 2001), amended LR 28:775 (April 2002), LR 30:

**Chapter 21. Miscellaneous Provisions and Exceptions
§2105. Repayment Obligation, Deferment, Cancellation
and Reduced Payments**

A. - F. ...

G Cancellation of Repayment Obligation. Upon submission of applicable proof, loans may be canceled for the following reasons:

1. death of the recipient; or
2. complete and permanent disability of the recipient which precludes the recipient from gainful employment; or
3. upon a determination by LASFAC that the remaining unpaid balance is \$25 or less.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3041.10-3041.15, R.S. 17:3042.1-3042.8, R.S. 17:3048.1 and R.S. 56:797.D(2).

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:649 (April 1998), amended LR 24:1918 (October 1998), LR 26:1603 (August 2000), repromulgated LR 27:1868 (November 2001), amended LR 28:775 (April 2002), LR 30:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., February 4, 2004, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Scholarship/Grant Programs Discharge of Obligation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Act 63 of the 2003 Session permits use of TOPS awards at eligible Louisiana institutions by otherwise qualified students who previously enrolled as first-time freshmen at an out-of-state college or university. This legislation will increase State General fund expenditures for TOPS awards by an unknown amount. Act 401 of the 2003 Session permits TOPS award recipients who complete an academic undergraduate degree in less than eight semesters to be eligible to continue receiving award benefits for any remaining semesters not used for postgraduate study at an eligible institution. This legislation will increase State General fund expenditures for TOPS awards by an estimated \$45,000 per year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated effects on revenue collections of state or local governmental units resulting from these measures.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed changes will allow students to pursue educational opportunities within Louisiana who would otherwise attend college out of state. A few Louisiana students will be able to use some of their TOPS award to pursue postgraduate study.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no estimated effects on competition or employment resulting from these measures.

George Badge Eldredge
General Counsel
0401#028

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Board of Examiners of Interior Designers

Comprehensive Rule Revision
(LAC 46:XLIII.Chapters 1-13)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Interior Designers Licensing Law (R.S. 37:3171 et seq.), the State Board of Examiners of Interior Designers hereby gives notice of its intent to adopt Practice Act revisions to the Rules of the State Board of Examiners of Interior Designers.

These Rules are promulgated to comply with Act 426 of 1999, which amended the licensing law to provide for a Practice Act for Interior Designers. These proposed Rules provide for enforcement and education for those engaged in the practice of Interior Design. Formerly, the statute provided enforcement only against those who used the term *interior design* or *interior designer*. This statute provides that those who actually practice interior design as defined in the statute must be registered with the board prior to engaging in that practice. Further, the statute and the subsequent Rules provide clarification and procedures for continuing education, which is required for all those registered.

The Practice Act and subsequently these Rules complying with that Act were the subject of numerous town hall meetings throughout the state. Numerous designers, educators and students were provided an opportunity to contribute to this statute. Those suggestions were incorporated into the Act. Further, the State Fire Marshal supported these changes, and information was received from architects' and contractors' groups prior to passage of the act. Finally, this Act and subsequent Rules are similar to practice acts passed in other states.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLIII. Interior Designers

Chapter 1. Composition and Operation of the Board §104. Elections

A. The board shall select annually from among its members a chairman, vice-chairman, and secretary and treasurer. The election of officers will be held each year at the last meeting scheduled before the beginning of the fiscal year on July 1.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3173.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1073 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:

Chapter 3. Officers of the Board and Their Duties §305. Secretary

A. The secretary shall be an administrative officer of the board. He shall act as its recording and corresponding secretary and may have custody of and shall:

1. safeguard and keep in good order all property and records of the board which the chairman deems necessary and appropriate;
2. cause written minutes of every meeting of the board to be kept in a book of minutes;
3. keep its seal and affix it to such instruments as require it; and
4. sign all instruments and matters that require attest and approval of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:339, (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1074 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:

§306. Treasurer

A. The treasurer shall act as treasurer and:

1. receive and deposit all funds to the credit of the "Interior Design Fund";
2. attest all itemized vouchers approved by the chairman for payment of expenses of the board;
3. make such reports to the governor and legislature as provided for by law or as requested by same; and
4. keep the records and books of account of the board's financial affairs; and
5. any other duties as directed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Interior Designers, LR 30:

Chapter 5. Fees and Charges

§501. Fees and Charges

A. All fees and charges except for the annual renewal fee must be made by cashier's check or money order. The annual renewal fee may be paid by business or personal check, unless required otherwise by the board. The following fees and charges have been established.

Licensing	\$150
Annual Renewal Fee	\$100
Restoration of Expired License or Reactivation of Expired License	\$150
Replacing Lost Certificate	\$ 25
Restoration of Revoked or Suspended License	\$150
Failure to Renew License within the Time Limit Set by the Board	\$ 50

B. The fees and charges may be amended by the board in accordance with the Act and Rules of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3182 and R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:339 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1075 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:

Chapter 7. Issuance and Reinstatement of Certificates of Registration

§701. Issuance

A. Certificates of registration issued by the board shall run to and include December 31 of the calendar year following their issue. The initial registration fee payable by

cashier's check or money order of \$150 should be submitted with the application to the board. Certificates must be renewed annually for the following calendar year, by the payment of a fee of \$100; provided that any approved applicant who has paid the initial registration fee of the preceding calendar year shall not be required to pay the renewal fee until December 31 of the next succeeding calendar year. Certificates not renewed by December 31 shall become invalid, except as otherwise provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1075 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:

§703. Reinstatement

A. When a certificate has become invalid through failure to renew by December 31, it may be reinstated by the board at any time during the remainder of the following calendar year on payment of the renewal fee, plus a late penalty restoration fee of \$150. In case of failure to reinstate within one year from the date of expiration, the certificate cannot be renewed or reissued except by a new application approved by the board and payment of the registration fee.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1075 (November 1991), LR 20:864 (August 1994), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:

§704. Restoration of Expired Certificates

A. A certificate expires on December 31 of each year. If the licensee fails to have the certificate reinstated within one year of the expiration date of the certificate, then the applicant may petition the board to have his certificate restored if he files the said petition within three years of the expiration of the certificate. If the board approves the restoration of the certificate, then the applicant must pay the sum of \$150 to the board for the restoration and file a new application with the board.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1075 (November 1991), amended LR 20:864 (August 1994), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:

§705. Lost or Destroyed Certificates

A. Lost or destroyed certificates may be replaced on presentation of a sworn statement giving the circumstances surrounding the loss or destruction thereof, together with a fee of \$25. Such replaced certificate shall be marked "duplicate."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic

Development, Board of Examiners of Interior Designers, LR 17:1075 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:

Chapter 8. Continuing Education

§802. Continuing Education Units

A. ...

B. The board will only approve continuing education units which build upon the basic knowledge of Interior Design and which also include topics which concentrate on the subjects of health, safety and welfare of both licensees and their clients and customers.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1075 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:

§803. Verified Credit

A. - C.1. ...

2. the program must build upon the basic knowledge of interior design and must concentrate on or address the subjects of health, safety, and welfare of both licensees and their clients and customers;

C.3. - G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1076 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:

§804. Approved Programs

A. The board by majority vote shall appoint a Continuing Education Advisory Committee which shall solicit, examine, review and recommend for approval by the board all continuing education courses which may be used by registrants and licensees to meet the requirements of this Chapter and Section 3179 of Title 37 of the Louisiana Revised Statutes.

B. The membership of the Continuing Education Advisory Committee shall be composed as follows:

1. at least one member of the board;
2. one member appointed from a list of candidates provided by ASID;
3. one member appointed from a list of candidates provided by IIDA;
4. one correspondence member from each of the eight Louisiana Electoral Districts;
5. one member representing at-large Designers (non-affiliated);
6. any other member approved by the board.

C. The Continuing Education Advisory Committee shall approve only continuing education that builds upon the basic knowledge of interior design and which also concentrates on or addresses the subjects of health, safety, and welfare of both licensees and their clients and customers and shall recommend guidelines for continuing education.

D. Any application for approval of any program must contain the following information:

1. information on the course sponsor, including name, address and telephone number;
2. description of the course, including a detailed description of subject matter and course offering. The following information is required: Length of instructional

period, instruction format, lecture, seminar conference, workshop, or home study; presentation method, such as electronic, visuals, or printed materials. The description should also state how the course relates to public health, safety and welfare;

3. course instructors, leaders and/or participants. Names, addresses and telephone numbers of instructors or leaders or participants in the program must be given. Participants will include any member of any panel, those who make a presentation by electronic means, or any other person who leads or contributes to the course content. Information on these should include education and professional credentials for each person. Professional references will be requested;

4. time, place and cost. The information must include the date, time and location of course offerings, as well as attendance fees and cost of course materials;

5. verification of course completion. The information must include the sponsor's method for verifying attendance, participation and achievement of program learning objectives;

6. course information dissemination. The information must include the method of informing those interested of program offering.

E. Application Fees

1. All applicants for approval of a program for continuing education credit by the board must pay the following costs, which represent the direct cost to the board for committee review and expenses.

a. Programs already approved by professional organizations including ASID, IIDA, IDEC, IFMA, BOMA, NFPA, SBC AIA and the IDCEC? \$10

b. Individual presentations on a one-time annual basis? \$25

c. National Commercial Seminars presented by for profit organizations? \$50

2. Review fees are payable to the board and are non-refundable.

3. The board may waive fees for programs solicited by the board.

F. Committee Meetings

a. The CEU Advisory Committee may meet by telephone conference calls or by other electronic means.

b. Corresponding members will receive information regarding applications for CEU approval by facsimile and may respond via facsimile.

c. All matters considered by the CEU Advisory Committee are subject to final approval by the board at its regularly scheduled meetings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1076 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:

Chapter 9. Examination and Registration

§902. Licensing without Examination

A.1. All persons registered to use the title *interior designer*, *registered interior designer* or *licensed interior designer* on January 1, 2000, shall be qualified for interior design registration under the provisions of this Chapter, provided that their license was not inactive, expired, suspended or revoked.

2. Any person licensed on January 1, 2000, who has not passed the required examination by January 1, 2003, must show completion of one of the following:

- a. passage of the building and barrier free code section of the NCIDQ examination; or
- b. 15 hours of board-approved continuing education classes relating to building and barrier free code regulation prior to having the certificate of registration issued under this Subsection renewed. Any hour earned for continuing education pursuant to this Section shall be in addition to any other continuing education required by this Part.

3. However, any person who has within the three years prior to January 1, 2000, completed 15 hours of approved continuing education on building and barrier free code regulation shall not be required to complete the 15 hours of continuing education related to building and barrier free code regulation as provided for herein.

4. Prior to January 1, 2003, or until he completes the requirements of this Section, the interior designer may retain the title "licensed interior designer" and retain all rights and duties granted to registered interior designers pursuant to this act, conditioned upon the licensed interior designer abiding by all requirements of this part.

B. On January 1, 2000, all persons who are 65 years old and who are authorized to use the term "licensed interior designer" on the effective date of the act shall not be required to establish proof of passage of the required examination. However, such persons shall comply with all other requirements of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and 37:3178.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:

§903. Application Procedure

A. Application must be made to the board on application forms obtained from the State Board of Examiners of Interior Designers and required fees filed. Application forms may be obtained by calling (225) 298-1283 or writing to State Board of Examiners of Interior Designers, 2900 Westfork Drive, Suite 200, Baton Rouge, LA 70827.

B. The application must request the following information:

1. name;
2. business address and telephone;
3. residential address and telephone;
4. affiliations, if any;
5. educational background;
6. employment background;
7. specialities, if recognized;
8. e-mail address;
9. volunteer status for board committees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1077 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:

§909. Seal and Display of License Number

A. An applicant for licensing who complies with all requirements established therefor, including the successful completion of an examination where applicable, shall be

issued a certificate by the board to evidence such licensing. Each holder of a license shall secure a seal of such design as is prescribed in the rules of the board. All drawings, renderings, or specifications prepared by the holder or under his supervision shall be imprinted with his seal.

B. The seal to be used is identified in the following illustration:



AUTHORITY NOTE: Promulgated in accordance with R.S. 3179.2.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1077 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:

§911. Inactive Status

A. ...

B. An applicant who wishes to have his license reactivated must provide proof to the Board that he has completed board-approved continuing education units of not less than five hours approved by the board for each year the license was inactive, to be cumulated at the time the applicant applies to have his license reactivated.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1077 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:

Chapter 10. Use of Term "Interior Designer"

§1001. Limitation of Use of Term

A. Only those who are licensed as a *licensed interior designer* or *registered interior designer* by the board may use the appellation *interior designer*, *licensed interior designer* or *registered interior designer* or the plural thereof in advertising or in business usage when referring to themselves or services to be rendered.

B. Definitions

Licensed Interior Designer? a person who is licensed pursuant to the provisions of this chapter.

Registered Interior Designer? a licensed interior designer who has taken and passed the examination provided by the National Council for Interior Design Qualifications (NCIDQ).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3171 and R.S. 37:3176.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers,

LR 17:1078 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:

§1003. Firm Practice

A. Nothing shall prevent a licensed or registered interior designer licensed pursuant to the statute or regulations from associating with one or more interior designers, architects, professional engineers, landscape architects, surveyors, or other persons in a partnership, joint venture, or corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3180.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1078 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:

§1005. Use of Term by Business

A. A firm shall be permitted to use in its title the term licensed interior designer or registered interior designer and to be so identified on any sign, card, stationery, device, or other means of identification if at least one partner, director, officer, or other supervisory agent of such firm is licensed as an interior designer in this state. A firm shall not be required to include the names of all partners, directors, or officers in its title.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3180.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1078 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:

Chapter 11. Revocation or Suspension of Certificates of Registration

§1101. Authority of Board to Suspend or Revoke

A. - A.2. ...

3. that an applicant for a license has represented himself to be a *licensed interior designer* or a *registered interior designer* prior to the time of issuance of a license to him except as authorized by the Act;

4. - 6. ...

7. that the holder of the license has been guilty of affixing his seal or stamp or name to any specification, drawing, or other related document which was not prepared by him or under his responsible supervision and control, or permitting his seal, stamp, or name to be affixed to any such document;

8. that the holder of a license has been guilty of affixing his seal or stamp or name to any plan, specification, drawing or other document which depicts work which he is not competent or licensed to perform;

9. that the holder of the license has been convicted of a felony, in which case the record of conviction is conclusive evidence of such conviction;

10. that the holder of the license has been guilty of willfully misleading or defrauding any person employing him as an interior designer;

11. that the holder of the license has been guilty of willfully violating the provisions of the Act or any lawful rule or regulation adopted by the board pursuant to law;

12. that the holder of the license has been guilty of attempting to obtain, obtaining, or renewing, by bribery, by fraudulent misrepresentation, or through an error of the board, a license to use the title *licensed interior designer*;

13. that the holder of the license has been guilty of having a license to practice interior design, or a license to use the title *licensed interior designer* or *registered interior*

designer, revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another jurisdiction for any act which would constitute a violation of this part of this Chapter;

14. that the holder of the license has been convicted or found guilty of a crime in any jurisdiction which directly relates to the provision of interior design services or to the ability to provide interior design services. A plea of *nolo contendere* shall create a rebuttable presumption of guilt to the underlying criminal charge. However, the board shall allow the person being disciplined to present any evidence relevant to the underlying charge and the circumstances surrounding such plea;

15. that the holder of the license has been guilty of false, deceptive, or misleading advertising;

16. that the holder of the license has been guilty of aiding, assisting, procuring, or advising any unlicensed person to use the title *licensed interior designer* or *registered interior designer* contrary to this Act or to a rule of the board;

17. that the holder of the license has been guilty of failing to perform any statutory or legal obligation placed upon an interior designer;

18.a. that the holder of the license has been guilty of:

i. making or filing a report which the licensee knows to be false;

ii. intentionally or negligently failing to file a report or record required by state or federal law; or

iii. willfully impeding or obstructing such filing or inducing another person to do so;

b. such reports or records shall include only those which are signed in the capacity as an interior designer.

19. that the holder of the license has been guilty of making deceptive, untrue, or fraudulent representations in the provision of interior design services;

20. that the holder of the license has been guilty of accepting and performing professional responsibilities which the licensee knows or has reason to know that he is not competent or licensed to perform;

21. that the holder of the license has been guilty of rendering or offering to render architectural services.

B. Revocation or nonrenewal of the registration of the registered interior designer is recommended for violations of Paragraphs 1, 2, 6, 9, 10, 11, 12, and 13.

C. Revocation or nonrenewal of the registration of the registered interior designer is recommended if there is a finding that the registrant has been suspended at least twice prior to the hearing on the incident regarding the current complaint.

D. Revocation or nonrenewal of the registration of the registered interior designer is recommended if there is a finding that the registrant has violated any requirements relating to continuing education units.

E. A reprimand or suspension of 30 days to one year is recommended for violation of any Paragraphs 3, 4, 5, 7, 14, 15, 16, 17, 18, 19, 20.

F. Suspension is recommended if the registrant has received three reprimands.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179 and R.S. 37:3181.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic

Development, Board of Examiners of Interior Designers, LR 17:1078 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:

§1103. Procedure for Suspension or Revocation

A. ...

B. If a formal complaint is filed with the board, that complaint shall be referred to the Disciplinary Committee, whose job shall be to investigate the complaint. If warranted by the investigation, the Disciplinary Committee shall duly notify the alleged violator in writing of the complaint and ask the alleged violator for a response to the complaint.

C. If the Disciplinary Committee by a majority vote determines that there has been no violation of the statutes and regulations regulating registered or licensed interior designers, then a report of that shall be made to the board.

D. If the Disciplinary Committee determines that the registrant has corrected the alleged violation, and the complainant has accepted the correction without further hearing, it shall make a report of that to the entire board.

E. If the Disciplinary Committee determines that there is a violation alleged, and that the registrant has not corrected the alleged violation, then it shall make a referral to the board of this fact and ask that the matter be referred for a hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174, R.S. 37:3179 and R.S. 37:3181.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1079 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:

§1104. Hearings

A. If, after following the procedure in §1103, the board determine that a hearing is warranted, the following procedure should be followed.

B. Proceedings to revoke, rescind or suspend the certificate of registration of an interior designer shall commence by any person filing a sworn affidavit with the board against the interior designer. A time and place for the hearing of the charges shall be fixed by the board. The board, upon its own motion, may investigate the actions of any interior designer and file a complaint against him.

C. A copy of the complaint shall be sent by the board to the interior designer against whom a complaint has been filed at his last known address by registered or certified mail at least 20 days prior to the hearing together with a notice of the time and place of the meeting of the board at which the complaint shall be heard.

D. At the hearing the interior designer against whom a complaint has been filed shall have the right to cross-examine witnesses against him, to produce witnesses in his defense, and to appear personally or by counsel.

E. No action shall be taken to rescind, revoke, or suspend the certificate of registration of any interior designer unless a quorum of the board is present at the hearing and then only by an affirmative vote of at least four of the members of the board present.

F. If the board determines upon the suspension of the certificate of registration of any interior designer, it shall fix the duration of the period of the suspension.

G. If the board revokes, rescinds, or suspends the certificate of registration of any interior designer, the secretary of the board shall give written notice of its action by registered or certified mail to the person against whom the complaint was filed at the last known address.

H. The board may require the production of books, papers, or other documents and may issue subpoenas to compel the attendance of witnesses to testify and to produce any relevant books, papers, or other documents in their possession before the board in any proceeding concerning any violations of the laws regulating registered interior designers or the practice of interior design. The subpoenas shall be served by the sheriff for the parish where the witness resides or may be found. If any person refuses to obey any subpoena so issued or refuses to testify or to produce any books, papers, or other documents required to be produced, the board may present its petition to the district court of the parish in which that person was served with the subpoena setting forth the facts. The court shall then issue a rule to that person requiring him to obey the subpoena or to show cause why he fails to obey it. Unless that person shall show sufficient cause for failing to obey the subpoena, the court shall direct him to obey the subpoena and, upon his refusal to comply, he shall be adjudged in contempt of court and punished therefor, as the court may direct.

I. Any licensed or registered interior designer who has been found guilty by the board of the charges filed against him and whose certificate of registration has been revoked, rescinded, or suspended, shall have the right to appeal to the district court of the parish in which the hearing was held. The appeal shall be governed by the Administrative Procedure Act, R.S. 49:950, et seq.

J. The board shall have the power to issue a new certificate of registration, change a revocation to a suspension, or shorten the period of suspension, upon satisfactory evidence that proper reasons for such action exist, presented by any person whose certificate of registration as an interior designer has been revoked, rescinded or suspended. Any person whose certificate of registration has been suspended shall have his certificate of registration automatically reinstated by the board at the end of his period of suspension upon payment of the renewal fee. No delinquent fee shall be charged for reinstatement of certificate of registration under the provisions of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:3174, R.S. 37:3179 and R. S. 37:3181.

HISTORICAL NOTE: Promulgated the Office of the Governor, Board of Examiners of Interior Designers, LR 30:

§1106. Fine for Restoration of Revoked or Suspended License

A. The board may require a licensee who has had his license revoked or suspended pursuant to the provisions of this Chapter to pay a fine of up to \$150 to have his license restored to him.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179 and R.S. 37:3182.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1079 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:

§1108. Disciplinary Committee

A. There is hereby created a disciplinary committee to review all complaints filed with the board.

B. The board shall appoint the members of the disciplinary committee.

C. The disciplinary committee shall be composed of the following members:

- 1. the chairman of the board or a representative of same;
- 2. one representative of ASID;
- 3. one representative of IIDA;
- 4. one representative of IDEC;
- 5. one unaffiliated registered interior designer.

D. All complaints filed with the Board shall be reviewed by the Disciplinary Committee before submission to the board.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:3179.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:

§1109. Cease and Desist Orders and Injunctive Relief

A. In addition to or in lieu of the administrative sanctions provided in this Chapter the board is empowered to issue an order to any person or firm engaged in any activity, conduct, or practice constituting a violation of any provision of this chapter directing such person or firm to cease and desist from such activity, conduct, or practice. Such order shall be issued in the name of the state of Louisiana under the official seal of the board.

B. The board shall issue a cease and desist order against anyone who is not registered and who is found to be practicing interior design or using the term "interior designer," "registered interior designer," or "licensed interior designer."

C. The alleged violator shall be served with the cease and desist order by certified mail. If within 10 days the alleged violator is continuing the offending activity, the board may file a complaint with the appropriate district court requesting that the court enjoin the offending activity.

D. Upon a proper showing by the board that such person or firm has engaged in any activity, conduct, or other activity proscribed by this Chapter, the court shall issue a temporary restraining order restraining the person or firm from engaging in unlawful activity, conduct, or practices pending the hearing on a preliminary injunction, and in due course a permanent injunction shall issue after hearing commanding the cessation of the unlawful activity, conduct, or practices complained of, all without the necessity of the board having to give bond as usually required in such cases. A temporary restraining order, preliminary injunction, or permanent injunction issued hereunder shall not be subject to being released upon bond.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3185.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:

Family Impact Statement

This proposed Rule has no known impact on family formation, stability and autonomy as described in R.S. 49:972.

All interested persons may submit data, views or positions in writing to the State Board of Examiners of Interior Designers by writing to Anna Dow, 2900 Westfork Drive, Suite 200, Baton Rouge, Louisiana 70827 or to Anna Dow at lidboard@intersurf.com. All comments must be received by February 6, 2004.

Anna E. Dow
Attorney

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Comprehensive Rule Revision**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be no implementation costs or savings to the State Board of Interior Designers (board) as a result of the Rule change brought about by Act 426 of 1999.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections as a result of the Rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is a minimal cost for those licensees who have not taken the nationally approved examination to gain licensure, referred to as the NCIDQ examination. Those licensees who were licensed in 1984 under a special grandfathering clause of the original Act will have to take an extra 15 hours of continuing education in building codes and life safety codes or they will have to take an examination to retain their licenses. There will be a cost for taking the continuing education or the examination.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The regulations follow the provisions of Act 426 of 1999, which revised the original licensing statute to require licensing for all who practice interior design. Formerly, the statute restricted only the use of the title of interior designer. Others who do apply and who do qualify will become licensed.

Anna E. Dow
Attorney
0401#064

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Peace Officer POST Instructor Development Course
(LAC 22:III.4717)

In accordance with the provision of R.S. 40:2401 et seq., the Peace Officer Standards and Training Act, and R.S. 49:950 et seq., the Administrative Procedure Act, the Commission on Law Enforcement and Administration of Criminal Justice hereby gives notice of its intent to promulgate Rules and Regulations relative to the training of peace officers. The Peace Officers Standards and Training

Council approved the policy for its Instructor Development Course at its meeting on September 9, 2003.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part III. Commission on Law Enforcement and Administration of Criminal Justice

Subpart 4. Peace Officers

Chapter 47. Standards and Training

§4717. POST Instructor Development Course

A. Eligibility

1. Only full time peace officers who have a minimum of two years full time service are eligible to attend an Instructor Development Course (IDC).

2. Instructor Development Course (IDC) is to be attended by instructors assigned full time at an accredited POST academy or for general police instructors.

B. Course Requirements

1. Full-time employees of a POST accredited police academy must attend and successfully complete IDC within one year of his/her employment at that academy.

2. Individuals who possess FBI Instructor Development Certificates issued upon completion of the FBI National Academy need not attend this course. A certificate must be furnished as proof of completion.

C. Registration

1. Each agency is allowed to submit two names for consideration. On the registration form, the agency head should mark 1st Priority or 2nd Priority. If there are vacancies after the deadline, vacancies will be filled using the 2nd Priority names.

2. There is a registration deadline for each course offered. The registration form must be completed, signed by the agency head or academy director and faxed to POST office before the announced deadline.

D. Attendance

1. Attendance each day of the course is mandatory. Class hours are 8 a.m. until 5 p.m., Monday through Friday. Casual attire is acceptable most days except for Thursday when the student will present a prepared lesson plan.

2. If student is unable to attend a course, the student must notify POST no later than the Friday before the class begins on Monday. If POST is not notified and the student does not attend the class, the student's department could lose the privilege of sending another student to IDC for an entire year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 30:

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Interested persons may submit written comments on this proposed Rule no later than March 1, 2004, at 5 p.m. to Bob Wertz, Deputy Assistant Director, Commission on Law Enforcement and Administration of Criminal Justice, 1885 Wooddale Boulevard, Room 1230, Baton Rouge, LA 70806.

Michael A. Ranatza
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Peace Officer POST Instructor Development Course

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated that implementation of the proposed Rule will not cause an increase in expenditures. The proposed Rule change merely stipulates the qualifications for students participating in the POST Instructor Development Course.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that implementation of the proposed Rule will not increase revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is estimated that implementation of the proposed Rule will have little or no effect on directly affected persons or nongovernmental groups. The proposed Rule sets standards for course participants in the POST Instructor Development Course.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment.

Michael A Ranatza
Executive Director
0401#032

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Penalty Guidelines (LAC 35:I.1797)

The Louisiana State Racing Commission hereby gives notice that it intends to amend LAC 35:I.1797 "Penalty Guidelines" for grammatical structure and makes purse redistribution optional (from "shall" to "may") as part of the penalties for equine violations in drug classes 4 and 5. This proposed Rule change has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

Title 35

HORSE RACING

Part I. General Provisions

Chapter 17. Corrupt and Prohibited Practices

§1797. Penalty Guidelines

A. - B3. ...

4. Classes IV and V: the trainer may be suspended for a period not more than 60 days and a fine of not less than \$500 nor more than \$1,500, or both, depending on the severity and number of violations occurring within a 12-month period. The purse may be redistributed on referral to the commission at its discretion.

a. On ordinary violation(s) of Classes IV or V within a 12-month period the trainer shall be fined \$500 on the first violation; \$1,000 on the second violation; \$1,000 on the third and subsequent violations and referred to the commission.

b. On extraordinary violation(s) of Classes IV or V in a manner that might affect the performance of a horse within a 12-month period the trainer shall be fined \$1,000 on the first offense; \$1,000 and referred to the commission for further action on second and subsequent violations.

c. On gross violation(s) of Classes IV or V in a manner that intends to affect the performance of a horse the trainer shall be fined not less than \$1,000 and referred to the commission for further action.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission LR 19:613 (May 1993), amended by the Office of the Governor, Division of Administration, Racing Commission LR 28:1014 (May 2002), LR 30:

The domicile office of the Louisiana State Racing Commission is open from 8:30 a.m. to 5 p.m., and interested parties may contact Charles A. Gardiner III, executive director, or C.A. Rieger, assistant director, at (504) 483-4000 (holidays and weekends excluded), or by fax (504) 483-4898, for more information. All interested persons may submit written comments relative to this proposed Rule through February 13, 2004, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Penalty Guidelines

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated costs or savings to state or local governmental units associated with this Rule, other than one-time costs directly associated with its publication.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is not likely to be any effect on revenue collections of local and state governmental units since purse redistribution (affecting horse owners only) is the primary issue in this Rule amendment-changing from mandatory to optional, at the Commission's discretion, based on violations of drug classes 4 and 5.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This action benefits horse owners by changing the purse redistribution from mandatory to optional in cases where equine drug violations are for drug classes 4 and 5, since the trainer is considered the accountable party in most, if not all instances.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Charles A. Gardiner III
Executive Director
0401#090

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Patient's Compensation Fund Oversight Board

Enrollment and Surcharges
(LAC 37:III.505, 511, 515, and 715)

The Patient's Compensation Fund Oversight Board, under authority of the Louisiana Medical Malpractice Act, R.S. 40:1299.41 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., advertises its intent to amend LAC 37:III.505, 511, 515, and 715 as follows, to clarify the requirements for insurance policies acceptable as evidence of financial responsibility, to clarify that certain entities which are deemed to be enrolled and qualified with the fund without the payment of an additional surcharge must maintain financial responsibility, to clarify the contents of a certificate of enrollment and to extend the time to evidence underlying coverage and pay surcharges for PCF tail coverage for continuous uninterrupted PCF coverage.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of these proposed Rule amendments on the family has been considered. These proposed amendments have no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Title 37 INSURANCE

Part III. Patient's Compensation Fund Oversight Board Chapter 5. Enrollment with the Fund

§505. Financial Responsibility: Insurance

A. ...

B. To be acceptable as evidence of financial responsibility pursuant to §505, an insurance policy:

1. - 4. ...

5. shall not be subject to a retention or deductible payable by the insured health care provider, with respect to liability, costs of defense or claim adjustment expenses, in excess of \$25,000, provided that an insurance policy provision which requires reimbursement of the insurer by the insured of indemnification and/or expenses and which provides that the insurer remains directly and primarily responsible to the patient for the amount thereof shall not be considered a retention and shall, in that regard, be deemed to satisfy the financial responsibility requirements of §505; and

B.6. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44(D)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:170 (February 1992), amended LR 21:394 (April 1995), LR 23:68 (January 1997), LR 24:333 (February 1998), LR 30:

§511. Coverage: Partnerships and Professional Corporations

A. When, and during the period that, each shareholder, partner, member, agent, officer, or employee of a corporation, partnership, limited liability partnership, or limited liability company, who is eligible for qualification as

a health care provider under the act, and who is providing health care on behalf of such corporation, partnership, or limited liability company, is enrolled with the fund as a health care provider, having paid the applicable surcharges due the fund and demonstrated and maintained financial responsibility in accordance with the standards prescribed by §§503-511 for enrollment of such individual, such corporation, partnership, limited liability partnership, or limited liability company shall, without the payment of an additional surcharge, be deemed concurrently qualified and enrolled as a health care provider with the fund when, and during the period that such corporation, partnership, limited liability partnership, or limited liability company demonstrates and maintains financial responsibility in accordance with the standards prescribed by §§503-511.

B. The corporation, partnership, limited liability partnership, or limited liability company shall furnish to the board, concurrently with its enrollment and renewal application, the name(s) of each shareholder, partner, member, agent, officer, or employee who is eligible for qualification and enrollment with the fund as a health care provider and evidence of its financial responsibility in accordance with the standards prescribed by §§503-511.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:173 (February 1992), amended LR 30:

§515. Certification of Enrollment

A. Upon receipt and approval of a completed application (including evidence of financial responsibility pursuant to §505, §507 or §509) and payment of the applicable surcharge by or on behalf of the applicant health care provider, the executive director shall issue and deliver to the health care provider a certificate of enrollment with the fund, identifying the health care provider and specifying the effective date and term of such enrollment and the scope of the fund's coverage for that health care provider.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:173 (February 1992), amended LR 23:69 (January 1997), LR 30:

Chapter 7. Surcharges

§715. Amount of Surcharges; Form of Coverage; Conversions

A. - B. ...

C.1. When a health care provider who had previously purchased claims-made coverage from the fund elects to purchase occurrence coverage from or discontinue enrollment in the fund, he shall not have coverage afforded by the fund for any claims arising from acts or omissions occurring during the fund's claims-made coverage but asserted after the termination of the claims-made coverage unless he evidences financial responsibility for those claims either by purchasing an extended reporting endorsement or posting a deposit with the board pursuant to §507 and pays, on or before 45 days following the termination of the claims-made coverage, the surcharge applicable to fund tail coverage for the corresponding claims-made period(s).

2. When a health care provider who had previously purchased claims-made coverage from the fund elects to purchase self-insured coverage from the fund, he shall not have coverage afforded for any claims arising from acts or omissions occurring during the fund's claims-made coverage but asserted after the termination of the claims-made coverage, unless he evidences financial responsibility for those claims either by purchasing an extended reporting endorsement or posting a second deposit with the board pursuant to §507 and pays, on or before 45 days following the termination of the claims-made coverage, the surcharge applicable to fund tail coverage for the corresponding claims-made period(s).

C.3. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44(D)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 23:69 (January 1997), amended LR 29:347 (March 2003), LR 30:

All interested persons are invited to submit written comments on the amended Rules. Such comments should be submitted no later than February 20, 2004 at 4:30 p.m. to Lorraine LeBlanc, Executive Director, Patient's Compensation Fund Oversight Board, 150 Third Street, Sixth Floor, P.O. Box 3718, Baton Rouge, LA 70821 and/or to Larry M. Roedel, General Counsel, Patient's Compensation Fund Oversight Board, 8440 Jefferson Highway, Suite 301, Baton Rouge, LA 70809.

Lorraine LeBlanc
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Enrollment and Surcharges

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the proposed Rule amendments will not result in a savings to state or local governmental units as they only potentially impact the private sector of health care providers who desire to be qualified with the Patient's Compensation Fund (PCF). The proposed amendments: i) clarify the types of malpractice insurance policy provisions that are acceptable as evidence of financial responsibility; ii) codify the longstanding policy of the oversight board that professional medical entities desiring to be qualified with the PCF must demonstrate and maintain financial responsibility; iii) clarify that a certificate of enrollment does not identify the qualification status of the healthcare provider for a particular claim; and iv) extend the time period from 30 to 45 days for certain healthcare providers to purchase an extended reporting endorsement or post a deposit with the PCF Oversight Board and pay the applicable PCF tail surcharge (the surcharge that provides an extended reporting period following the termination of PCF claims-made coverage) for continuous, uninterrupted PCF coverage. It is estimated that the costs to the PCF to implement the proposed Rule amendments, including printing, copy charges, administrative overhead expenses and legal fees, will not exceed \$2,000.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on revenue collections of state or local governmental units from implementation of the proposed Rule amendments as they potentially only impact the

private sector of healthcare providers who are currently PCF qualified or who desire to become PCF qualified.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed amendment requiring professional medical entities to demonstrate and maintain financial responsibility to be PCF qualified memorializes the longstanding policy of the oversight board and does not result in any estimated costs to private sector professional medical entities. It is estimated that the proposed amendment involving insurance policy provisions may likely result in a favorable economic benefit to those private sector healthcare providers who purchase certain malpractice insurance policies that allow the healthcare provider to consider a reimbursement to the insurer as a payment of a deductible under the policy.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The PCF Oversight Board anticipated no effect on either competition or employment in the public sector as a result of adopting the proposed Rule amendments. The positive economic impact of the proposed Rule amendment clarifying acceptable insurance policy provisions could favorably affect the competition of insurance carriers providing malpractice insurance policies and those healthcare providers purchasing those policies. This proposed Rule amendment will give insurance carriers more flexibility in offering competitive-priced and affordable policies to healthcare providers.

Lorraine LeBlanc
Executive Director
0401#089

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Medical Examiners**

Dispensing of Medications (LAC 46:XLV.6503)

Notice is hereby given, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., that the Board of Medical Examiners (board), pursuant to the authority vested in the board by the Medical Practice Act, R.S. 37:1261-1292 and R.S. 37:1201, intends to amend Title 46:XLV, Subpart 3, Chapter 65, Subchapter A, §6503 of its administrative rules to increase the length of time over which bona fide (non-controlled) medication samples may be dispensed by physicians to their patients from seven days to an amount that does not exceed "a reasonable therapeutic dosage." The proposed Rule amendment is set forth below.

The proposed amendment has no known impact on family formation, stability or autonomy as described in R.S. 49:972.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLV. Medical Professions

Subpart 3. Practice

Chapter 65. Dispensation of Medications

Subchapter A. General Provisions

§6503. Definitions

A. As used in this Chapter, the following terms and phrases shall have the meanings specified.

* * *

Bona Fide Medication Sample? a medication, other than a controlled substance, packaged by the original

manufacturer thereof in such quantity as does not exceed a reasonable therapeutic dosage and provided at no cost to a physician for administration or dispensation to a patient at no cost to the patient.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, R.S. 37:1201.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:570 (October 1987), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

Interested persons may submit written data, views, arguments, information or comments on the proposed Rule amendment until 4 p.m., February 20, 2004, to John B. Bobear, M.D., Executive Director, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA, 70130. He is responsible for responding to inquiries regarding the proposed Rule amendment.

John B. Bobear, M.D.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Dispensing of Medications**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than notice and rule publication costs estimated at a combined total of \$272, which costs will be absorbed within the board's budget within FY 2004, it is not anticipated that the proposed rule amendment will result in any additional costs or savings to the board or any other state or local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that the proposed rule amendment will have any effect on the board's revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is not anticipated that the proposed rule amendment will have any material effect on costs, paperwork or workload of physicians who dispense bona fide medication samples to their patients.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rule amendment will have any material impact on competition or employment in either the public or private sector.

John B. Bobear, M.D.
Executive Director
0401#049

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Medical Examiners**

**Registered Respiratory Therapists Licensure Requirements
(LAC 46:XLV.2507)**

Notice is hereby given in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., that the Louisiana State Board of Medical Examiners (Board), pursuant to the authority vested in it by the Louisiana

Medical Practice Act, R.S. 37:1270(B)(6) and R.S. 37:3351-3361, intends to amend Title 46:XLV, Subpart 2, Chapter 25, Subchapter B, §2507.A.4 of its administrative rules to clarify that the four-attempt limitation at passage of the national certification examination necessary for licensure consideration, applies equally to those seeking licensure as a registered respiratory therapist as it does to all other respiratory therapy applicants. The proposed Rule amendment is set forth below.

The proposed amendment has no known impact on family formation, stability or autonomy as described in R.S. 49:972.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

**Chapter 25. Respiratory Therapists and Respiratory
Therapy Technicians**

**Subchapter B. Requirements and Qualifications for
Licensure**

**§2507. Requirements for Licensure of Registered
Respiratory Therapist**

A. To be eligible and qualified to obtain a registered respiratory therapist license, an applicant shall:

A.1. - 3. ...

4. possess current credentials as a registered respiratory therapist granted by the National Board for Respiratory Care, or its successor organization or equivalent approved by the board, on the basis of written examination, provided, however, that an applicant who has failed such examination four times shall not thereafter be eligible for licensure in Louisiana;

A.5. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended LR 14:87 (February 1988), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 15:271 (April 1989), LR 17:479 (May 1991), LR 25:2213 (November 1999), LR 30:

Interested persons may submit written data, views, arguments, information or comments on the proposed Rule amendment until 4:00 p.m., February 20, 2004, to John B. Bobear, M.D., Executive Director, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA, 70130. He is responsible for responding to inquiries regarding the proposed Rule amendment.

John B. Bobear, M.D.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Registered Respiratory
Therapists Licensure Requirements**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Other than notice and rule publication costs estimated at a combined total of \$272, which will be absorbed with the board's budget during FY 2004, it is not anticipated that the proposed rule amendment will result in any additional costs or

savings to the board or any other state or local governmental unit.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is not anticipated that the proposed rule amendment will have any effect on the Board's revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

It is not anticipated that the proposed rule amendment will have any material effect on costs, paperwork or workload of registered respiratory therapists or applicants.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

It is not anticipated that the proposed rule amendment will have any material impact on competition or employment in either the public or private sector.

John B. Bobear, M.D.
Executive Director
0401#048

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Veterinary Medicine**

Fees; Prescribing and Dispensing Drugs
(LAC 46:LXXXV.501 and 705)

The Louisiana Board of Veterinary Medicine proposes to amend and adopt LAC 46:LXXXV.501 and 705 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1511 et seq. This text is being amended to establish the current fee schedule and to establish Rules regarding prescribing and/or dispensing capture drugs for deer farmer utilization. The proposed Rule amendments have no known impact on family formation, stability, and autonomy as described in R.S. 49:972. The proposed amendments to the rules are set forth below.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXXXV. Veterinarians

Chapter 5. Fees

§501. Fees

A. The board hereby adopts and establishes the following fees.

Licenses	
Annual renewal-active license	\$225
Annual renewal-inactive license	\$100
Annual renewal-faculty license	\$100
Duplicate license	\$25
Original license fee	\$225
Temporary license	\$100
Exams	
Clinical Competency Test (CCT)	\$190
National Board Exam (NBE)	\$215
State board examination	\$175
Exam and/or License Application	
Application fee	\$75

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 6:71 (February 1980), amended by Department of Health and Hospitals, Board of Veterinary Medicine, LR 18:380 (April 1992), LR 19:1326 (October 1993), LR 23:963 (August 1997), LR 25:2408 (December 1999), LR 30:

Chapter 7. Veterinary Practice

§705. Prescribing and Dispensing Drugs

A. - N.6 ...

O. A veterinarian licensed by the board may lawfully prescribe and/or dispense Rompun (legend drug), Telazol (controlled substance), and/or Ketamine (controlled substance), or a mix of these drugs, to a deer farmer licensed by, and in good standing with, the Department of Agriculture and Forestry only under the following terms and conditions:

1. For the purpose of this Section, *deer*, *deer farmer*, and *deer farm operation* shall apply to cervids only which are further exclusively defined as *imported exotic deer and antelope*, *elk* and *farm raised white tail deer* as defined in R.S. 3:3101 et seq.

2. The veterinary-client-patient relationship must first be established, and thereafter maintained, as defined in §700 and Paragraph 705.A.2.

3. The veterinarian shall be familiar with the deer farm operation at issue and have general knowledge of the species and numbers of animals on the premises.

4. The licensed deer farmer shall personally maintain a perpetual written inventory of the drugs referenced in this Section, including the following information:

- a. name of drug and date purchased;
- b. name and address of veterinarian the drug was purchased from and a written receipt;
- c. amount purchased;
- d. date of each use;
- e. amount used for each administration;
- f. reason for each administration;
- g. the identity of each animal by electronic device, tattoo and/or tag upon capture; and
- h. the date and amount of drug wasted, spilled or lost.

5. The licensed deer farmer shall comply with all state and federal laws regarding the storage of the drugs, and the perpetual written inventory, in a double locked container when not in use.

6. The licensed deer farmer who obtains the drugs from the veterinarian shall be the only person allowed to use or administer the drugs on his deer and for capture purposes only.

7. Prior to obtaining the referenced drugs, the licensed deer farmer must successfully complete a board approved chemical capture course. The veterinarian prescribing and/or dispensing the drugs must initially obtain and maintain in his records a copy of the deer farmer's current license issued by the Department of Agriculture and Forestry and a copy of the licensed deer farmer's current certificate verifying successful completion of the chemical capture course approved by the board. The licensed deer farmer must successfully complete a board approved chemical capture course every three consecutive calendar years.

8. The veterinarian may only lawfully prescribe and/or dispense the drugs referenced herein in minimal quantities based on the size of the herd at issue and the

history of prior use, if applicable, of the drug or drugs requested by the licensed deer farmer.

9. Upon requesting a refill of, or an additional permissible amount of a drug, the licensed deer farmer shall provide to the prescribing and/or dispensing veterinarian a copy of the deer farmer's current license issued by the Department of Agriculture and Forestry, a copy of the current certificate verifying successful completion within the last three consecutive calendar years of the chemical capture course approved by the board, and a copy of the perpetual written inventory, as well as return all empty or sealed containers of the drugs in the case of a refill. The copy of the deer farmer's current license, the copy of the current certificate verifying successful completion within the last three consecutive calendar years of the board approved chemical capture course, the copy of the perpetual written inventory, and all empty or sealed containers shall be kept by the veterinarian for his record keeping purposes as required in §701.

10. Any prescribing and/or dispensing veterinarian who has reason to believe that a licensed deer farmer is not in compliance with the items and conditions of this Section, or is otherwise abusing the privileges established by this Section, shall notify, in writing, the board and the Department of Agriculture and Forestry immediately.

11. The prescribing and/or dispensing veterinarian shall comply with all state and federal laws and/or regulations regarding the prescribing and/or dispensing of Rompun (legend drug), Telazol (controlled substance), Ketamine (controlled substance), or a mix of these drugs, to a deer farmer licensed by, and in good standing with, the Department of Agriculture and Forestry.

12. Any prescribing and/or dispensing veterinarian who violates, or otherwise fails to comply with this Section, or any part thereof, including all state and federal laws and/or regulations, shall be guilty of unprofessional conduct within the meaning of R.S. 37:1526(14).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 6:71 (February 1980), amended by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:225 (March 1990), LR 19:1329 (October 1993), LR 20:1381 (December 1994), LR 23:1686 (December 1997), LR 24:1932 (October 1998), LR 25:1249 (July 1999), LR 25:1627 (September 1999), LR 27:51 (January 2001), LR 30:

Interested parties may submit written comments to Wendy D. Parrish, Administrative Director, Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801, or by facsimile to (225) 342-2142. Comments will be accepted through the close of business on February 10, 2004. If it becomes necessary to convene a public hearing to receive comments in accordance with the Administrative Procedure Act, the hearing will be held on February 26, 2004, at 10 a.m. at the office of the Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA.

Wendy D. Parrish
Administrative Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Fees; Prescribing and Dispensing Drugs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs or savings to state or local governmental units, except for those associated with publishing the amendment (estimated at \$140 in FY 2004). Licensees will be informed of this rule change via the board's regular newsletter or other direct mailings, which result in minimal costs to the board.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The anticipated increase in agency self-generated funds for FY 04-05 and FY 05-06 is based on the following for Licensed Veterinarians:

Category	Current Revenue	Proposed Revenue	Net Effect
DVM Active License Renewal	\$163,625	\$210,375	\$46,750
DVM Inactive License Renewal	\$18,000	\$24,000	\$6,000
DVM Original License Fee	\$9,000	\$13,500	\$4,500
DVM Application Fee	\$4,500	\$6,750	\$2,250
	<u>\$195,125</u>	<u>\$254,625</u>	<u>\$59,500</u>

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The licensed veterinarians will be affected by the proposed action as follows: Active DVM license renewal fees will increase from \$175 to \$225 for approximately 935 individuals; Inactive DVM license renewal fees will increase from \$75 to \$100 for approximately 240 individuals; DVM original license fees will increase from \$150 to \$225 for approximately 60 individuals; and DVM application fees will increase from \$50 to \$75 for approximately 90 individuals. The net cost effect on each category is illustrated in Item II above. There will be no new paperwork required.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated as a result of the proposed Rule.

Wendy D. Parrish Robert E. Hosse
Administrative Director General Government Section Director
0401#030 Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary
Bureau of Community Supports and Services**

Home and Community Based Services Waivers
New Opportunities Waiver
(LAC 50:XXI.Chapters 137-141)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services proposes to adopt LAC 50:XXI.Subpart 11 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 Administrative Procedure Act, R.S. 49:950 et seq.

Act 1147 of the 2001 Regular Session of the Louisiana Legislature created the Disability Services and Supports System Planning Group composed of representatives from

groups including, but not limited to, individuals with disabilities, developmental disabilities and mental illness. The mission of the planning group is to consider and propose provisions for comprehensive efforts to enhance Louisiana's long term care system which include informed choice and quality supports for individuals of all ages with disabilities. Based on recommendations made by the planning group and a stakeholder task force, the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services promulgated an Emergency Rule to implement a new home and community based services waiver designed to enhance the support services available to individuals with developmental disabilities. This new home and community based services waiver is titled the New Opportunities Waiver (*Louisiana Register*, Volume 29, Number 6). The bureau amended the July 1, 2003 Emergency Rule in order to add discharge criteria and clarify other provisions contained in the Rule (*Louisiana Register*, Volume 29, Number 8). The agency now proposes to adopt the following Rule to continue and amend the provisions of the July 1, 2003 and August 20, 2003 Emergency Rules.

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 by improving services to individuals with developmental disabilities or mental retardation.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services adopts the following Rule governing the establishment of the New Opportunities Waiver in accordance with Section 1915(c) of the Social Security Act and the approved waiver application document and attachments.

Title 50

**PUBLIC HEALTH? MEDICAL ASSISTANCE
Part XXI. Home and Community Based
Services Waivers**

Subpart 11. New Opportunities Waiver

Chapter 137. General Provisions

§13701. Introduction

A. The New Opportunities Waiver (NOW), hereafter referred to as NOW, is designed to enhance the long term services and supports available to individuals with developmental disabilities or mental retardation, who would otherwise require an intermediate care facility for the mentally retarded (ICF-MR) level of care. The mission of NOW is to utilize the principle of self determination and supplement the family and/or community supports that are available to maintain the individual in the community. In keeping with the principles of self-determination, NOW includes a self-direction option. This allows for greater flexibility in hiring, training, and general service delivery issues. NOW replaces the current Mentally Retarded/Developmentally Disabled (MR/DD) waiver after recipients of that waiver have been transitioned into NOW.

B. All NOW services are accessed through the case management agency of the recipient's choice. All services must be prior authorized and delivered in accordance with the Bureau of Community Supports and Services (BCSS)

approved comprehensive plan of care (CPOC). The CPOC shall be developed using a person-centered process coordinated by the individual's case manager.

C. Providers must maintain adequate documentation to support service delivery and compliance with the approved plan of care and will provide said documentation at the request of BCSS.

D. In order for the NOW provider to bill for services, the individual and the direct service provider, professional or other practitioner rendering service must be present at the time the service is rendered. The service must be documented in service notes describing the service rendered and progress towards the recipient's personal outcomes and CPOC.

E. Only the following NOW services shall be provided for or billed for the same hours on the same day as any other NOW service:

1. substitute family care;
2. residential habilitation; and
3. skilled nursing services. Skilled nursing services may be provided with:
 - a. substitute family care;
 - b. residential habilitation;
 - c. day habilitation;
 - d. supported employment (all three modules); and/or
 - e. employment related training.

F. The average recipient expenditures for all waiver services shall not exceed the average Medicaid expenditures for ICF-MR services.

G. Providers shall follow the regulations and requirements as specified by the bureau in the NOW provider manual.

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:

§13703. Recipient Qualifications for Eligibility

A. In order to qualify for NOW, an individual must be 3 years of age or older, offered a waiver opportunity (slot) and meet all of the following criteria:

1. meet the definitions for mental retardation or developmentally disability as specified in R.S. 28:380;
2. be on the Mentally Retarded/Developmentally Disabled (MR/DD) Request for Services Registry (RFSR);
3. meet the financial eligibility requirements for the Medicaid Program;
4. meet the medical requirements;
5. meet the requirements for an ICF-MR level of care which requires active treatment of mental retardation or a developmental disability under the supervision of a qualified mental retardation or developmental disability professional;
6. meet the health and welfare assurance requirements;
7. be a resident of Louisiana; and
8. be a citizen of the United States or a qualified alien.

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:

§13705. Discharge Criteria

A. Recipients shall be discharged from the NOW Program if one of the following criteria is met:

1. loss of Medicaid eligibility as determined by the parish Medicaid Office;
2. loss of eligibility for an ICF-MR level of care as determined by the Regional BCSS office;
3. incarceration or placement under the jurisdiction of penal authorities, courts or state juvenile authorities;
4. change of residence to another state with the intent to become a resident of that state;
5. admission to an ICF-MR facility or nursing facility with the intent to stay and not to return to waiver services. The waiver recipient may return to waiver services when documentation is received from the treating physician that the admission is temporary and shall not exceed 90 days. The recipient will be discharged from the waiver on the ninety-first day if the recipient is still in the ICF/MR or nursing facility;
6. the health and welfare of the waiver recipient cannot be assured in the community through the provision of reasonable amounts of waiver services as determined by the regional BCSS Office, i.e., the waiver recipient presents a danger to himself or others;
7. failure to cooperate in either the eligibility determination process, or the initial or annual implementation of the approved Comprehensive Plan of Care (CPOC) or the responsibilities of the NOW recipient; or
8. continuity of services is interrupted as a result of the recipient not receiving NOW services during a period of 30 or more consecutive days. This does not include interruptions in NOW services because of hospitalization, institutionalization (such as ICFs-MR or nursing facilities), or non-routine lapses in services where the family agrees to provide all needed or paid natural supports. This interruption can not exceed 90 days and there is a documented expectation from the treating physician that the individual will return to the NOW services. During this 90-day period, BCSS will not authorize payment for NOW services;

9. acceptance of Hospice Medicaid State Plan Services. Once a NOW recipient accepts hospice services, they will be discharged from the NOW.

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:

Chapter 139. Covered Services

§13901. Individualized and Family Support Services

A. Individualized and Family Support (IFS) are direct support and assistance services provided in the home or the community that allow the recipient to achieve and/or maintain increased independence, productivity, enhanced family functioning and inclusion in the community or for the relief of the primary caregiver. Transportation is included in the reimbursement for these services. Reimbursement for these services includes the development of a service plan for the provision of these services, based on the BCSS-approved CPOC.

1. IFS-Day (IFS-D) services will be authorized during waking hours for up to 16 hours when natural supports are unavailable in order to provide continuity of services to the recipient. Waking hours are the period of time when the recipient is awake and not limited to traditional daytime hours.

a. Additional hours of IFS day services beyond the 16 hours can be approved based on documented need, which can include medical or behavioral and specified in the BCSS approved CPOC.

2. IFS-Night (IFS-N) services are direct support and assistance provided to individuals during sleeping hours for a minimum of eight hours for recipients receiving 24 hour supports and for all other recipients the night IFS service hours will be based on need. The IFS-N worker must be awake, alert, and immediately available and in the same residence as the recipient to be able to respond to the recipient's immediate needs. Night hours is the period of time when the recipient is asleep and there is a reduced frequency and intensity of required assistance and is not limited to traditional nighttime hours.

B. IFS services may be shared by related waiver recipients who live together or up to three unrelated waiver recipients who live together. Waiver recipients may share IFS services staff when agreed to by the recipients and health and welfare can be assured for each individual. Shared IFS services, hereafter referred to as shared support services, may be either day or night services.

C. IFS (day or night) services include:

1. assisting and prompting with the following activities of daily living (ADL):

- a. personal hygiene;
- b. dressing;
- c. bathing;
- d. grooming;
- e. eating;
- f. toileting;
- g. ambulation or transfers;
- h. other personal care and behavioral support needs;

and

i. any medical task which can be delegated.

2. assisting and/or training in the performance of tasks related to maintaining a safe, healthy and stable home, such as:

- a. housekeeping;
- b. laundry;
- c. cooking;
- d. evacuating the home in emergency situations;
- e. shopping; and
- f. money management.

3. personal support and assistance in participating in community, health, and leisure activities;

4. support and assistance in developing relationships with neighbors and others in the community and in strengthening existing informal social networks and natural supports;

5. enabling and promoting individualized community supports targeted toward inclusion into meaningful integrated experiences; and

6. providing orientation and information to acute hospital nursing staff concerning the recipient's specific Activities of Daily Living (ADL's), communication,

positioning and behavioral needs. All medical decisions will be made by appropriate medical staff.

D. Exclusions. The following exclusions apply to IFS services.

1. Reimbursement shall not be paid for services furnished by a legally responsible relative. A legally responsible relative is defined as the parent of a minor child, foster parent, curator, tutor, legal guardian, or the recipient's spouse.

2. In compliance with licensing regulations, IFS-D and IFS-N services shall not include services provided in the IFS-D or IFS-N worker's residence, regardless of the relationship, unless the worker's residence is a certified foster care home.

3. Individual and family support services (both day and night) will not be authorized or provided to the recipient while the recipient is in a center based respite facility.

E. Staffing Criteria and Limitations

1. IFS-D or IFS-N services may be provided by a member of the recipient's family, provided that the recipient does not live in the family member's residence and the family member is not the legally responsible relative as defined in §13901.D.1.

2. Family members who provide IFS services must meet the same standards as providers or direct care staff who are unrelated to the individual.

3. An IFS-D or N worker shall not work more than 16 hours in a 24-hour period unless there is a documented emergency or a time-limited non-routine need that is documented in the BCSS-approved CPOC. An IFS-D or N shared supports worker shall not work more than 16 hours in a 24-hour period unless there is a documented emergency or a time-limited non-routine need that is documented in the BCSS-approved CPOC.

F. Place of Service

1. IFS services shall be provided in the State of Louisiana. Consideration shall be given to requests for the provision of IFS services outside the state on a case-by-case basis for time-limited periods or emergencies.

2. Provision of IFS services shall not be authorized outside of the United States or the Territories of the United States.

G Provider Requirements. Providers must possess a current, valid license as a Personal Care Attendant agency.

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:

§13903. Center-Based Respite Care

A. Center-Based Respite (CBR) Care is temporary, short-term care provided to a recipient with mentally retarded or developmental disabilities who requires support and/or supervision in his/her day-to-day life due to the absence or relief of the primary caregiver. While receiving center-based respite care, the recipient's routine is maintained in order to attend school, work or other community activities/outings. The respite center is responsible for providing transportation for community outings, as that is included as part of their reimbursement. Individual and family support services (both day and night) will not be authorized or provided while the recipient is in a center-based respite facility.

B. Exclusions. The cost of room and board is not included in the reimbursement paid to the respite center.

C. Service Limits. CBR services shall not exceed 720 hours per recipient, per CPOC year.

D. Provider Requirements. The provider shall possess a current, valid license as a respite care center.

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:

§13905. Community Integration Development

A. Community Integration Development (CID) facilitates the development of opportunities to assist recipients who are 18 years and older in becoming involved in their community through the creation of natural supports. The purpose of CID is to encourage and foster the development of meaningful relationships in the community reflecting the recipient's choices and values. Objectives outlined in the Comprehensive Plan of Care will afford opportunities to increase community inclusion, participation in leisure/recreational activities, and encourage participation in volunteer and civic activities. Reimbursement for this service includes the development of a service plan. The recipient must be present in order to receive this service. The recipient may share CID services with one other NOW recipient.

B. Transportation costs are included in the reimbursement for CID services.

C. Service Limitations. Services shall not exceed 60 hours per recipient per CPOC year which includes the combination of shared and non-shared community integration development.

D. Provider Qualifications. The provider must possess a current, valid license as a Supervised Independent Living agency or Personal Care Attendant agency.

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:

§13907. Residential Habilitation-Supported Independent Living

A. Residential Habilitation-Supported Independent Living (SIL) assists the recipient to acquire, improve or maintain those social and adaptive skills necessary to enable an individual to reside in the community and to participate as independently as possible. SIL services include assistance and/or training in the performance of tasks such as personal grooming, housekeeping and money management. Payment for this service includes oversight and administration and the development of service plans for the enhancement of socialization with age-appropriate activities that provide enrichment and may promote wellness. The service plan should include initial, introduction, and exploration for positive outcomes for the recipient for community integration development. These services also assist the individual in obtaining financial aid, housing, advocacy and self-advocacy training as appropriate, emergency support, trained staff and assisting the recipient in accessing other programs for which he/she qualifies. SIL recipients must be 18 years or older.

B. Place of Service. Services are provided in the recipient's residence and/or in the community. The recipient's residence includes his/her apartment or house, provided that he/she does not live in the residence of any legally responsible relative. An exception will be considered when the recipient lives in the residence of a spouse or disabled parent, or a parent age 70 or older. Family members who are not legally responsible relatives as defined in §13901.D.1, can be SIL workers provided they meet the same qualifications as any other SIL worker.

C. Exclusions

1. Legally responsible relatives may not be SIL providers.

2. SIL shall not include the cost of:

- a. meals or the supplies needed for preparation;
- b. room and board;
- c. home maintenance, or upkeep and improvement;
- d. direct or indirect payment to members of the recipient's legally responsible relative;
- e. routine care and supervision which could be expected to be provided by a family member; or
- f. activities or supervision for which a payment is made by a source other than Medicaid, e.g., Office for Citizens with Developmental Disabilities (OCDD), etc.

3. SIL Services cannot be provided in a Substitute Family Care setting.

D. Service Limit. SIL services are limited to one service per day, per CPOC year, except when the recipient is in center based respite. When a recipient living in an SIL setting is admitted to a center based respite facility, the SIL provider shall not bill the SIL per diem beginning with the date of admission to the center based respite facility and through the date of discharge from the center based respite facility.

E. Provider Qualifications. The provider must possess a current, valid license for the Supervised Independent Living module issued by the Department of Social Services, Bureau of Licensing.

F. Provider Responsibilities

1. Minimum direct services by the SIL agency include three documented contacts per week by the SIL provider agency, with at least one contact being face-to-face in addition to the approved direct support hours.

2. The provider must furnish back up staff that is available on a 24-hour basis.

3. Residential habilitation services shall be coordinated with any services listed in the BCSS-approved CPOC, and may serve to reinforce skills or lessons taught in school, therapy or other settings.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:

§13909. Substitute Family Care

A. Substitute Family Care (SFC) provides for day programming, transportation, independent living training, community integration, homemaker, chore, attendant care and companion services, and medication oversight (to the extent permitted under state law) to recipients residing in a licensed substitute family care home. The service is a

stand-alone family living arrangement for individuals age 18 and older. The SFC house parents assume the direct responsibility for the individual's physical, social, and emotional well-being and growth, including family ties. There shall be no more than three individuals living in a Substitute Family Care setting who are unrelated to the SFC provider. Immediate family members (mother, father, brother and/or sister) cannot be substitute family care parents. Reimbursement for this service includes the development of a service plan based on the approved CPOC.

B. Service Limits. SFC services are limited to one service per day.

C. Provider Qualifications. The provider must possess a current, valid license as a Substitute Family Care agency.

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:

§13911. Day Habilitation

A.1. Day habilitation is provided in a community based setting and provides the recipient assistance with social and adaptive skills necessary to enable the recipient to participate as independently as possible in the community. These services focus on socialization with meaningful age-appropriate activities which provide enrichment and promote wellness, as indicated in the person-centered plan. Day habilitation services must be directed by a service plan and provide assistance and/or training in the performance of tasks related to acquiring, maintaining or improving skills including, but not limited to:

- a. personal grooming;
- b. housekeeping;
- c. laundry;
- d. cooking;
3. shopping; and
- f. money management.

2. Day Habilitation services shall be coordinated with any therapy, employment-related training, or supported employment models that the recipient may be receiving. The recipient does not receive payment for the activities in which they are engaged. The recipient must be 18 years of age or older in order to receive day habilitation services.

B. Service Limits. Services can be provided one or more hours per day but not to exceed eight hours per day or 8,320 1/4 hour units of service per Comprehensive Plan of Care (CPOC) year.

C. Licensing Requirements. The provider must possess a current, valid license as an adult day care center.

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:

§13913. Supported Employment

A. Supported employment is competitive work in an integrated work setting, or employment in an integrated work setting in which the individuals are working toward competitive work that is consistent with the strengths, resources, priorities, interests, and informed choice of individuals for whom competitive employment has not traditionally occurred. The recipient must be 18 years of age or older in order to receive supported employment services.

B. These are services provided to individuals who are not served by Louisiana Rehabilitation Services, need more intense, long-term follow along and usually cannot be competitively employed because supports cannot be successfully phased out.

C. Supported employment is conducted in a variety of settings, particularly work sites in which persons without disabilities are employed. Supported employment includes activities needed by waiver recipients to sustain paid work, including supervision and training and is based on an individualized service plan. Supported employment includes assistance and prompting with:

1. personal hygiene;
 2. dressing;
 3. grooming;
 4. eating;
 5. toileting;
 6. ambulation or transfers;
 7. other personal care and behavioral support needs;
- and
8. any medical task which can be delegated.

D. Supported Employment Models. Reimbursement for supported employment includes an individualized service plan for each model.

1. A one-to-one model of supported employment is a placement strategy in which an employment specialist (job coach) places a person into competitive employment, provides training and support and then gradually reduces time and assistance at the work site. This service is time limited to six to eight weeks in duration.

2. Follow along services are designed for individuals who are in supported employment and have been placed in a work site and only require minimum oversight not to exceed two visits per month for follow along at the job site and cannot exceed 24 visits per CPOC year.

3. Mobile Work Crew/Enclave is an employment setting in which a group of two or more recipients, but fewer than eight perform work in a variety of locations under the supervision of a permanent employment specialist (job coach/supervisor). This service is up to eight hours a day, five days per week.

E. Service Exclusions

1. Services shall not be used in conjunction or simultaneously with any other waiver service, except substitute family care, residential habilitation supported independent living, and skilled nursing services.

2. 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, and will not include payment for the supervisory activities rendered as a normal part of the business setting.

3. Services are not available to individuals who are eligible to participate in programs funded under Section 110 of the Rehabilitation Act of 1973 or Section 602(16) and (17) of the Individuals with Disabilities Education Act, 20 U.S.C. 1401(16) and (71).

F. Service Limits

1. One-to-One intensive services shall not exceed 1,280 1/4 hour units per CPOC year. Services shall be

limited to eight hours a day, five days a week, for six to eight weeks.

2. Follow along services shall not exceed 24 days per CPOC year.

3. Mobile Crew/Enclave services shall not exceed 8,320 1/4 hour units of service per CPOC year, without additional documentation. This is eight hours per day, five days per week.

G Licensing Requirements. The provider must possess a current valid license as an Adult Day Care Center.

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:

§13915. Transportation for Day Habilitation and Supported Employment Models

A. Transportation provided between the recipient's residence and the site of the day habilitation or supported employment model, or between the day habilitation and supported employment model site (if the recipient receives services in more than one place) is reimbursable when day habilitation or supported employment model has been provided. Reimbursement will be a daily rate for a round trip fare. A round trip is defined as transportation from the recipient's place of residence and return to the recipient's place of residence. The round trip shall be documented in the provider's transportation log.

B. Licensing Requirements. Transportation providers must possess a current valid license as an Adult Day Care Center. The licensed provider must carry \$1,000,000 liability insurance on the vehicles used in transporting the recipients.

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:

§13917. Employment-Related Training

A. Employment-related training consists of paid employment for recipients for whom competitive employment at or above the minimum wage is unlikely, and who need intensive ongoing support to perform in a work setting because of their disabilities. Services are aimed at providing recipients with opportunities for employment and related training in work environments one to eight hours a day, one to five days a week at a commensurate wage in accordance with United States Department of Labor regulations and guidelines. The recipient must be 18 years or older in order to receive employment-related training services. Reimbursement for these services includes transportation and requires an individualized service plan.

B. Employment-related training services include, but are not limited to:

1. assistance and prompting in the development of employment related skills. This may include:

- a. assistance with personal hygiene;
- b. dressing;
- c. grooming;
- d. eating;
- e. toileting;
- f. ambulation or transfers;
- g. behavioral support needs; and
- h. any medical task which can be delegated;

2. employment at a commensurate wage at a provider facility for a set or variable number of hours;

3. observation of an employee of an area business in order to obtain information to make an informed choice regarding vocational interest;

4. instruction on how to use equipment;

5. instruction on how to observe basic personal safety skills;

6. assistance in planning appropriate meals for lunch while at work;

7. instruction on basic personal finance skills;

8. information and counseling to a recipient and, as appropriate, his/her family on benefits planning and assistance in the process.

C. Exclusions. The following service exclusions apply to employment-related training.

1. Services are not available to recipients who are eligible to participate in programs funded under Section 110 of the Rehabilitation Act of 1973 or Section 602(16) and (17) of the Individuals with Disabilities Education Act, 20 U.S.C. 1401(16) and (71).

D. Service Limits. Services shall not exceed eight hours a day, five days a week, and cannot exceed 8,320 1/4 hour units of service per CPOC year.

E. Licensing Requirements. The provider must possess a current, valid license as an Adult Day Care Center.

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:

§13919. Environmental Accessibility Adaptations

A. Environmental accessibility adaptations are physical adaptations to the home or a vehicle that are necessary to ensure the health, welfare, and safety of the recipient or that enable him/her to function with greater independence in the home and/or community. Without these services, the recipient would require additional supports or institutionalization.

B. Such adaptations may include:

1. installation of non-portable ramps and grab-bars;

2. widening of doorways;

3. modification of bathroom facilities; or

4. installation of specialized electric and plumbing systems which are necessary to accommodate the medical equipment and supplies for the welfare of the individual.

C. Requirements for Authorization. Items reimbursed through NOW funds shall be supplemental to any adaptations furnished under the Medicaid State Plan.

1. Any service covered under the Medicaid State Plan shall not be authorized by NOW. The environmental accessibility adaptation(s) must be delivered, installed, operational, and reimbursed in the CPOC year in which it was approved. Three written itemized detailed bids, including drawings with the dimensions of the existing and proposed floor plans relating to the modification, must be obtained and submitted for prior authorization. Modifications may be applied to rental or leased property with the written approval of the landlord. Reimbursement shall not be paid until receipt of written documentation that the job has been completed to the satisfaction of the recipient.

2. Three bids may not be required if the environmental accessibility adaptations are available from a single source supplier due to the distance of the recipient's home from other environmental accessibility adaptations providers. The justification and agreement by the service planning/support team for not providing three bids must be included with any request for prior approval.

3. Excluded are those adaptations or improvements to the residence that are of general utility or maintenance and are not of direct medical or remedial benefit to the individual, including, but not limited to:

- a. air conditioning or heating;
- b. flooring;
- c. roofing, installation or repairs;
- d. smoke and carbon monoxide detectors, sprinklers, fire extinguishers, or hose; or
- e. furniture or appliances.

4. Adaptations which add to the total square footage or add to the total living area under the roof of the residence are excluded from this benefit.

5. Home modification is not intended to cover basic construction cost.

6. Excluded are those vehicle adaptations which are of general utility or for maintenance of the vehicle or repairs to adaptations.

D. Service Limits. There is a cap of \$4,000 per recipient for environmental accessibility adaptations. Once a recipient reaches 90 percent or greater of the cap and the account has been dormant for three years, the recipient may access another \$4,000. Any additional environmental accessibility expenditures during the dormant period reset the three-year time frame.

E. Provider Qualifications. The provider must be an enrolled Medicaid provider and comply with applicable state and local laws governing licensure and/or certification. All persons performing the services (building contractors, plumbers, electricians, engineers, etc.) must meet all 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.

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:

§13921. Specialized Medical Equipment and Supplies

A. Specialized Medical Equipment and Supplies (SMES) are devices, controls, or appliances which enable the recipient to:

1. increase his/her ability to perform the activities of daily living;
2. ensure safety; or
3. perceive and control the environment in which he/she lives.

B. The service includes medically necessary durable and nondurable medical equipment not covered under the Medicaid State Plan. NOW will not cover non-medically necessary items. All items shall meet applicable standards of manufacture, design and installation.

C. All alternate funding sources that are available to the recipient shall be pursued before a request for the purchase or lease of specialized equipment and supplies will be considered.

D. Exclusion. Excluded are specialized equipment and supplies that are of general utility or maintenance, but are not of direct medical or remedial benefit to the individual. Refer to the New Opportunities Waiver Provider Manual for a list of examples.

E. Service Limitations. There is a cap of \$4,000 per individual for specialized equipment and supplies. Once a recipient reaches 90 percent or greater of the cap and the account has been dormant for three years, the recipient may access another \$4,000. Any additional specialized equipment and supplies expenditures during the dormant period reset the three-year time frame.

F. Provider Qualifications. Providers must be enrolled in the Medicaid Program as a durable medical equipment 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 of the Secretary, Bureau of Community Supports and Services, LR 30:

§13923. Personal Emergency Response Systems

A. Personal Emergency Response Systems (PERS) is a rented electronic device connected to the person's phone and programmed to signal a response center which enables an individual to secure help in an emergency.

B. Recipient Qualifications. Personal emergency response systems (PERS) services are available to those persons who:

1. live alone without the benefit of a natural emergency back-up system;
2. live alone and would otherwise require extensive IFS services or other NOW services;
3. need support due to cognitive limitations until they are educated on the use of PERS;
4. have a demonstrated need for quick emergency back-up;
5. live with older or disabled care; or
6. are unable to use other communications systems as they are not adequate to summon emergency assistance.

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 recipient to use the equipment.

D. Reimbursement will be made for a one time installation fee for the PERS unit. A monthly fee will be paid for the maintenance of the PERS.

E. Provider Qualifications. The provider must be an enrolled Medicaid provider of the Personal Emergency Response System.

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:

§13925. Professional Consultation

A. Professional consultation are services designed to evaluate, develop programs, and train natural and formal care givers to implement training or therapy programs, which will increase the individual's independence, participation, and productivity in his/her home, work, and community. These services are not meant to be long-term on-going services. They are normally meant to be short-term or intermittent services to develop critical skills which may be self-managed by the individual or maintained by natural and

formal care givers. The recipient must be present in all aspects of the consultation in order for the professional to receive payment for these services. Service intensity, frequency and duration will be determined by individual need. These services may include assessments or periodic reassessments, and may be direct or indirect. Documentation of services provided must be available on-site. The professional consultation services are to be used only when the services are not covered under the Medicaid State Plan. The recipients must be 21 years or older in order to receive professional consultation services.

B. Professional consultation shall include the following services:

1. consultation provided by a licensed registered nurse regarding those medically necessary nursing services ordered by a physician that exceed the service limits for home health services that do not meet the skilled nursing criteria under the Medicaid State Plan. Services must comply with the Louisiana Nurse Practice Act. Consultations may address health care needs related to prevention and primary care activities;

2. evaluation and education performed by a licensed psychologist as specified by state law and licensure. These services are for the treatment of behavioral or mental conditions that address personal outcomes and goals desired by the recipient and his/her team. Services must be reasonable and necessary to preserve and improve or maintain adaptive behaviors or decrease maladaptive behaviors of a person with mental retardation or developmental disabilities. Consultation provides the recipient, family, care givers, or team with information necessary to plan and implement plans for the recipient;

3. highly specialized consultation services furnished by a licensed clinical social worker and designed to meet the unique counseling needs of individuals with mental retardation and development disabilities. Counseling may address areas such as human sexuality, depression, anxiety disorders, and social skills. Services must only address those personal outcomes and goals listed in the BCSS approved CPOC.

C. Service Limits. Professional consultation services are limited to a \$750 cap per individual per CPOC year for the combined range of professional consultations.

D. Provider Qualifications. The provider of professional consultation services must possess a current valid license as a personal care attendant (PCA), supervised independent living (SIL) or home health (HH) agency. Each professional rendering service must:

1. possess a current valid Louisiana license to practice in his/her field;
2. have at least one year experience in his/her field of expertise, post licensure; and
3. be contracted or employed with an enrolled PCA, SIL or HH agency.

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:

§13927. Professional Services

A. Professional services are services designed to increase the individual's independence, participation and productivity in the home, work, and community. The recipient must be 21

years of age or older in order to receive these services. Professional services are to be used only when the services are not covered under the Medicaid State Plan. Professional services must be delivered with the recipient present and be provided based on the approved CPOC and an individualized service plan. Professional services are limited to the following services.

1. Psychological services are direct services performed by a licensed psychologist, as specified by state law and licensure. These services are for the treatment of a behavioral or mental condition that addresses personal outcomes and goals desired by the recipient and his or her team. Services must be reasonable and necessary to preserve and improve or maintain adaptive behaviors or decrease maladaptive behaviors of a person with mental retardation or developmental disabilities. Service intensity, frequency, and duration will be determined by individual need.

2. Social work services are highly specialized direct counseling services furnished by a licensed clinical social worker and designed to meet the unique counseling needs of individuals with mental retardation and development disabilities. Counseling may address areas such as human sexuality, depression, anxiety disorders, and social skills. Services must only address those personnel outcomes and goals listed in the BCSS approved CPOC.

3. Nursing services are medically necessary direct services provided by a licensed registered nurse or licensed practical nurse. Services must be ordered by a physician and comply with the Louisiana Nurse Practice Act. Direct services may address health care needs related to prevention and primary care activities, treatment and diet. Reimbursement is only available for the direct service performed by a nurse, and not for the supervision of a nurse performing the hands-on direct service.

B. Service Limits. There shall be a \$1,500 cap per recipient per CPOC year for the combined range of professional services.

C. Provider Qualifications. The provider of professional services must possess a current valid license as a personal care attendant, supervised independent living or home health agency. Each professional rendering service must possess a current valid Louisiana license to practice in his/her field and have at least one year of experience post licensure in their area of expertise and be contracted or employed with an enrolled PCA, SIL, or HH agency.

D. Nonreimbursable Activities. The following activities are not reimbursable:

1. friendly visiting, attending meetings;
2. time spent on paperwork or travel;
3. time spent writing reports and progress notes;
4. time spent on staff training;
5. time spent on the billing of services; and
6. other nonMedicaid reimbursable activities.

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:

§13929. Skilled Nursing Services

A. Skilled Nursing services are medically necessary nursing services ordered by a physician and provided to a medically fragile recipient in or outside of his/her home. Skilled nursing services shall be provided by a licensed,

enrolled home health agency using licensed nurses. All Medicaid State Plan services must be utilized before accessing this service.

B. Recipient Criteria. The recipient must be 21 years of age or older and have a diagnosis of a chronic disease which requires the vigilance of a licensed nurse to provide evaluation and management of a disease; thereby limiting the need for frequent acute or emergency services. Skilled nursing services require a physician's order documenting medical necessity and individual nursing service plan. These services must be included in the individual's BCSS-approved CPOC. Skilled nursing services shall be available to individuals who are medically fragile with chronic conditions who meet one of the following criteria:

1. have unstable or uncontrolled diabetes and are insulin dependent;
2. have insufficient respiratory capacity requiring use of oxygen therapy, a ventilator, and/or tracheotomy;
3. require hydration, nutrition, and/or medication via a gastro-tube;
4. have severe musculo-skeletal conditions/non-ambulatory status that requires increased monitoring and/or the treatment of decubitus;
5. have kidney failure requiring dialysis;
6. have cancer requiring radiation/chemotherapy;
7. require end-of-life care not covered by hospice services;
8. require the use of life-sustaining equipment to ensure sufficient body function (a ventilator, a suction machine, pulse oximeters, apnea monitors, or nebulizers); or
9. require the administration of medications which by law must be administered by a licensed nurse via mediports, central lines, or intravenous therapy.

C. When there is more than one recipient in the home receiving skilled nursing services, services may be shared and payment must be coordinated with the service authorization system and each recipient's BCSS approved CPOC

D. Provider Qualifications. The provider must possess a current valid license as a home health agency.

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:

§13931. One Time Transitional Expenses

A. One time transitional expenses are those allowable expenses incurred by recipients who are being transitioned from an ICF-MR to their own home or apartment in the community of their choice. Own home shall mean the recipient's own place of residence and does not include any family members home or substitute family care homes. The recipient must be 18 years or older in order to receive this service.

B. Allowable transitional expenses include:

1. the purchase of essential furnishings such as:
 - a. bedroom and living room furniture;
 - b. table and chairs;
 - c. window blinds;
 - d. eating utensils; and
 - e. food preparation items;
2. moving expenses required to occupy and use a community domicile;

3. health and safety assurances, such as pest eradication, allergen control, or one-time cleaning prior to occupancy;

4. nonrefundable security deposits.

C. Service Limits. Set-up expenses are capped at \$3,000 over a recipient's lifetime.

D. Service Exclusion. Transitional expenses shall not constitute payment for housing, rent, or refundable security deposits.

E. Provider Qualifications. This service shall only be provided by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities (OCDD) with coordination of appropriate entities.

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:

§13933. Transitional Professional Support Services

A. Transitional Professional Support Services is a system using specialized staff and resources to intervene and stabilize in a situation caused by any severe behavioral or medical circumstance that could result in loss of a current community-based living arrangement. These services are limited to recipients who have transitioned out of a public developmental center and have reached the cap for professional services and professional consultation for the recipient's CPOC year. The recipient must be present for all services provided.

B. Recipient Criteria. These services are available for recipients who meet all of the following criteria:

1. a developmental disability or one or more concurrent diagnosis:
 - a. mental health diagnosis of Autism or other pervasive developmental disorder;
 - b. a history of recurrent challenging behaviors that risk injury to self or others, or result in significant property damage; or
 - c. a documented need for professional services and or professional consultation, or services available under the Medicaid State Plan with a statement of necessity by the treating psychiatrist/psychologist and an individual service plan in the individual's BCSS approved CPOC; or
2. an individual with an acute illness or injury in which the acute condition process requires an added vigilance by a licensed nurse to provide surveillance, early identification and treatment of disease symptoms to avert and/or delay the consequence of advanced complications of the acute condition, thereby limiting the likelihood of a permanent debilitation state (such acute conditions may include trauma resulting in amputation of a limb, or care required after major surgeries); and

3. the need exists with supporting documentation from a medical doctor, including:

- a. a letter of medical necessity;
- b. a physician's order;
- c. an individual nursing service plan.

C. Exclusion. All Medicaid State Plan services must be utilized before accessing this service.

D. Provider Qualifications. Providers of transitional professional support services must possess a current, valid license as a PCA, SIL, or HH agency. Each professional rendering service must possess a valid Louisiana license to

practice in his/her field and one year of experience in their field of expertise post licensure.

E. Provider Responsibility. An agency that fulfills this role must possess specialized staff and resources to intervene in and stabilize a situation caused by any severe behavioral or medical circumstance that could result in loss of a current community-based living arrangement. The provider must develop and maintain a current service plan that details the program goals, plans, and expected outcomes from all individuals providing these services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:

§13935. Consumer Directed Service

A. The consumer directed initiative is a payment mechanism and a self-determination option for NOW recipients in the Department of Health and Hospitals Regions 1, 2, and 9. This is a voluntary option where the waiver recipient or his or her authorized representative may choose what services and/or supports best fit their individual needs through the person-centered planning process, and as documented on the BCSS-approved CPOC. The waiver recipient selecting this option will be required to use a contracted fiscal agent to provide designated functions on his/her behalf.

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:

Chapter 141. Reimbursement

§14101. Reimbursement Methodology

A. Reimbursement for the following services shall be a prospective flat rate for each approved unit of service provided to the recipient. One quarter hour (15 minutes) is the standard unit of service, which covers both service provision and administrative costs.

1. Center-Based Respite;
2. Community Integration Development:
 - a. services furnished to two recipients who choose to share supports will be reimbursed at 75 percent of the full rate for each recipient;
3. Day Habilitation;
4. Employment Related Training;
5. Individualized and Family Support-Day and Night:
 - a. services furnished to two recipients who choose to share supports will be reimbursed at 75 percent of the full rate for each recipient; and
 - b. services furnished to three recipients who choose to share supports will be reimbursed at 66 percent of the full rate for each recipient;
6. Professional Consultation;
7. Professional Services;
8. Skilled Nursing Services:
 - a. services furnished to two recipients who choose to share supports will be reimbursed at 75 percent of the full rate for each recipient; and
 - b. services furnished to three recipients who choose to share supports will be reimbursed at 66 percent of the full rate for each recipient;

9. Supported Employment, One-to-One Intensive and Mobile Crew/Enclave;

10. Transitional Professional Support Services.

B. The following services are to be paid at cost, based on the need of the individual and when the service has been prior authorized and on the CPOC:

1. environmental accessibility adaptations;
2. specialized medical equipment and supplies; and
3. transitional expenses.

C. The following services are paid through a per diem:

1. substitute family care;
2. residential habitation-supported independent living; and
3. supported employment-follow along.

D. The following service is paid through a monthly rate:

1. maintenance of the personal emergency response system.

E. The following service is paid through a one time fixed cost:

1. installation of the personal emergency response system.

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:

Implementation of this proposed Rule is subject to approval by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Barbara Dodge at the Bureau of Community Supports and Services, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, February 26, 2004 at 9:30 a.m. in the Wade O. Martin, Jr. Auditorium, State Archives Building, 3851 Essen Lane, 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. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Home and Community Based Services Waivers? New Opportunities Waiver

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will increase state program costs by approximately \$9,088,818 for SFY 2003-2004, \$16,045,315 for SFY 2004-2005 and \$16,526,674 for FY 2005-2006. It is anticipated that \$3,332 (\$1,666 SGF and \$1,666 FED) will be expended in SFY 2003-2004 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

\$22,844,073 for SFY 2003-2004, \$40,333,163 for SFY 2004-2005 and \$41,543,159 for SFY 2005-2006. \$1,666 is included in SFY 2003-2004 for the federal administrative expenses for promulgation of this proposed Rule and the final Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule will establish the New Opportunities Waiver (NOW) Program as a replacement for the current MR/DD Waiver Program. The proposed Rule will add a self direction option for recipients (approximately 4,300) that will be transitioned from the MR/DD waiver. Implementation of this proposed rule will increase programmatic expenditures by \$31,929,559 for SFY 2003-2004, \$56,378,478 for SFY 2004-2005 and \$58,069,833 for SFY 2005-2006.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition. It is anticipated that this proposed Rule could provide employment opportunities to providers of home and community based services to individuals with developmental disabilities.

Ben A Bearden
Director
0401#081

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Early and Periodic Screening, Diagnosis and Treatment Program (EPSDT)? Early Intervention Services for Infants and Toddlers with Disabilities (LAC 50:XV.Chapter 81)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:XV.Chapter 81 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 Administrative Procedure Act, R.S. 49:950.

Congress enacted the Individuals with Disabilities Education Act (IDEA) Amendments of 1997 to ensure the availability of appropriate public education and related services and supports to children with disabilities and their families. Part C of IDEA addresses the special needs of young children through the provision of financial assistance to states to implement and maintain a statewide, comprehensive, coordinated, multi-disciplinary, interagency system of early intervention services for infants and toddlers with disabilities and their families (34 CFR 303.1(a)).

Louisiana's early intervention system under Part C of IDEA, is a comprehensive, coordinated, family centered system of educational and health services for infants and toddlers age birth to age three who have a physical or mental condition that has a significant possibility of resulting in a developmental disability. The system also serves infants and toddlers who do not have a medical condition, but have been determined to be delayed in cognitive, physical, communication, social/emotional or adaptive development. Previously, the Department of Education served as the lead agency responsible for administering Part C of IDEA.

However, the Governor mandated the transfer of Part C from the Department of Education, Division of Special Populations to the Department of Health and Hospitals, Office of Public Health. In conjunction with the transfer of Part C, the Bureau of Health Services Financing established early intervention services for infants and toddlers with disabilities under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program (*Louisiana Register*, Volume 29, Number 8). Medicaid covered early intervention services include physical therapy, occupational therapy, speech therapy, audiology services, psychological services and targeted case management. These individual services are currently furnished to Medicaid recipients through the outpatient hospital, home health, EPSDT health services, rehabilitation center, and targeted case management service programs. The individual services will continue to be covered through these service programs. The bureau now proposes to promulgate a Rule to continue the provisions contained in the July 7, 2003 Emergency Rule.

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, or autonomy as described in R.S. 49:972 by enhancing the availability of early intervention services to Medicaid eligible infants and toddlers with disabilities.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes early intervention services for infants and toddlers with disabilities under the Medicaid Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program in conjunction with the transfer of Part C of the Individuals with Disabilities Education Act.

Title 50

PUBLIC HEALTH? MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment

Chapter 81. Early Intervention Services

§8101. Reserved.

§8103. Recipient Qualifications

A. In order to qualify for Medicaid covered early intervention services, an individual must meet the following qualifications:

1. be a Medicaid eligible infant or toddler age birth to age 3; and
2. be enrolled to participate in the Part C Program.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§8105. Covered Services

A. Medicaid covered early intervention services shall be limited to the following services:

1. physical therapy;
2. occupational therapy;
3. speech therapy;
4. audiology services;
5. psychological services; and
6. targeted case management (family service coordination).

B. Psychological services include diagnosis and psychological counseling/therapy for the child and his/her family.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§8107. Provider Participation

A. Provider participation shall be the Title V agency, the lead agency responsible for the administration of the provisions of Part C of the Individuals with Disabilities Education Act in 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 of the Secretary, Bureau of Health Services Financing, LR 30:

§8109. Reimbursement

A. The reimbursement methodology for Medicaid covered early intervention services shall be a negotiated rate based on the cost for the provision of services in accordance with the terms of the intra-agency agreement between the Medicaid Program and the Title V agency.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

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

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, February 26, 2004, at 9:30 am in the Wade O. Martin, Jr. Auditorium, State Archives Building, 3851 Essen Lane, 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. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Early and Periodic Screening, Diagnosis and Treatment Program (EPSDT)? Early Intervention Services for Infants and Toddlers with Disabilities

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will increase state program costs by approximately \$3,022,706 for SFY 2003-2004, \$ 3,165,978 for SFY 2004-2005 and \$3,260,957 for FY 2005-2006. It is anticipated that \$340 (\$170 SGF and \$170 FED) will be expended in SFY

2003-2004 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 \$7,597,929 for SFY 2003-2004, \$7,958,331 for SFY 2004-2005 and \$8,197,081 for SFY 2005-2006. \$170 is included in SFY 2003-2004 for the federal administrative expenses for promulgation of this proposed Rule and the final Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule will establish early intervention services for infants and toddlers with disabilities under the Early and Periodic Screening, Diagnosis and Treatment Program. The governor transferred Part C of the Individuals with Disabilities Education Act (IDEA) from the Department of Education, Division of Special Populations to the Department of Health and Hospitals, Office of Public Health. The Department of Education transferred IDEA, Part C funds to the Office of Public Health for the administration of the Early Steps Program and payment of claims for services rendered to non Medicaid eligible children. The Medicaid Program continues to provide reimbursement for covered services rendered to Medicaid eligible children (approximately 3,000). Implementation of this proposed Rule will increase expenditures by \$10,620,295 for SFY 2003-2004, \$11,124,309 for SFY 2004-2005 and \$11,458,038 for SFY 2005-2006.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this Rule will have no effect on competition and employment.

Ben A. Bearden
Director
0401#076

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Early Periodic Screening, Diagnosis and Treatment Program (EPSDT)? KidMed Services (LAC 50:XV.6705)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby amends LAC 50:XV.6705 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 Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides reimbursement for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) KidMed Services under the Medicaid Program. The administrative simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) require national standards for electronic health care transactions and national identifiers for providers, health plans, and employers (*Federal Register*, Volume 65, Number 160). This includes standardized procedure codes and definitions. The

department is required to implement these codes and definitions or face monetary sanctions. In compliance with HIPAA requirements, the bureau amended current Rules to clarify the billing procedures for KidMed services in order to conform to HIPAA compliant standardized procedure codes. The bureau also amended the reimbursement rates to equalize fees for all providers of EPSDT consultation services (*Louisiana Register*, Volume 29, Number 9). The bureau now proposes to continue the provisions of the October 1, 2003 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends current Rules to clarify the billing procedures for KidMed services in order to conform to HIPAA compliant standardized procedure codes and also amends the reimbursement rates to equalize fees for all providers of EPSDT consultation services.

Title 50

PUBLIC HEALTH? MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment

Chapter 67. KIDMED

§6705. Reimbursement

A. ...

B. Effective October 1, 2003, reimbursement for EPSDT consultations performed by KIDMED providers and physicians is set at \$13.71.

C. Timely Filing. KIDMED medical screening claims must be submitted within 60 calendar days of the date of service in order to be processed for reimbursement to the provider. Claims not received within the timely filing deadline may be denied.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:175 (February 2003), amended LR 30:

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, February 26, 2004, at 9:30 am in the Wade O. Martin, Jr. Auditorium, State Archives Building, 3851 Essen Lane, 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. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Early Periodic Screening, Diagnosis and Treatment (EPSDT)? KidMed Services

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed Rule will result in an estimated cost avoidance to the state of \$7,548 for SFY 2003-2004, \$10,553 for SFY 2004-2005 and \$10,870 for SFY 2005-2006. It is anticipated that \$272 (\$136 SGF and \$136 FED) will be expended in SFY 2003-04 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed Rule will reduce federal revenue collections by \$19,180 for SFY 2003-2004, \$26,527 for SFY 2004-2005, and \$27,322 for SFY 2005-2006. \$136 is included in SFY 2003-2004 for the federal administrative expenses for promulgation of this proposed Rule and the final Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends current rules to clarify the billing procedures for KidMed services in order to conform to HIPAA compliant standardized procedure codes. The proposed Rule reduces the reimbursement rates for 6 procedures being reimbursed under type of service 03 (physician services) by \$2 per service in order to equalize fees for all providers (approximately 700) of EPSDT consultation services. It is anticipated that implementation of this proposed Rule will reduce reimbursements to Medicaid providers for KidMed services by approximately \$27,000 for SFY 2003-2004, \$37,080 for SFY 2004-2005 and \$38,192 for SFY 2005-2006.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that there will be no effect on competition or employment as a result of the implementation of this proposed Rule.

Ben A. Bearden
Director
0401#077

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Facility Need Review? Bed Abeyance
(LAC 48:I.12501)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 48:I.12501 as authorized by R.S. 40:2116. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals adopted a Rule governing Facility Need Review in August 1995 (*Louisiana Register*, Volume 21, Number 8). The August 1995 Rule was

amended in July 1999 to adopt new provisions governing the relocation of nursing facility beds (*Louisiana Register*, Volume 25, Number 7). It was further amended in October 2002 to create the Emergency Community Home Bed Pool for nonstate-operated community homes (*Louisiana Register*, Volume 28, Number 10). The department now proposes to amend the August 20, 1995 Rule governing the Facility Need Review process to establish provisions governing the abeyance of nursing facility beds.

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 implementation of this proposed Rule will have no impact on family functioning, stability, and autonomy as described in R.S. 49:972.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the August 20, 1995 Rule governing the Facility Need Review process to establish provisions governing the abeyance of nursing facility beds.

Title 48
PUBLIC HEALTH? GENERAL
Part I. General Administration
Subpart 5. Health Planning

Chapter 125. Facility Need Review

§12501. Introduction

A. - A.3. ...

B. Definitions

Abeyance of Nursing Facility Beds? a situation in which a nursing facility, if it meets the requirements provided in Subsection G, may have all (but not only a portion) of its approved beds disenrolled from the Medicaid Program without causing the approval for the beds to be revoked after 120 days.

* * *

Notice of Abeyance? a written notice issued by the department to a nursing facility stating that the criteria for placing all of the facility's approved beds in abeyance have been met.

* * *

C. - F.4. ...

5. Except as provided in Subsection G, approvals shall be revoked when a facility's license is revoked, or not renewed, or denied, unless the facility obtains a license within 120 days from the date of such revocation, nonrenewal or denial.

6. Except as provided in Subsection G, approvals shall be revoked when a facility's provider agreement is terminated unless, within 120 days thereof, the facility enters into a new provider agreement.

7. Except as provided in Subsection G, beds may not be disenrolled, except as provided under the alternate use policy and during the 120-day period to have beds relicensed or recertified. The approval for beds disenrolled, except as indicated, will automatically expire.

8. - 8.f. ...

G Placing Nursing Facility Beds in Abeyance and Removal from Abeyance

1. A nursing facility may have all of its approved beds disenrolled from the Medicaid Program and placed in abeyance if the department determines that the average annual occupancy in the service area where the facility is

located is less than 85 percent. The department shall base this determination on the occupancy figures contained in the most recent LTC-2 report issued by the department prior to its receipt of a written request that the facility's beds be placed in abeyance in accordance with Paragraph G.2.

2. In order to request that a facility's beds be placed in abeyance, all persons or entities who are the holders of the approval, the nursing facility license, and the Medicaid provider agreement must submit to the department a written request signed by each such person or entity. The written request shall:

a. specify the date (which must be no later than 120 days after the receipt of the request by the department) on which the intended closure of the facility will occur; and

b. designate an individual (referred to hereinafter as the *designated contact person*) who shall serve as the contact between the party(ies) submitting the request and the department with respect to all matters involving the placing of the facility's beds in abeyance and their removal from abeyance:

i. include the mailing address and telephone number of that person;

ii. if the designated contact person is changed, a written notice thereof, signed by each person or entity who submitted the original request, shall be given to the department.

3. If the department determines that the requirements set forth in Paragraphs G.1 and 2 have been met, it shall issue a written Notice of Abeyance and forward it to the designated contact person within 30 calendar days after its receipt of the request for abeyance, subject to the provisions of Paragraph G.12. If the department determines that the requirements set forth in Paragraphs G.1 and 2 have not been met or that the issuance of a Notice of Abeyance would conflict with Paragraph G.12, it shall issue a written denial and forward it to the designated contact person within 30 calendar days after its receipt of the request.

4. All of a facility's approved beds must be disenrolled from the Medicaid Program within 120 days after the designated contact person's receipt of a Notice of Abeyance. An extension not to exceed 90 days may be granted if extenuating circumstances warrant said extension, such as safe transfer of patients. Otherwise, the Notice of Abeyance will automatically expire at the end of the 120-day period.

5. All of a facility's approved beds may be disenrolled before the designated contact person's receipt of a Notice of Abeyance, but if he or she does not receive a Notice of Abeyance within 120 days after the beds are disenrolled, the provisions of Paragraphs F.5-7 above will be applicable.

6. With respect to the facility's beds which are not designated to be re-enrolled as Medicaid nursing facility beds, the approval shall automatically expire after 120 days from receipt by the designated contact person of the department's Notice of Abeyance, unless the beds are re-enrolled by that date, thus rescinding the Notice of Abeyance.

7. A Notice of Abeyance shall remain in effect until the facility's beds are taken out of abeyance and are re-enrolled in Medicaid.

8. A facility's beds shall remain in abeyance until the average annual occupancy in the facility's service area, as

shown in the most recent LTC-2 report, has exceeded 93 percent.

9. If the department determines that the average annual occupancy in the facility's service area, as shown in the most recent LTC-2 report, has exceeded 93 percent, it shall give written notice thereof to the designated contact person. The written notice shall specify the number of the facility's approved beds which must be taken out of abeyance and re-enrolled as Medicaid nursing facility beds. That number shall be determined by the department based upon the following criteria.

a. A nursing facility with 120 or fewer enrolled beds at the time of the request may return all of its enrolled beds from abeyance.

b. A nursing facility with 121 to 160 enrolled beds at the time of the request may return up to 80 percent of its beds from abeyance, but in no case shall it be required to return fewer than 120 beds.

c. A nursing facility with 161 or more enrolled beds at the time of the request may return up to 75 percent of its beds from abeyance, but in no case shall it be required to return fewer than 128 beds, nor shall it be allowed to return more than 175 beds.

d. A nursing facility may choose to return fewer beds from abeyance than are allowed by this Paragraph 9, and if it does so, the balance of the beds shall be disenrolled.

10. Within one year after the designated contact person's receipt of the written notice provided in Paragraph G.9 (or, in the case of new construction for a replacement facility, within 24 months after his or her receipt of such notice), the beds specified by the Department must be taken out of abeyance and re-enrolled as Medicaid nursing facility beds. An extension of that time may be granted at the discretion of the department, when delays are caused by circumstances beyond the control of the applicant (*e.g.*, acts of God). Inappropriate zoning is not a basis for extension. If the facility's beds which are designated to be re-enrolled as Medicaid nursing facility beds are not re-enrolled within the specified time period, the approval for those beds will automatically expire at the end of that period.

11. If, after giving the written notice provided in Paragraph G.9 to the designated contact person, the department determines that the requirement set forth in Paragraph G.8 is no longer met, the obligation to place the facility's beds back in service in accordance with Paragraph G.10 shall not be affected or negated.

12. If two or more requests to place beds in abeyance are pending at the same time, and the issuance of Notices of Abeyance for all of the pending requests would conflict with Paragraph G.12, priority shall be assigned to the requests as follows.

a. If two or more facilities are located in the same service area, a request with respect to a facility having a lower average annual occupancy rate shall have priority over a request with respect to a facility having a higher average annual occupancy rate, based on the most recent LTC-2 report issued by the department.

13. While a facility's beds are in abeyance, the ownership of the approval for those beds may not be transferred.

14. All of a facility's beds which are taken out of abeyance and re-enrolled in the Medicaid Program must

remain located together in one facility, which shall be either the original facility in which they were located before being placed in abeyance or another facility located in the same service area as the original facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:806 (August 1995), amended LR 25:1250 (July 1999), LR 28:2190 (October 2002), LR 30:

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, February 26, 2004, at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, 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. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Facility Need Review? Bed Abeyance

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will have no programmatic fiscal impact to the state general fund other than cost of promulgation for SFY 2003-2004. It is anticipated that \$612 (\$306 SGF and \$306 FED) will be expended in SFY 2003-04 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 not affect federal revenue collections other than the federal share of the promulgation costs for SFY 2003-2004. It is anticipated that \$306 will be expended in SFY 2003-2004 for the federal share of the expense for promulgation of this proposed Rule and the final Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed Rule will not have estimable costs and/or economic benefits for directly affected persons or non-governmental groups. This Rule proposes to establish provisions relative to the facility need review process governing the abeyance (disenrollment from Medicaid) of nursing facility beds.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule could have an impact by decreasing competition in the Medicaid nursing facility industry. Employment could be affected based on the number of beds that are disenrolled in the nursing facilities. The extent of the possible impact can not be determined at this time.

Ben A Bearden
Director
0401#079

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Medicaid Estate Recovery Program
(LAC 50:I.Chapter 81)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt LAC 50:I.Chapter 81 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 Administrative Procedure Act, R.S. 49:950 et seq.

The Omnibus Budget Reconciliation Act of 1993, Section 13612(a) amended Section 1917(b) of the Social Security Act (42 U.S.C. 1396p) to mandate that states seek recovery of Medicaid payments for certain services provided under the State Plan. In order to comply with this federal law and to avoid sanctions or penalties from the federal government, the bureau adopted a Rule implementing an estate recovery program to recover Medicaid payments for nursing facility services, home and community based services and related hospital and prescription drug services from the estate of an individual who was 55 years of age or older when such services were received (*Louisiana Register, Volume 22, Number 5*). Act 1118 of the 1999 Regular Session of the Louisiana Legislature amended R.S. 46:153(G) relative to the Medicaid estate recovery program. Act 226 of the 2003 Regular Session of the Louisiana Legislature requires the department to provide for cost-effective estate recovery guidelines, define undue hardship and to add regulations addressing privileges on the succession estate and reduction in recovery in consideration of reasonable and necessary expenses incurred by the decedent's heirs to maintain the homestead of the decedent. In compliance with Act 226, the Bureau proposes to repeal the May 20, 1996 estate recovery Rule and to adopt the following provisions.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, repeals the May 20, 1996 estate recovery Rule and adopts the following provisions. The bureau shall seek recovery of Medicaid payments for long term care facility services, home and community-based services, and related hospital and prescription drug services from the estate of an individual who was 55 years of age or older when such services were received.

Title 50

PUBLIC HEALTH? MEDICAL ASSISTANCE

Part I. Administration

Subpart 9. Recovery

Chapter 81. Estate Recovery

§8101. Definitions

Cost Effectiveness? the process whereby the Medicaid agency balances and weighs that which it may reasonably

expect to recover against the time and expense of recovery. Initiating *estate* recovery will be deemed to be cost effective when the amount reasonably expected to be recovered exceeds the cost of recovery and is greater than \$1000.

Estate? the gross *estate* of the deceased as determined by Louisiana succession law or any interest in any property, whether movable or immovable, corporeal or incorporeal that the recipient had 36 months prior to his death.

Heir? a descendant in the first degree.

Homestead? a tract of land or two or more tracts of land with a residence on one tract and a field, pasture, or garden on the other tract or tracts, not exceeding 160 acres; rural or urban buildings and appurtenances owned and occupied by the decedent; or a residence, including a mobile home, owned and occupied by the decedent; or a residence regardless of whether the homeowner owns the land upon which the home or mobile home is sited. This same *homestead* shall be the primary residence which served as a bona fide home and which was occupied by the recipient immediately prior to the recipient's admission to a long term care facility or when the recipient began receiving home and community-based services.

Undue Hardship? an *undue hardship* shall exist when initiating *estate* recovery would result in placing an unreasonable burden on an *heir*; and if an *heir's* family income is 300 percent or less of the U.S. Department of Health and Human Services Federal Poverty Level Guidelines as published annually in the *Federal Register*. An *undue hardship* may exist when:

1. the *estate* is the sole income producing asset of an *heir* and income from the *estate* is limited;
2. recovery would result in an *heir* becoming eligible to receive public assistance, including but not limited to Medicaid; or
3. any other compelling circumstances that would result in placing an unreasonable financial burden on an *heir*.

NOTE: An *undue hardship* does not exist if the circumstances giving rise to the hardship were created by or are the result of *estate* planning methods under which assets were sheltered or divested in order to avoid *estate* recovery. It is the obligation of the *heirs* to prove *undue hardship* by a preponderance of the evidence.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§8103. General Provisions

A. Medicaid estate recovery is not a condition of eligibility. The applicant/recipient shall be informed at the time of application/redetermination that federal law and regulations mandate estate recovery action by the states and that medical assistance claims paid by the Bureau of Health Services Financing may be subject to estate recovery.

B. Recovery Limits. Recovery can only be made after the death of the recipient's surviving spouse, if any, and only at the time when the recipient has no surviving child under age 21, or a child who is blind or disabled as defined in Section 1614 of the Social Security Act.

C. Recovery Adjustments

1. Recovery may be waived in cases in which it is not cost-effective for the state to recover from the recipient's estate.

2. Recovery may be reduced in consideration of reasonable and necessary documented expenses incurred by the decedent's heirs to maintain the homestead during the period in which the recipient was in a long term care facility or received home and community-based services, if the homestead is part of the estate.

D. Recovery Notice

1. The bureau will seek recovery for medical assistance from the decedent's estate. The family or heirs will be given advance notice of the proposed action and the time frame in which they have the opportunity to apply for an undue hardship waiver.

2. The notice will be served on the executor, legally authorized representative or succession attorney of the decedent's estate. If there is no executor, legally authorized representative or succession attorney, the notice will be sent to the family or the heirs. The notice shall specify the following information:

- a. the deceased recipient's name, Social Security number and Medicaid identification number;
- b. the action the state intends to take;
- c. the reason for the action;
- d. the dates of services associated with the recovery action and the amount of the department's claim, i.e., amount to be recovered against the recipient's estate;
- e. the right to and procedure for applying for a hardship waiver;
- f. the heirs' right to a hearing;
- g. the method by which the heirs may obtain a hearing; and
- h. the time periods involved in requesting a hearing or in exercising any procedural requirements under the Medicaid Estate Recovery Program.

3. The notice will request that copies of all succession pleadings filed in connection with the succession of the decedent, including any judgment(s) of possession be provided to the bureau.

a. In the event no succession has been judicially opened, the bureau is to be advised as to when such documents will be available and/or when the succession is expected to be opened.

E. Recovery Privilege. The claim of the Department of Health and Hospitals? Medicaid Program shall have a priority equivalent to an expense of last illness as prescribed in Civil Code Article 3252 et seq.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§8105. Administrative Review

A. Administrative Review of Agency Decision. Any aggrieved party may request that the agency review and reconsider any or all aspects of the particular recovery matter in which it is involved. This request must be made in writing within 20 days of receipt of the certified notice of the agency's claim for recovery. If such a request is timely made, the agency shall review the matter and shall review and consider any facts or documentation presented or forwarded in connection with the matter.

B. In addition to the provision in Subsection A above, any aggrieved party shall have the administrative appeal

rights available pursuant to the Administrative Procedure Act.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

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

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, February 26, 2004, at 9:30 am in the Wade O. Martin, Jr. Auditorium, State Archives Building, 3851 Essen Lane, 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. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Medicaid Estate Recovery Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is not feasible to estimate the fiscal impact of this proposed Rule due to the lack of essential data to make accurate fiscal projections. Required data would include the amount of the Medicaid expenditures that will be made for recipients who will be subject to this proposed Rule and the value of their estates which may be recoverable under this proposed Rule. It is anticipated that \$544 (\$272 SGF and \$272 FED) will be expended in SFY 2003-04 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 not feasible to estimate the fiscal impact of this proposed rule due to the lack of essential data to make accurate fiscal projections. Required data would include the amount of the Medicaid expenditures that will be made for recipients who will be subject to this proposed Rule and the value of their estates which may be recoverable under this proposed Rule. It is anticipated that \$272 will be expended in SFY 2003-2004 for the federal share of the expense for promulgation of this proposed Rule and the final Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This Rule proposes to repeal and replace the May 20, 1996 Estate Recovery Rule, and is necessary to comply with federal Medicaid rules relative to estate recovery. Implementation of this proposed Rule would affect heirs to the estates of Medicaid recipients who received nursing facility services, home and community based services and related hospital and prescription drug services at age 55 or older. If Medicaid eligibility is expanded, more heirs could be affected by the recovery of Medicaid payments from these estates.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

It is anticipated that implementation of this proposed Rule will have no effect on competition and employment.

Ben A. Bearden
Director
0401#078

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Private Intermediate Care Facilities for the Mentally Retarded? Inventory for Client and Agency Planning (ICAP)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule under 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 Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule on October 20, 1989, which established the reimbursement methodology for private intermediate care facilities for the mentally retarded (ICF-MR) (*Louisiana Register*, Volume 15, Number 10). This Rule was subsequently amended to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates in those years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 6).

House Resolution 104 of the 1997 Regular Session of the Louisiana Legislature requested that the department investigate the feasibility of changing the reimbursement methodology for ICF-MR facilities. House Concurrent Resolution 257 of the 1997 Regular Session of the Louisiana Legislature requested that the department study a new level of care determination process. In compliance with these resolutions, the bureau now proposes to amend the October 20, 1989 Rule to adopt the Inventory for Client and Agency Planning (ICAP) and the "Louisiana Level of Need" (LA LONS) instruments for use in developing individualized rates for ICF-MR residents. The bureau also proposes to grant authority to the Health Standards Section to review ICAP and LA LONS as part of the ICF-MR survey process. ICAP is a comprehensive, structured instrument designed to assess the status, adaptive functioning and service needs of individuals in order to set rates for ICF-MR facilities. LA LONS is an instrument to check and validate the validity of ICAP.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing shall use the Inventory for Client and Agency Planning (ICAP) to set individualized reimbursement rates for Intermediate Care

Facilities for the Mentally Retarded (ICF-MR) residents. All ICF-MR facilities shall complete and submit an ICAP and a "Louisiana Level of Need" (LA LONS) on an annual basis for all individuals in the facilities. Completion of an annual ICAP and LA LONS shall be included in the annual client evaluation process.

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

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, February 26, 2004, at 9:30 am in the Wade O. Martin, Jr. Auditorium, State Archives Building, 3851 Essen Lane, 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. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Private Intermediate Care Facilities
for the Mentally Retarded? Inventory for Client and
Agency Planning (ICAP)**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will have no programmatic fiscal impact to the state general fund other than cost of promulgation for SFY 2003-04. It is anticipated that \$204 (\$102 SGF and \$102 FED) will be expended in SFY 2003-04 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 not affect federal revenue collections other than the federal share of the promulgation costs for SFY 2003-04. It is anticipated that \$102 will be expended in SFY 2003-04 for the federal share of the expense for promulgation of this proposed Rule and the final Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This Rule proposes to adopt the Inventory for Client and Agency Planning (ICAP). ICAP is a comprehensive, structured instrument designed to assess the status, adaptive functioning and service needs of individuals in order to set rates for ICF-MR facilities (approximately 450). It is anticipated that implementation of this proposed Rule will not have estimable cost or economic benefits for SFY 2003-04, 2004-04, or 2005-06.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This Rule has no known impact on competition and employment.

Ben A. Bearden
Director
0401#080

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Private Intermediate Care Facilities for the Mentally Retarded? Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 2003-2004 General Appropriation Act, which states, "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to, pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule on October 20, 1989, which established the reimbursement methodology for private intermediate care facilities for the mentally retarded (ICFs-MR) (*Louisiana Register*, Volume 15, Number 10). This Rule was subsequently amended to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates in those years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 6).

Section 11B of Act 14 of the 2003 Regular Session of the Louisiana Legislature directed the Commissioner of Administration to reduce discretionary state general fund (direct) appropriations contained in the Act by .8 percent across-the-board, or so much thereof more or less as may be necessary, to effect savings of \$17,300,000. Subsequently, the commissioner directed the department to reduce its discretionary expenditures by .8 percent for state fiscal year 2003-2004. In response to this budgetary shortfall, the bureau reduced the reimbursement paid to private (non-state) intermediate care facilities for the mentally retarded to 99.2 percent (a .8 percent reduction) of the per diem rates in effect on September 30, 2003. However, in order to generate the amount of savings necessary to comply with the directives of Act 14, the reimbursement paid in state fiscal year 2003-2004 to private (non-state) intermediate care facilities for the mentally retarded shall be 98.8 percent (a 1.2 percent reduction) of the per diem rates in effect on September 30, 2003 (*Louisiana Register*, Volume 29, Number 9). The bureau now proposes to continue the provisions of the October 1, 2003 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement paid to private intermediate care facilities for the mentally retarded. In state fiscal year 2003-2004 only, the reimbursement shall be 98.8 percent (a 1.2 percent reduction) of the per diem rates in effect on September 30, 2003 and for subsequent years, 99.2 percent (a .8 percent reduction) of the per diem rates in effect on September 30, 2003.

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

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, February 26, 2004, at 9:30 am in the Wade O. Martin, Jr. Auditorium, State Archives Building, 3851 Essen Lane, 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. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Private Intermediate Care Facilities for the Mentally Retarded? Reimbursement Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed Rule will result in an estimated cost avoidance to the state of \$421,836 for SFY 2003-2004, \$421,972 for SFY 2004-2005 and \$434,632 for SFY 2005-2006. It is anticipated that \$272 (\$136 SGF and \$136 FED) will be expended in SFY 2003-04 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed Rule will reduce federal revenue collections by \$1,060,576 for SFY 2003-2004, \$1,060,712 for SFY 2005-2005 and \$1,092,533 for SFY 2005-2006. \$136 is included in SFY 2003-2004 for the federal administrative expenses for promulgation of this proposed Rule and the final Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule reduces the reimbursement paid to private (non-state) intermediate care facilities for the mentally retarded (a .8 percent reduction as required by preamble language in the General Appropriations Act of 2003). It is anticipated that implementation of this proposed Rule will reduce reimbursements to private intermediate care facilities by approximately \$1,482,684 for SFY 2003-2004, \$1,482,684 for SFY 2004-2005 and \$1,527,165 for SFY 2005-2006.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

It is anticipated that there will be no effect on competition or employment as a result of the implementation of this proposed Rule.

Ben A. Bearden
Director
0401#082

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Private Nursing Facilities
Reimbursement Reduction
(LAC 50:VII.1306)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt LAC 50:VII.1306 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 2003-2004 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to, pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R. S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, promulgated a Rule establishing a system of prospective payment for nursing facilities, based on recipient care needs that incorporates acuity measurements as determined under the Resource Utilization Group III (RUG III) resident classification methodology (*Louisiana Register*, Volume 28, Number 6). This system established a facility-specific reimbursement for services rendered to Medicaid nursing facility residents. It also provided for enhanced reimbursement for Medicaid residents who require skilled nursing services for an infectious disease and technology dependent care. Section 11B of Act 14 of the 2003 Regular Session of the Louisiana Legislature directed the Commissioner of Administration to reduce discretionary state general fund (direct) appropriations contained in the Act by .8 percent across-the-board, or so much thereof more or less as may be necessary, to effect savings of \$17,300,000. Subsequently, the commissioner directed the department to reduce its discretionary expenditures by .8 percent for state fiscal year 2003-2004. In response to this budgetary shortfall, the bureau promulgated an Emergency Rule that reduced each private nursing facility's case mix adjusted per diem rate by \$0.67 (*Louisiana Register*, Volume 30, Number 1). The bureau now proposes to promulgate a Rule to continue the provisions contained in the January 1, 2004 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed

Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Title 50

PUBLIC HEALTH? MEDICAL ASSISTANCE

Part VII. Long Term Care Services

Subpart I. Nursing Facilities

Chapter 13. Reimbursement

§1306. Reimbursement Adjustment

A. Effective for dates of service on or after January 1, 2004, for state fiscal year 2003-2004 only, each private nursing facility's per diem case mix adjusted rate shall be reduced by \$0.67.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

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

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, February 26, 2004, at 9:30 am in the Wade O. Martin, Jr. Auditorium, State Archives Building, 3851 Essen Lane, 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. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Private Nursing
Facilities? Reimbursement Reduction**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed Rule will result in an estimated cost avoidance to the state of \$1,091,433 for SFY 2003-2004, \$1,058,458 for SFY 2004-2005 and \$1,587,687 for SFY 2005-2006. It is anticipated that \$204 (\$102 SGF and \$102 FED) will be expended in SFY 2003-04 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed Rule will reduce federal revenue collections by \$2,743,692 for SFY 2003-2004, \$2,660,649 for SFY 2005-2005 and \$3,990,973 for SFY 2005-2006. \$102 is included in SFY 2003-2004 for the federal administrative expenses for promulgation of this proposed Rule and the final Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule reduces the reimbursement paid to each private nursing facility for services to 99.2 percent (a .8 percent

reduction as required by preamble language in the General Appropriations Act of 2003) of the per diem rates in effect on September 30, 2003. It is anticipated that implementation of this proposed Rule will reduce reimbursements to private nursing facilities by approximately \$3,835,329 for SFY 2003-2004, \$3,719,107 for SFY 2004-2005 and \$5,578,660 for SFY 2005-2006.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that there will be no effect on competition or employment as a result of the implementation of this proposed Rule.

Ben A Bearden
Director
0401#083

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Books of the Corporation
(LAC 61:I.320)

Under the authority of R.S. 47:604, R.S. 47:605 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.320 to define "books of the corporation" relative to the computation of the corporation franchise tax.

This proposed regulation will provide the definition of "books of the corporation" by formally adopting the federal provisions set forth in Internal Revenue Service regulations section 1.56-1(c). The "books of the corporation" are not defined in prior or current statutes and regulations. Previously, the department has informally applied these federal provisions to determine the "books of the corporation" and prioritize records to be used in the calculation of the corporation franchise tax.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 3. Corporation Franchise Tax

§320. Books of the Corporation

A. Generally the "books of the corporation" are financial statements that will include an income statement, a balance sheet (listing assets, liabilities, and owners equity including changes thereto), and other appropriate information. The following may be considered applicable financial statements.

1. Statement required to be filed with the Securities and Exchange Commission (SEC). A financial statement that is required to be filed with the Securities and Exchange Commission.

2.a. Certified audited financial statement. A certified audited financial statement that is used for credit purposes, for reporting to shareholders or for any other substantial non-tax purpose. Such a statement must be accompanied by the report of an independent (as defined in the American Institute of Certified Public Accountants Professional Standards, Code of Professional Conduct, Rule 101 and its interpretations and rulings) certified public accountant or, in the case of a foreign corporation, a similarly qualified and

independent professional who is licensed in any foreign country. A financial statement is "certified audited" for purposes of this Section if it is:

i. certified to be fairly presented (an unqualified or "clean" opinion);

ii. subject to a qualified opinion that such financial statement is fairly presented subject to a concern about a contingency (a qualified "subject to" opinion);

iii. subject to a qualified opinion that such financial statement is fairly presented, except for a method of accounting with which the accountant disagrees (a qualified "except for" opinion); or

iv. subject to an adverse opinion, but only if the accountant discloses the amount of the disagreement with the statement.

b. Any other statement or report, such as a review statement or a compilation report that is not subject to a full audit is not a certified audit statement.

3. A financial statement provided to a government regulator. A financial statement that is required to be provided to the federal government, or any agency thereof (other than the Securities and Exchange Commission), a state government or agency thereof, or a political subdivision of a state or agency thereof. Except as otherwise provided herein, an income tax return, franchise tax return or other tax return prepared solely for the purpose of determining any tax liability that is filed with a federal, state or local government or agency cannot be an applicable financial statement.

4. Other financial statements. A financial statement that is used for credit purposes, for reporting to shareholders, or for any other substantial non-tax purpose, even though such financial statement is not described in Paragraphs A.1-3 of this Section.

B. Priority Among Statements

1. In general, if a taxpayer has more than one financial statement described in Paragraphs A.1-4 of this Section, the taxpayer's applicable financial statement is the statement with the highest priority.

a. Priority is determined in the following order:

i. a financial statement described in Paragraph A.1 of this Section;

ii. a certified audited statement described in Paragraph A.2 of this Section;

iii. a financial statement provided to a government regulator described in Paragraph A.3 of this Section;

iv. any other financial statement described in Paragraph A.4 of this Section.

b. For example, corporation A, which uses a calendar year for both financial accounting and tax purposes, prepares a financial statement for calendar year 2003 that is provided to a state regulator and an unaudited financial statement that is provided to A's creditors. The statement provided to the state regulator is A's financial statement with the highest priority and thus is A's financial statement.

2. Special priority rules for use of certified audit financial statements and other financial statements.

a. In the case of financial statements described in Paragraphs A.2 and A.4 of this Section, within each of these categories the taxpayer's applicable financial statement is determined according to the following priority:

i. a statement used for credit purposes;

ii. a statement used for disclosure to shareholders; and

iii. any other statement used for other substantial non-tax purposes.

b. For example, corporation B uses a calendar year for both financial accounting and tax purposes. B prepares a financial statement for 2003 that it uses for credit purposes and prepares another financial statement for calendar year 2003 that it uses for disclosure to shareholders. Both financial statements are unaudited. The statement used for credit purposes is B's financial statement with the highest priority and thus is B's applicable financial statement.

3. Priority among financial statements provided a government regulator. In the case of two or more financial statements described in Paragraph A.3 of this Section that are of equal priority, the taxpayer's applicable financial statement is determined according to the following priority:

a. a statement required to be provided to the federal government or any of its agencies;

b. a statement required to be provided to a state government or any of its agencies; and

c. a statement required to be provided to any subdivision of a state or any agency of a subdivision.

C. Whenever more than one entity, for franchise tax purposes, is included in a corporation's books, as herein defined, separate books shall be constructed for each entity doing business in Louisiana. These books shall be constructed following the same principles and methods as were employed when constructing the original books.

D. Nothing in this regulation shall restrict the secretary's authority to revise the books of the corporation as needed for the purpose of ascertaining the correct franchise tax liability.

AUTHORITY NOTE: Adopted in accordance with R.S. 47:604, R.S. 47:605 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 30:

Family Impact Statement

The proposed adoption of LAC 61:I.320, regarding the definition and priority of the books of the corporation for the calculation of the corporation franchise tax, should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, the implementation of this proposed Rule will have no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform this function.

Any interested person may submit written data, views, arguments or comments regarding this proposed Rule to Michael D. Pearson, Senior Policy Consultant, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be received no later than 4:30 p.m. Thursday, February 26, 2004. A public hearing will be held on Friday, February 27, 2004 at 10 a.m. in the River Room Conference Room on

the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

Cynthia Bridges
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Books of the Corporation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Proposed regulation, which defines the "books of the corporation" relative to the computation of the corporation franchise tax, will formally adopt the federal provisions set forth in the Internal Revenue regulations section 1.56-1(c), which has been the Department's administrative practice.

There are no estimated implementation costs or savings to state or local government units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no directly affected persons or non-governmental groups. Current filing requirements will not change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed repromulgation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0401#035

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Public Oyster Seed Ground Addition? Lake Borgne
(LAC 76:VII.513)

The Wildlife and Fisheries Commission does hereby give notice of its intent to designate additional Lake Borgne Public Oyster Seed Grounds in St. Bernard Parish to be added to the Lake Borgne Public Oyster Seed Ground as described in LAC 76:VII.513. Authority to establish this addition to the Lake Borgne Public Oyster Seed Ground is vested in the Wildlife and Fisheries Commission by R.S. 56:6(12) and R.S. 56:434(A).

The text of this Notice of Intent may be viewed in its entirety in the Emergency Rule section of this issue of the *Louisiana Register*.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the fiscal and economic impact statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments relative to the proposed Rule until 4:30 p.m., March 4, 2004, to Patrick D. Banks, Department of Wildlife and Fisheries, Marine Fisheries Division, Box 98000, Baton Rouge, LA, 70898-9000.

In accordance with Act 1183 of 1999, 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 in R.S. 49:972(B).

Bill A. Busbice, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Public Oyster Seed Ground
Addition? Lake Borgne**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No implementation costs or savings to state or local governmental units are anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Revenue collections of state and local governmental units will be positively impacted by the proposed Rule. The magnitude of this impact cannot be estimated at this time and will depend on the amount of marketable and seed oysters harvested from the additional Lake Borgne Public Oyster Seed Grounds.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The designation of additional Lake Borgne Public Oyster Seed Grounds will provide additional oyster resources for harvest and positive economic benefits to the Louisiana oyster industry. The magnitude of impact will depend on the amount of marketable and seed oysters harvested from the additional public oyster seed grounds.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effects on competition or employment are anticipated.

James H. Jenkins, Jr. Robert E. Hosse
Secretary General Government Section Director
0401#041 Legislative Fiscal Office

NOTICE OF INTENT

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

**Spotted Seatrout Management Measures
(LAC 76:VII.341)**

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend a Rule, LAC 76:VII.341, modifying the existing Rule. Authority for adoption of this Rule is included in R.S. 56:6(25)(a) and 56:325.1(A)2 and (B). Said Rule is attached to and made a part of this Notice of Intent.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§341. Spotted Seatrout Management Measures

A. - D. ...

E. Recreational Regulations. Except as provided in R.S.56:325.1, within those areas of the state, including coastal territorial waters, south of Interstate 10 from its junction at the Texas-Louisiana boundary eastward to its junction with Louisiana Highway 171, south to Highway 14, and then south to Holmwood, and then south on Highway 27 through Gibbstown south to Louisiana Highway 82 at Creole and south on Highway 82 to Oak Grove, and then due south to the western shore of the Mermentau River, following this shoreline south to the junction with the Gulf of Mexico, and then due south to the limit of the state territorial sea, no person shall possess, regardless of where taken, more than 5 spotted seatrout exceeding 25 inches total length. The spotted seatrout exceeding 25 inches in length shall be considered as part of the daily recreational bag limit and possession limit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a); R.S. 56:306.5, R.S. 56:306.6, R.S. 56:325.3; R.S. 56:326.3; 56:325.1(A) 2 and (B).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:199 (February 1992), amended LR 22:238 (March 1996), LR 24:360 (February 1998), LR 26:2333 (October 2000), LR 30:

Interested persons may submit comments relative to the proposed Rule to: Randy Pausina, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Thursday, March 4, 2004.

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.

In accordance with Act 1183 of 1999, 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).

Bill A. Busbice, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Spotted Seatrout Management Measures

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no state or local governmental implementation costs. Enforcement of the proposed rule will be carried out using existing staff and funding levels.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenues to state or local governmental units from the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule adds the following regulation for Sabine Lake, Calcasieu Lake and surrounding areas that is defined in the rule summary, no person shall possess, regardless of where taken, more than 5 spotted seatrout exceeding 25 inches total length. The spotted seatrout exceeding 25 inches in length shall be considered as part of the daily recreational bag limit and possession limit. Anglers that harvest spotted seatrout 25 inches

or greater will now only be allowed to keep 5 fish per day larger than 25 inches. No additional costs, permits, fees, workload or paperwork will occur from the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment in the private sector.

James L. Patton
Undersecretary
0401#042

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

Administrative Code Update

CUMULATIVE: JANUARY – DECEMBER 2003

LAC Title	Part.Section	Effect	Location LR 29 Month Page	LAC Title	Part.Section	Effect	Location LR 29 Month Page
4	I.303	Amended	Mar. 372	28	I.903	Amended	July 1073
	XVII.Chapters 1-9, 13-15	Adopted	June 951		I.903	Amended	July 1074
7	XIII.113,115,143,153	Amended	Dec. 2632	I.903	Amended	July 1077	
	XV.126	Amended	Nov. 2297	I.903	Amended	July 1079	
	XV.143	Amended	Nov. 2298	I.903	Amended	July 1079	
	XV.321	Amended	June 859	I.903	Amended	Oct. 2021	
	XXI.121	Amended	Aug. 1460	I.903	Amended	Nov. 2369	
	XXV.117,141	Amended	July 1062	I.903	Amended	Nov. 2370	
	XXIX.107,119	Amended	Aug. 1460	I.903	Amended	Nov. 2370	
	XXIX.109	Amended	Nov. 2297	I.903	Amended	Dec. 2761	
	10	XV.303	Amended	Mar. 343	I.903	Amended	Dec. 2766
		XV.325	Adopted	Nov. 2312	I.903	Amended	Dec. 2767
XV.327		Adopted	Oct. 2010	I.903	Amended	Dec. 2768	
13	I.513	Amended	Dec. 2633	I.903	Amended	Dec. 2769	
	I.701,705,707-711,721,749	Amended	Nov. 2298	I.903	Amended	Dec. 2772	
	I.702,718,747,751	Repealed	Nov. 2298	IV.301	Amended	Apr. 555	
	I.703,713-719,723-745	Adopted	Nov. 2298	IV.301,701,805,1703,1705	Amended	June 879	
	I.1101-1111,1115-1119	Amended	Nov. 2305	IV.501,503,803	Amended	Apr. 554	
	I.1113	Repealed	Nov. 2305	IV.701,703,705,805,2103	Amended	Nov. 2372	
	I.1121-1131	Adopted	Nov. 2305	IV.703,1103,1705,2103	Amended	Feb. 125	
	III.101-117	Amended	June 860	IV.2103	Amended	Nov. 2373	
	III.119-123	Adopted	June 860	VI.107	Amended	Apr. 556	
	III.Chapter 3	Amended	July 1064	VI.315	Amended	Oct. 2038	
	III.321	Adopted	July 1064	VI.315	Amended	Nov. 2374	
	III.Chapter 15	Adopted	Dec. 2636	XXXIII.305,311,503,507,701	Amended	Feb. 124	
	19	II.Chapters 1-13	Amended	Apr. 542	XXXVII.503,701,901	Amended	Apr. 553
		VII.Chapter 27	Adopted	Dec. 2634	XXXIX.503,505,1301	Amended	Feb. 123
		VII.7303,7305	Amended	June 859	XXXIX.1301	Amended	Aug. 1461
		VII.Chapter 79	Adopted	July 1068	XLIII.105,130,201,240,302,369	Amended	June 867
22		I.103	Amended	Dec. 2847	XLIII.260,509-511	Repealed	June 867
	I.107	Amended	Dec. 2847	XLIII.401,405,411,413,415,416	Amended	June 867	
	I.314	Adopted	Mar. 360	XLIII.410,861-870	Adopted	June 867	
	I.314,315	Amended	Dec. 2848	XLIII.417,418,431,433,434	Amended	June 867	
	I.316	Repromulgated	Dec. 2848	XLIII.436,437,438,440,441	Amended	June 867	
	I.509	Amended	Sept. 1820	XLIII.444-451,460,462,491,494	Amended	June 867	
	I.Chapter 23	Amended	Nov. 2502	XLIII.503-508,512-519	Amended	June 867	
	III.4901	Amended	Nov. 2376	XLIII.602,690,711,716,830,904	Amended	June 867	
	III.4903,4905	Repealed	Nov. 2376	XLIII.1001	Amended	June 867	
	XIII.503	Amended	Apr. 577	XLIII.1001	Repromulgated	Aug. 1461	
	25	XI.Chapter 3	Adopted	Oct. 2009	XLIX.Chapters 1-35	Amended	Oct. 2022
		28	I.105	Amended	Dec. 2638	LXI.Chapters 1-5	Adopted
	I.Chapter 9		Amended	Nov. 2371	LXIII.Chapters 1-7	Adopted	Mar. 306
	I.901		Amended	Jan. 33	LXV.Chapters 1-7	Adopted	Dec. 2639
	I.901		Amended	Feb. 117	LXIX.Chapters 1-9	Adopted	Dec. 2662
	I.901		Amended	Mar. 286	LXXI.Chapters 1-9	Adopted	Dec. 2680
	I.901		Amended	Mar. 287	LXXIII.Chapters 1-5	Adopted	Dec. 2701
I.901	Amended		Mar. 287	LXXV.Chapter 1	Adopted	Oct. 2012	
I.901	Amended		Mar. 299	LXXVII.Chapters 1-5	Adopted	Nov. 2313	
I.901	Amended		Apr. 552	LXXIX.Chapters 1-37	Adopted	Nov. 2342	
I.901	Amended		Apr. 552	LXXXIII.Chapters1-43	Adopted	Dec. 2737	
I.901	Amended		May 670	32	I.1501	Adopted	Nov. 2377
I.901	Amended		June 865		III.101	Amended	Mar. 340
I.901	Amended		July 1070		III.101	Amended	Mar. 342
I.901	Amended		Sept. 1802		III.301,321,601,701,703	Amended	Mar. 339
I.901	Amended		Sept. 1812		III.301,701	Amended	Mar. 343
I.901	Amended		Oct. 2014		III.323,701	Amended	Mar. 341
I.901	Amended		Nov. 2367		III.417	Amended	Sept. 1819
I.901	Amended		Nov. 2368		III.701	Repromulgated	Apr. 577
I.901	Amended	Dec. 2757	V.101		Amended	Mar. 336	
I.901	Amended	Dec. 2760	V.101		Amended	Mar. 338	
I.903	Amended	Feb. 117	V.301,601,701,703		Amended	Mar. 334	
I.903	Amended	Feb. 119	V.301,701		Amended	Mar. 338	
I.903	Amended	Feb. 121	V.325,701		Amended	Mar. 337	
			V.417		Amended	Sept. 1818	
			IX.Chapters 1-7		Adopted	June 883	

LAC Title	Part.Section	Effect	Location LR 29 Month Page	LAC Title	Part.Section	Effect	Location LR 29 Month Page	
33	I,III,V,VII,IX,XI,XV	Amended	May 670	40	XVI.101,103,105,109	Amended	Nov. 2497	
	I.101-109	Adopted	Oct. 2039		XVI.113	Adopted	Nov. 2497	
	I.1305,1307	Amended	Oct. 2056	42	I.1775	Adopted	Dec. 2853	
	I.1409,4707	Amended	Oct. 2040		VII.1701,2101,2325	Amended	Mar. 362	
	I.2303-2309	Amended	May 701		VII.2901,2915,4209	Amended	Nov. 2505	
	I.3931	Amended	May 697		IX.2101,4103	Amended	Mar. 362	
	I.Chapter 41	Adopted	May 696		IX.2901,2935,4103,4209	Amended	Nov. 2505	
	I.4501,4719	Amended	Mar. 311		XI.2405	Amended	Mar. 362	
	III.211,918,919,5107	Amended	Dec. 2776		XIII.1701,2101,2325,3305	Amended	Mar. 362	
	III.223	Amended	Oct. 2040		XIII.2901,2915,3304,4209	Amended	Nov. 2505	
	III.507,2160,3003,5116,5122	Amended	May 697		43	XIII.125	Amended	July 1106
	III.1432	Amended	May 697			XV.105,1105-1107,2111,2113	Amended	June 939
	III.2132	Amended	Apr. 557			XV.105,1105-1109,2111,2113	Amended	Aug. 1492
	III.2156	Amended	Oct. 2038			XV.1109,2323,5424,5425	Adopted	June 939
	III.3003	Amended	Mar. 316			XV.2311,2731,2733,3103	Amended	June 939
	III.5122	Amended	Aug. 1474	XV.2311,2323,2731,2733,3103		Amended	Aug. 1492	
	III.5311,5901	Amended	May 697	XV.3115,3705,5423		Amended	June 939	
	V.105,109,321,529,535,537	Amended	Mar. 317	XV.3115,3705,5423		Amended	Aug. 1492	
	V.2001,2219	Adopted	Mar. 317	XV.5424,5425		Adopted	Aug. 1492	
	V.2603,3001,3105	Amended	Mar. 317	XVII.Chapter 31		Adopted	June 914	
	V.Chapter 30	Amended	May 697	XIX.Chapter 5		Amended	June 914	
	V.3115,4513,4901,4903	Amended	Mar. 317	XIX.Chapter 7		Amended	Nov. 2499	
	V.Chapter 49	Amended	July 1084	XIX.703		Amended	Mar. 350	
	V.Chapter 49	Repromulgated	Aug. 1474	46	I.101,103,301,311	Repromulgated	Apr 558	
	V.Chapter 51	Amended	Oct. 2040		I.303,305,307,313,315,317	Amended	Apr 558	
	V.Chapters 301-313	Amended	Dec. 2804		I.309	Amended	Apr. 558	
	V.10303	Amended	May 711		I.Chapters 5-23	Adopted	Apr. 558	
	VII.525,527,529	Amended	Oct. 2040		V.3005	Adopted	May 703	
	VII.10505,10519	Amended	Dec. 2779		V.4714	Adopted	Oct. 2073	
	VII.10519	Amended	Sept. 1818		XIX.505,701,703	Amended	Aug. 1475	
	VII.10525,10527,10533	Amended	Dec. 2779		XXI.301,309	Amended	July 1086	
	VII.Chapters 151-169	Repealed	Mar. 312		XXV.Chapters 1-5	Amended	Nov. 2381	
	IX.1105,1109	Amended	Apr. 556		XXV.Chapters 7,9	Adopted	Nov. 2381	
	IX.1123	Amended	Sept. 1814		XXXI.Chapters 1-17	Adopted	Mar. 325	
	IX.1123	Amended	Sept. 1817		XXXI.321,701,1103,1105,1109	Amended	Dec. 2781	
	IX.1309,1507	Amended	Oct. 2040		XXXI.1111,1705,1709	Amended	Dec. 2781	
	IX.2301,2531,2533	Amended	May 697	XXXIII.1301-1303	Amended	Oct. 2074		
	IX.2331,2335,2345,2357,2533	Amended	Aug. 1462	XXXVIII.Chapters 1-7	Adopted	Sept. 1821		
	IX.2341	Amended	May 701	XLI.531	Amended	Sept. 1820		
	IX.2522-2524	Amended	Nov. 2374	XLV.1301-1305,1361-1363	Adopted	July 1088		
	XI.101	Amended	Aug. 1467	XLV.1371-1385,1391-1397	Adopted	July 1088		
	XI.307,1305	Amended	Oct. 2040	XLVII.303	Amended	Feb. 127		
	XV.212,320	Amended	Sept. 1815	XLVII.3308	Adopted	Apr. 581		
	XV.430,440,441,442	Amended	Aug. 1468	XLVII.4507	Amended	Apr. 580		
	XV.503,573,575,577,578,579	Amended	Jan. 33	LIII.Chapters 1-7,11,19-25,29	Amended	Oct. 2075		
	XV.543,544,575,577	Amended	Aug. 1468	LIII.Chapter 9	Repealed	Oct. 2075		
	XV.545,590	Amended	Sept. 1815	LIII.1129-1137	Adopted	Oct. 2075		
	XV.579	Amended	Oct. 2040	LIII.Chapters 13-17,27	Adopted	Oct. 2075		
	XV.590	Amended	Jan. 33	LX.Chapters 1-47	Adopted	Feb. 128		
	XV.1517	Amended	May 697	LX.101,103,105,309,901,2705	Amended	Dec. 2782		
	XV.1739,1755	Amended	Aug. 1468	LX.2911,3105,3303,3307,3309	Amended	Dec. 2782		
	XV.Chapter 20	Amended	Aug. 1468	LX.3311,3315,3501,3503,4720	Amended	Dec. 2782		
	XV.2036	Adopted	Aug. 1468	LX.3503	Repromulgated	Apr. 581		
	XV.Chapter 25	Amended	Oct. 2040	LXIII.201	Amended	Oct. 2075		
	XV.2504,2506	Amended	Sept. 1815	LXIII.703	Amended	Oct. 2075		
	34	I.2506	Adopted	Nov. 2381	LXIII.901	Amended	Oct. 2074	
		I.Chapter 55	Adopted	Nov. 2377	LXIII.1301	Amended	May 703	
	35	III.5737	Adopted	Jan. 36	LXIII.1303-1319	Repealed	May 703	
		III.5738	Repromulgated	Jan. 36	LXIII.1703	Repealed	July 1088	
	37	III.109,111,303,507,509,511	Amended	Mar. 344	LXVI.705,1109,1111,1115	Amended	Feb. 182	
		III.515,517,701,705,711	Amended	Mar. 344	LXVII.2501	Amended	Feb. 127	
		III.517	Repromulgated	Apr. 579	LXVII.3703,3705	Amended	Mar. 349	
		III.519	Repealed	Mar. 344	LXVII.3703,3705	Repromulgated	Apr. 579	
		III.715,901,1101	Amended	Mar. 344	LXVII.3905	Amended	July 1087	
		III.1401,1403,1405	Adopted	Mar. 344	LXVII.5305	Amended	Oct. 2073	
		III.1501,1503,1505,1507	Amended	Mar. 344	LXVII.5515,5519,5545	Adopted	Oct. 2066	
		XI.901	Amended	Jan. 41	LXVII.10311,10313	Amended	Feb. 126	
XI.2501		Adopted	Jan. 41	LXX.	Repromulgated	Nov. 2376		
XIII.501-505,530,540,555,565		Repromulgated	Nov. 2434	LXXI.101,301,303,501,701-705	Amended	Dec. 2792		
XIII.506,507		Adopted	Nov. 2434	LXXI.305,307,503,1103,1105	Adopted	Dec. 2792		
XIII.510,515,520,525,535,545		Amended	Nov. 2434	LXXI.901,1101,1301,1501	Amended	Dec. 2792		
XIII.550,560,590,595,598,599		Amended	Nov. 2434	LXXI.1703,1901	Adopted	Dec. 2792		
XIII.570,575,580,585,596,597		Repromulgated	Nov. 2434	LXXI.Chapter 21,23	Adopted	Dec. 2792		
				LXXVI.Chapters 11-16	Adopted	Mar. 350		

LAC Title	Part.Section	Effect	Location LR 29 Month Page	LAC Title	Part.Section	Effect	Location LR 29 Month Page	
46	LXXVI.Chapters 11-16	Amended	Oct. 2057	61	I.1306	Adopted	Jan. 42	
	LXXVI.1109	Adopted	Oct. 2057		I.1310	Adopted	Aug. 1502	
	LXXVI.Chapters 31-36	Amended	Oct. 2068		I.2903	Amended	June 951	
	LXXXV.405,503,1201	Amended	Aug. 1478		I.4301	Amended	Feb. 186	
	LXXXV.714	Adopted	Aug. 1478		I.4307	Amended	Oct. 2115	
	XCI.103,301,303,309,311,313	Amended	Aug. 1479		I.4401	Amended	Aug. 1520	
48	XCI.503	Amended	Aug. 1479		I.4420	Adopted	Feb. 188	
	I.Chapter 27	Adopted	July 1092		I.4910	Amended	Dec. 2854	
	I.Chapter 44	Adopted	May 705		III.301-335	Adopted	Mar. 363	
	I.Chapter 44	Repromulgated	June 902		III.2101	Amended	June 950	
	I.Chapter 53	Amended	July 1107		V.303,703,907,1503	Amended	Mar. 367	
	I.8205,8207,8217,8237	Amended	Dec. 2800		V.2503,2705,2707	Amended	Mar. 367	
	I.Chapter 93	Amended	Nov. 2399		67	III.1235	Amended	Jan. 44
	I.9302,9313,9315,9339,9341,9347	Repealed	Nov. 2399			III.1917,1932,1949,1953,1961	Amended	Apr. 605
	I.9357,9359,9369,9375,9385,9397	Repealed	Nov. 2399	III.1965,1966,1980,1983,2013		Amended	Apr. 605	
	I.9407,9421,9435,9447,9455	Repealed	Nov. 2399	III.2516		Amended	July 1107	
	I.9467,9475,9485,9493	Repealed	Nov. 2399	III.Chapters 35, 37		Repealed	May 714	
	V.6303	Amended	Aug. 1490	III.5102,5103,5107		Amended	Jan. 42	
	XI.1309	Repealed	Dec. 2804	III.5102,5107		Amended	Feb. 189	
	50	I.Chapter 29	Adopted	June 908		III.5103	Amended	July 1106
I.Chapter 41		Repromulgated	Apr. 583	III.5103,5109		Amended	Sept. 1833	
II.10155		Amended	June 911	III.5501,5505,5513		Amended	May 715	
II.10167		Amended	Jan. 40	III.5503,5515,5517,5519		Repealed	May 715	
III.763,765		Adopted	Nov. 2398	III.5507		Amended	Jan. 44	
XV.Chapters 65-87		Adopted	Feb. 175	III.5521		Amended	Mar. 373	
XV.Chapter 77		Adopted	Jan. 39	III.5533		Amended	Feb. 190	
XV.Chapter 129		Adopted	June 911	III.5555	Adopted	Jan. 44		
XV.Chapter 141		Adopted	Aug. 1487	III.5559	Adopted	Jan. 44		
XVII.Chapter 5		Adopted	Dec. 2799	III.5561-5571	Adopted	Feb. 190		
XVII.Chapter 11		Adopted	Aug. 1481	III.5573	Adopted	Nov. 2511		
XIX.4313		Amended	Aug. 1485	V.501,515	Amended	May 712		
XIX.4333		Amended	July 1096	V.503-513	Adopted	May 712		
XXI.101,103		Amended	Sept. 1829	VII.Chapter 1	Amended	Jan. 46		
51	XXI.11523	Repromulgated	Jan. 38	70	I.101,103	Amended	Feb. 192	
	XXI.11703	Amended	May 704		I.317	Amended	Jan. 48	
	III.101,113	Repromulgated	July 1098		III.137,143,144,149	Amended	Dec. 2855	
	IX.303,333	Repromulgated	Feb. 173		XVII.501,523,525,527,529,531	Repealed	Dec. 2857	
	XV.117	Repromulgated	July 1098		XVII.503,517,547,549,551,553	Amended	Dec. 2857	
	XVI.101,1101,1303	Repromulgated	July 1098		XVII.535,559,561,563,565,567	Repealed	Dec. 2857	
	XVII.105,107,501	Repromulgated	July 1098	XXIII.Chapter 3	Amended	Apr. 607		
	XVIII.301	Repromulgated	July 1098	71	I.Chapter 5	Repromulgated	Feb. 192	
	XIX.103	Repromulgated	July 1098		III.Chapters 21-23	Repromulgated	Feb. 192	
	XX.105	Repromulgated	July 1098		VII.Chapter 1	Repromulgated	Feb. 192	
	XXIV.103,317,319	Repromulgated	July 1098		76	I.305	Amended	Nov. 2516
	XXVI.103	Repromulgated	July 1098	V.107		Amended	Feb. 196	
	55	III.187	Amended	Apr. 604		V.125	Repromulgated	Jan. 51
		III.325,327,383	Amended	Apr. 605		VII.149	Amended	Mar. 373
V.103		Repromulgated	Feb. 183	VII.500		Repealed	Mar. 373	
IX.103,105,107,113,129		Amended	Nov. 2508	VII.505		Amended	Mar. 373	
58	IX.139,175,183,1547	Amended	Nov. 2508	VII.519		Amended	Nov. 2515	
	I.1709	Amended	Dec. 2859	VII.701		Amended	Jan. 48	
	I.2713,3503,3505,3519	Amended	July 1121	XI.301	Adopted	Sept. 1835		
	I.3701-3705	Adopted	July 1121	XIX.101,103	Amended	July 1122		
	I.3901	Adopted	Dec. 2859	XIX.103	Repromulgated	Aug. 1521		
	61	I.305	Amended	Aug. 1520	XIX.111	Amended	July 1124	
					XIX.111	Repromulgated	Aug. 1522	
					XIX.113,115,117	Amended	Nov. 2512	

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Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Boll Weevil Eradication Commission

Adjudicatory Hearing? Establishment of 2004 Assessment

As required by Boll Weevil Eradication Law and Rules and Regulations, the Boll Weevil Eradication Commission will hold an adjudicatory hearing beginning at 10 a.m., March 12, 2004, at the Louisiana Department of Agriculture and Forestry, First Floor Auditorium, located at 5825 Florida Boulevard, Baton Rouge, LA. The 2004 assessment will be set at this time. Based upon a referendum held in accordance with R.S. 3:1613 and regulations of the Boll Weevil Eradication Commission, this assessment shall not exceed \$6 per acre of cotton planted for 2004 in the Red River Eradication Zone and \$6 per acre of cotton planted for 2004 in the Louisiana Eradication Zone.

All interested persons are invited to attend and will be afforded an opportunity to participate in the adjudicatory hearing. Written comments will be accepted if received prior to March 11, 2004, P.O. Box 3596, Baton Rouge, LA 70821-3596.

Dan P. Logan
Chairman

0401#017

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Landscape Architect Registration Exam

The next landscape architect registration examination will be given June 14-15, 2004, beginning at 7:45 a.m. at the College of Design Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending the application and fee is as follows.

New Candidates:	February 20, 2004
Re-Take Candidates:	March 5, 2004
Reciprocity Candidates:	May 7, 2004

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, P.O. Box 3596, Baton Rouge, LA 70821-3596, phone (225) 952-8100.

Any individual requesting special accommodations due to a disability should notify the office prior to February 20, 2004. Questions may be directed to (225) 952-8100.

Bob Odom
Commissioner

0401#029

POTPOURRI

Department of Health and Hospitals Board of Embalmers and Funeral Directors

Embalmer/Funeral Director Examinations

The Board of Embalmers and Funeral Directors will give the National Board Funeral Director and Embalmer/Funeral Director examinations on Saturday, February 7, 2004, at Delgado Community College, 615 City Park Ave., New Orleans, LA.

Interested persons may obtain further information from the Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011, (504) 838-5109.

Dawn Scardino
Executive Director

0401#034

POTPOURRI

Department of Health and Hospitals Board of Veterinary Medicine

Board Nominations

The Louisiana Board of Veterinary Medicine announces that nominations for the position of Board Member will be taken by the Louisiana Veterinary Medical Association (LVMA) at the annual winter meeting to be held in late February 2004. Interested persons should submit the names of nominees directly to the LVMA as per R.S. 37:1515. It is not necessary to be a member of the LVMA to be nominated. The LVMA may be contacted at (225) 928-5862.

Wendy D. Parrish
Administrative Director

0401#027

POTPOURRI

Department of Natural Resources Office of Conservation

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
J.F. Mitchell	Caddo Pine Island	S	Muslow Oil Co.	B-1	021912
Lin-Co Producing Company	St. Martinville	L	J J Martin Et Al	003	99626 (30)
Houston Production Corporation	Shuteston	L	VUA;Ray Frederick Sibille Et Al	001	198589
Houston Production Corporation	Shuteston	L	Miller Et Al SWD	001	192836
C. M. Frizzell	Caddo Pine Island	S	C W Lane	001	34607
C. M. Frizzell	Caddo Pine Island	S	Caddo Oil & Mining Co	006	34795
C. M. Frizzell	Caddo Pine Island	S	Pardue Christian	009	35506
C. M. Frizzell	Caddo Pine Island	S	Pardue Christian	008	35642
C. M. Frizzell	Caddo Pine Island	S	Caddo Oil & Mining Co	007	37297
C. M. Frizzell	Caddo Pine Island	S	Caddo Oil & Mining Co	009	37326
C. M. Frizzell	Caddo Pine Island	S	Caddo Oil & Mining Co	008	37546
C. M. Frizzell	Caddo Pine Island	S	Caddo Oil & Mining Co	010	37596
C. M. Frizzell	Caddo Pine Island	S	Caddo Oil & Mining Co	011	37738
C. M. Frizzell	Caddo Pine Island	S	Caddo Oil & Mining Co	012	37806
C. M. Frizzell	Caddo Pine Island	S	Caddo Oil & Mining Co	014	38385
C. M. Frizzell	Caddo Pine Island	S	Whatley	002	39736
C. M. Frizzell	Caddo Pine Island	S	Caddo Oil & Mining Co	015	47497
C. M. Frizzell	Caddo Pine Island	S	Caddo Oil & Mining Co	017	56380
C. M. Frizzell	Caddo Pine Island	S	Caddo Oil & Mining Co A	003	58845
C. M. Frizzell	Caddo Pine Island	S	Pardue Christian	012	61692
C. M. Frizzell	Caddo Pine Island	S	Pardue Christian	005	61693
C. M. Frizzell	Caddo Pine Island	S	Noel SWD	002	66863
C. M. Frizzell	Caddo Pine Island	S	Noel	A-3	67893
C. M. Frizzell	Caddo Pine Island	S	Noel	004	69402
C. M. Frizzell	Caddo Pine Island	S	Noel	005	69403
C. M. Frizzell	Caddo Pine Island	S	Pardue Christian	011	91308
C. M. Frizzell	Caddo Pine Island	S	L J Mathieu	002	100870
C. M. Frizzell	Caddo Pine Island	S	L J Mathieu	003	100871
C. M. Frizzell	Caddo Pine Island	S	L J Mathieu	004	100872
C. M. Frizzell	Caddo Pine Island	S	L J Mathieu	006	102419
C. M. Frizzell	Caddo Pine Island	S	L J Mathieu	005	102420
C. M. Frizzell	Caddo Pine Island	S	Noel	006	108855
C. M. Frizzell	Caddo Pine Island	S	L J Mathieu	007	110289
C. M. Frizzell	Caddo Pine Island	S	L J Mathieu	008	110290
C. M. Frizzell	Caddo Pine Island	S	Noel	007	112684
C. M. Frizzell	Caddo Pine Island	S	L J Mathieu	009	116796
C. M. Frizzell	Caddo Pine Island	S	L J Mathieu	010	116797
C. M. Frizzell	Caddo Pine Island	S	L J Mathieu	011	116798
C. M. Frizzell	Caddo Pine Island	S	L J Mathieu	012	116799
C. M. Frizzell	Caddo Pine Island	S	L J Mathieu	001	143348
C. M. Frizzell	Caddo Pine Island	S	Fischel	001	178999
C. M. Frizzell	Caddo Pine Island	S	Fischel	002	179000
C. M. Frizzell	Caddo Pine Island	S	Fischel	003	182049
C. M. Frizzell	Caddo Pine Island	S	Fischel	004	182050
C. M. Frizzell	Caddo Pine Island	S	Fischel	006	184300
C. M. Frizzell	Caddo Pine Island	S	Fischel	005	184301
C. M. Frizzell	Caddo Pine Island	S	Bradford-Thomas Heirs	001	187664
C. M. Frizzell	Caddo Pine Island	S	Caddo Oil & Mining Co	002	198369
C. M. Frizzell	Caddo Pine Island	S	Caddo Oil & Mining Co	003	198370
C. M. Frizzell	Caddo Pine Island	S	Caddo Oil & Mining Co	001	198371
C. M. Frizzell	Caddo Pine Island	S	Whatley	001	990135
Sam Sklar	Eola	M	Keller	01	022682
Mcdowell And Cook, Inc.	Wildcat	S	G W Moncrief	01	043727
Johnson's Well Service	Caddo Pine Island	S	Muslow C	014	20670
Johnson's Well Service	Caddo Pine Island	S	Muslow D	003	21889
Johnson's Well Service	Caddo Pine Island	S	Muslow D	005	26848
Johnson's Well Service	Caddo Pine Island	S	Muslow D	002	34096
Johnson's Well Service	Caddo Pine Island	S	Muslow D	007	34178
Johnson's Well Service	Caddo Pine Island	S	Muslow D	006	34207
Johnson's Well Service	Caddo Pine Island	S	Muslow D	008	35858
Johnson's Well Service	Caddo Pine Island	S	Muslow D	010	35870
Johnson's Well Service	Caddo Pine Island	S	Muslow A	012	36298
Johnson's Well Service	Caddo Pine Island	S	Muslow D	012	36327
Johnson's Well Service	Caddo Pine Island	S	Muslow C	017	36477
Johnson's Well Service	Caddo Pine Island	S	Herndon B	008	37674
Johnson's Well Service	Caddo Pine Island	S	Herndon B	009	37675
Johnson's Well Service	Caddo Pine Island	S	Muslow D	011	38249
Johnson's Well Service	Caddo Pine Island	S	Herndon B	010	38820
Johnson's Well Service	Caddo Pine Island	S	Herndon B	001	38841
Johnson's Well Service	Caddo Pine Island	S	Muslow C	020	39026
Johnson's Well Service	Caddo Pine Island	S	Muslow B	001	39793

Johnson's Well Service	Caddo Pine Island	S	Muslow D	009	40965
Johnson's Well Service	Caddo Pine Island	S	Muslow D	013	40989
Johnson's Well Service	Caddo Pine Island	S	Muslow D	014	41061
Johnson's Well Service	Caddo Pine Island	S	Natalie	001-A	41245
Johnson's Well Service	Caddo Pine Island	S	Loyd Napier	002	43802
Johnson's Well Service	Caddo Pine Island	S	Muslow D	015	46443
Johnson's Well Service	Caddo Pine Island	S	Herndon	001A	51551
Johnson's Well	Caddo Pine Island	S	Muslow B	003	53035
Johnson's Well Service	Caddo Pine Island	S	Loyd Napier	003	53180
Johnson's Well Service	Caddo Pine Island	S	Loyd Napier	004	53181
Johnson's Well Service	Caddo Pine Island	S	Dorrity	001	53229
Johnson's Well Service	Caddo Pine Island	S	Muslow B	004	53450
Johnson's Well Service	Caddo Pine Island	S	Muslow B	005	53451
Johnson's Well Service	Caddo Pine Island	S	Muslow B	006	53528
Johnson's Well Service	Caddo Pine Island	S	Muslow B	007	53529
Johnson's Well Service	Caddo Pine Island	S	Muslow B	008	53530
Johnson's Well Service	Caddo Pine Island	S	Muslow C	022	53739
Johnson's Well Service	Caddo Pine Island	S	Muslow C	026	54137
Johnson's Well Service	Caddo Pine Island	S	C W Lane Co Inc	002	54243
Johnson's Well Service	Caddo Pine Island	S	L J Mathieu	001	54426
Johnson's Well Service	Caddo Pine Island	S	Muslow D	017	54815
Johnson's Well Service	Caddo Pine Island	S	L J Mathieu	002	54941
Johnson's Well Service	Caddo Pine Island	S	Muslow B	009	56104
Johnson's Well Service	Caddo Pine Island	S	C W Lane Co Inc	003	56444
Johnson's Well Service	Caddo Pine Island	S	C W Lane Co Inc	009	56445
Johnson's Well Service	Caddo Pine Island	S	Muslow A	010	58341
Johnson's Well Service	Caddo Pine Island	S	Muslow B	012	58808
Johnson's Well Service	Caddo Pine Island	S	Herndon B	013	58930
Johnson's Well Service	Caddo Pine Island	S	Herndon	014	58931
Johnson's Well Service	Caddo Pine Island	S	C W Lane Co Inc	011	59240
Johnson's Well Service	Caddo Pine Island	S	Lambert	001	59710
Johnson's Well Service	Caddo Pine Island	S	Loyd Napier	005	61729
Johnson's Well Service	Caddo Pine Island	S	Muslow A	011	61733
Johnson's Well Service	Caddo Pine Island	S	Loyd Napier	007	61835
Johnson's Well Service	Caddo Pine Island	S	C W Lane Co Inc	013	62278
Johnson's Well Service	Caddo Pine Island	S	C W Lane Co Inc	010	62532
Johnson's Well Service	Caddo Pine Island	S	Muslow D	016	63032
Johnson's Well Service	Caddo Pine Island	S	Muslow A	014	63290
Johnson's Well Service	Caddo Pine Island	S	Muslow A	015	63412
Johnson's Well Service	Caddo Pine Island	S	Muslow A	016	63684
Johnson's Well Service	Caddo Pine Island	S	Muslow A	017	63729
Johnson's Well Service	Caddo Pine Island	S	Muslow B	013	63972
Johnson's Well Service	Caddo Pine Island	S	C W Lane Co Inc	006	66994
Johnson's Well Service	Caddo Pine Island	S	C W Lane Co Inc	005	66995
Johnson's Well Service	Caddo Pine Island	S	Loyd Napier	006	67801
Johnson's Well Service	Caddo Pine Island	S	Muslow A	009	71193
Johnson's Well Service	Caddo Pine Island	S	Muslow A	007	72393
Johnson's Well Service	Caddo Pine Island	S	Natalie	002-A	72745
Johnson's Well Service	Caddo Pine Island	S	Muslow A	008	73166
Johnson's Well Service	Caddo Pine Island	S	Natalie	003-A	74605
Johnson's Well Service	Caddo Pine Island	S	C W Lane Co Inc	008	77668
Johnson's Well Service	Caddo Pine Island	S	C W Lane Co Inc	012	77670
Johnson's Well Service	Caddo Pine Island	S	Muslow B	010	79228
Johnson's Well Service	Caddo Pine Island	S	C W Lane Co Inc	014	82408
Johnson's Well Service	Caddo Pine Island	S	C W Lane Co Inc	015	82409
Johnson's Well Service	Caddo Pine Island	S	Muslow A	018	89838
Johnson's Well Service	Caddo Pine Island	S	Muslow B	011	93036
Johnson's Well Service	Caddo Pine Island	S	Natalie	006-A	93460
Johnson's Well Service	Caddo Pine Island	S	Muslow A	002	93894
Johnson's Well Service	Caddo Pine Island	S	Muslow A	003	93895
Johnson's Well Service	Caddo Pine Island	S	Muslow A	004	93896
Johnson's Well Service	Caddo Pine Island	S	Muslow A	005	93897
Johnson's Well Service	Caddo Pine Island	S	Muslow A	006	93898
Johnson's Well Service	Caddo Pine Island	S	C W Lane Co Inc	018	147297
Johnson's Well Service	Caddo Pine Island	S	C W Lane Co Inc	017	147311
Johnson's Well Service	Caddo Pine Island	S	C W Lane Co Inc	019	147349
Johnson's Well Service	Caddo Pine Island	S	Natalie	008-A	154989
Johnson's Well Service	Caddo Pine Island	S	Homestead Oil Company	001	166225
Johnson's Well Service	Caddo Pine Island	S	Homestead Oil Company	002	166226
Johnson's Well Service	Caddo Pine Island	S	Houston	001	184100
Johnson's Well Service	Caddo Pine Island	S	Houston	002	185005
Johnson's Well Service	Caddo Pine Island	S	MPT RA SUE;Craft A	001	185598

Johnson's Well Service	Caddo Pine Island	S	Houston	003	186085
Johnson's Well Service	Caddo Pine Island	S	MPT Ra SUD;Craft	003	186288
Johnson's Well Service	Caddo Pine Island	S	Houston	004	186989
Johnson's Well Service	Caddo Pine Island	S	Houston	005	186990
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Johnson's Well Service	Caddo Pine Island	S	Houston	011	198882
Johnson's Well Service	Caddo Pine Island	S	Houston	012	198883
Johnson's Well Service	Caddo Pine Island	S	Houston	013	204857
Johnson's Well Service	Caddo Pine Island	S	Houston	014	204858
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Johnson's Well Service	Longwood	S	Davis	002	217890
Johnson's Well Service	Caddo Pine Island	S	Houston Swd	001	971116
Johnson's Well Service	Caddo Pine Island	S	Natalie Swd	001	972465
Johnson's Well Service	Caddo Pine Island	S	Muslow D	001	990128

James H. Welsh
Commissioner

Latitude/Longitude Coordinates of reported underwater obstructions are:

0401#037

POTPOURRI
Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund

Loran Coordinates

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 28 claims in the amount of \$103,728.68 were received for payment during the period October 1, 2003-December 31, 2003. There were 26 claims paid and 2 claims denied.

Loran Coordinates of reported underwater obstructions are:

27695	46888	St. Mary
27954	46849	Terrebonne
28015	46864	Terrebonne

2901.877	9026.920	Lafourche
2905.560	9047.868	Terrebonne
2909.930	9003.980	Jefferson
2917.676	8952.545	Jefferson
2918.360	8935.303	Plaquemines
2923.112	9001.330	Lafourche
2924.494	9002.438	Jefferson
2925.365	9033.049	Terrebonne
2928.378	9007.724	Lafourche
2928.920	9002.470	Jefferson
2930.320	9220.920	Vermilion
2937.279	9007.751	Jefferson
2937.498	9005.231	Jefferson
2940.235	8953.864	Plaquemines
2941.720	9004.190	Jefferson
2947.030	8951.360	Plaquemines
2947.145	9207.481	Vermilion
2949.534	9154.292	Vermilion
2950.016	8935.186	St. Bernard
2950.275	8924.416	St. Bernard
2951.515	9028.276	St. Charles
2956.486	8950.504	St. Bernard
3007.188	8913.086	St. Bernard
3009.599	8946.801	St. Tammany

A list of claimants and amounts paid can be obtained from Verlie Wims, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804 or you can call (225) 342-0122.

Jack C. Caldwell
Secretary

0401#063

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